

Toolkit for EBRD clients

EBRD Performance Requirement 2: Labour and working conditions



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EBRD PR2 Tool 1: Developing PR2-aligned HR policies

This tool provides information for EBRD clients on the development of human resources (HR) policies to meet the requirements set out in EBRD Performance Requirement 2 (PR2).

What are HR policies?

HR policies dictate how an organisation manages its employees. They are the formal rules and guidelines that an organisation should put in place to hire, train, assess and reward members of its workforce. These policies help employers and employees understand their rights and responsibilities and set clear expectations as to how to behave within the organisation. Effective HR policies should help create a more harmonious workplace and improve industrial relations between management and employees.

The EBRD's specific requirements on HR policies are summarised in PR2 on labour and working conditions:

2019 EBRD requirements on HR policies (PR2.8)¹

“The client will adopt and/or maintain written human resources policies and management systems or procedures appropriate to its size and workforce setting out its approach to managing the workforce in accordance with the requirements of this PR and national law. These policies and procedures will be understandable, accessible, and communicated to workers, and in the main language(s) spoken by the workforce.”

1. Key requirements for PR2-aligned HR policies

There is no one “correct” approach to devising HR policies. Clients should adopt policies that are appropriate to their sector, the labour risks they face and their size.

However, there are several overarching criteria that HR policies must meet in order to fulfil the requirements of PR2:

2019 EBRD requirements on HR policies (PR2.8)

- HR policies must be in written form. This will enable managers and supervisors to apply policies more fairly and transparently.
- Policies must be understandable and accessible to workers.
- Policies must be in the main language(s) spoken by the workforce.
- Policies must be communicated to workers.

Policies do not need to use particular wording to comply with PR2. However, for reference, some sample policy clauses on issues that could be included in clients' HR policies are set out in Annex 1.2 to this document.

Developing HR policies can be a dynamic, though not always a predictable process. Many organisations update their policies as they gain experience in identifying and addressing their labour rights risks. Key suggestions for making the process run as smoothly as possible include:

- assigning senior management responsibility to drive the process
- involving cross-functional personnel (human resources, legal, procurement, security and so on) in the process to build understanding, know-how and a sense of common purpose

¹ See EBRD (2019), p.16.

- identifying and drawing on internal and/or external HR expertise
- consulting internal and external stakeholders to identify and respond to their expectations
- communicating the policy internally and externally
- reflecting HR policies in operational policies and procedures.

2. Key requirements for PR2-aligned HR policies

This section sets out the key steps that should be taken when developing HR policies. These steps are intended to support the process of developing these policies. It is suggested that clients follow the steps in consecutive order.

2.1 Identify and assess existing HR policies

A first step is to identify any existing HR policies. An organisation's policies are often not kept together in one place and may be documented in different ways. They may not be labelled "HR policy".

Examples of documents that may set out HR policies

- organisational structure diagrams
- collective agreements
- company handbooks or internal guidelines
- dedicated policies on particular topics, such as occupational health and safety or discrimination.

Initial assessments of existing HR policies should consider the following questions:

- Are all areas of PR2 covered? Are there any key gaps?
- Is an appropriate level of management responsible for the policy?
- When was the policy last updated?
- Is the policy in line with national law, including recent amendments?
- Has the policy been communicated to workers?

2.2 Identify labour risks

HR policies should be tailored to the specific types of labour risk a client faces. A self-assessment of company practices can help with this, as can a review of gaps identified in any environmental and social action plan (ESAP) or corrective action plan.

2.3 Identify issues to be covered

HR policies should cover the issues set out in PR2. This will vary according to the structure of the organisation and workforce, including the presence of contract and

supply-chain workers. An overview of which issues are to be covered by which type of organisation is set out in Annex 1.1.

A client organisation with its own operations should only cover relevant issues in its HR policies. An organisation with a supply chain should cover relevant issues in its HR/management policies. An organisation engaging with contractors should ensure that contractors establish HR policies that fulfil the PR2 requirements set out in Annex 1.1. The client is asked to address these issues in its contractual agreements with contractors and, if relevant, in its contractor management plan.

Sample clauses on issues to be covered in HR policies can be found in Annex 1.2. For clients working with suppliers, more detail on what to include in a supplier code of conduct can be found in Tool 2, which provides a template supplier code of conduct.

Requirements on gender-based violence and harassment (GBVH) in the workplace

EBRD clients should include specific requirements related to GBVH in their human resources policies. Building on this, at a minimum, clients should:

- set out behaviours expected of workers, along with those that are not permitted
- provide inductions to all employees and contractors on GBVH requirements
- provide training to all HR and other relevant personnel on how to respond to allegations of GBVH in the workplace
- implement a confidential grievance mechanism for filing reports (including anonymous reports) on sexual harassment.

In contexts where risks of GBVH may be greater, clients may need to put in place additional measures and protections. They may also require a standalone GBVH policy and code of conduct.

2.4 Define responsibilities

The definition and division of responsibilities in setting up, implementing and monitoring HR and management policies is indispensable. There are some key approaches that can help with this process:

- Coordinate between different departments and job functions (for example, HR, legal and procurement) to ensure that perspectives from across the company are included in policy development and to build common know-how across the organisation.
- Identify and draw on internal and/or external human resources expertise.

- Senior management should lead the process.
- Assign responsibilities for implementing policies and procedures.

2.5 Set up monitoring systems

Monitoring compliance with and progress on HR policies is essential. It is, therefore, important to define methods of monitoring and tracking performance in HR policies. This may include identifying progress measurement indicators and determining how to address lack of compliance. It also means ensuring that HR policies fall under the mandate of the workers' grievance mechanism.

2.6 Accessibility and communication

HR policies must be accessible to workers. They should be written in clear language that is easily comprehensible to employees. These policies should be available in the main language(s) spoken by the workforce. Communication of HR policies to workers is required

under PR2, meaning organisations must email or give hard copies of HR policies to workers. In addition, HR management policies may be posted on a notice board in a common area that is accessible to all workers. It may also be appropriate for HR policies to be posted on the internet or intranet.

2.7 Review and update

HR policies must be reviewed and updated on a regular basis. This is essential as the company grows and as the regulatory and business environments in which it operates evolve. Reviewed or updated HR policies should be communicated to the workforce.

It is important to review and update HR policies when there are changes to the nature of the work and to the corporate structure and workplace. It is also essential when the make-up of the workforce has changed, for example, when a large group of new, temporary workers enters or is about to enter the workforce.

Annex 1.1: Issues to be covered		
Issue	To be included in HR policy by	Relevant tool
Non-discrimination and equal opportunity	Own operations, contractor	
Employee grievance mechanism	Own operations, contractor	EBRD client guidance on employee grievance mechanisms ²
Workers' organisations	Own operations, contractor	
Communication with workers	Own operations, contractor	
Occupational Health and Safety (OHS)	Own operations, supply chain, contractor	Tool 2: Template supplier code of conduct
Wages, benefits and working conditions	Own operations, contractor	
Workers' accommodation	Own operations, supply chain, contractor	Tool 7: Template worker accommodation plan
Collective dismissal and retrenchment	Own operations	Tool 13: Template retrenchment plan
Child labour	Own operations, supply chain, contractor	Tool 2: Template supplier code of conduct Tool 6: Developing labour and contractor management plans
Forced labour	Own operations, supply chain, contractor	Tool 2: Template supplier code of conduct Tool 6: Developing labour and contractor management plans
Gender-based violence and harassment (GBVH)	Own operations, supply chain, contractor	Tool 2: Template supplier code of conduct EBRD guidance on addressing gender-based violence and harassment ³

² See EBRD (2023).

³ See CDC, EBRD and IFC (2020).

Annex 1.2: Sample clauses

Non-discrimination and equal opportunity

- We are committed to ensuring that all of our employment relationships are based on the principle of non-discrimination and equal opportunity.
- We make employment decisions fairly and objectively and not on the basis of personal characteristics, including gender, age, race, nationality, language, social origin, property or official status, attitude to religion, convictions, membership of public associations or other circumstances not related to employees' qualifications and the results of their work.
- We have put in place measures to ensure that we do not discriminate in any aspect of the employment relationship, including recruitment and hiring, job assignment, compensation (including wages and benefits), working conditions and terms of employment, including reasonable adaptation of the workplace related to disabilities, access to training, promotion, termination of employment or retirement, and discipline.
- We provide equal pay to men and women for work of equal value.
- We provide equal pay and benefits for local and migrant workers performing the same job.
- We have put in place measures to prevent and address any form of violence and harassment, bullying, intimidation and/or exploitation.

Gender-based violence and harassment

[Clients may choose to integrate their policy on GBVH into existing policies or to have a separate policy or policies on GBVH.]

- We do not accept or tolerate any form of GBVH and are committed to GBVH prevention and response. We understand GBVH to refer to any harmful acts perpetrated against a person's will that are based on socially ascribed gender differences. This includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, as well as coercion and other deprivation of liberty.
- To prevent and respond to GBVH, we expect all workers to report GBVH, to treat all people with respect, to participate in GBVH training, to read company policies on GBVH and to respect confidentiality.

- We have put in place measures to prevent and address any form of violence or harassment, including any form of GBVH, as well as training for all staff and contractors and an effective and confidential grievance mechanism for reporting complaints of GBVH.

Workers' grievance mechanism

- We have a confidential grievance mechanism that is available to all workers (and their organisations, if any) to raise concerns about recruitment and workplace practices, without fear of intimidation, discrimination or retaliation.
- The mechanism includes provisions for complaints requiring special protection measures, such as reports of GBVH.
- We ensure all workers understand the process and the various reporting channels available to them, including the ability to log grievances in their native language.
- We aim to address workers' concerns promptly, using a process that is transparent and understandable and that provides feedback to everyone concerned.

[The section on workers' grievance mechanisms should state who has overall responsibility for the grievance mechanism and tell workers where to find out more about the procedure. Information should be posted in accessible areas.]

Workers' organisations

- We respect our workers' right to form or join freely organisations of their choosing and do not discriminate or retaliate against workers who participate or seek to participate in organisations or bargain collectively.
- We inform workers that they have the right to elect workers' representatives, form or join workers' organisations of their choosing and engage in collective bargaining, in accordance with national law.
- We do not interfere with the operation of trade unions or other representative organisations within our organisation.
- We provide worker representatives with access to the workplace to enable them to carry out their representative functions.
- In accordance with national law, we engage with workers' organisations and provide them with information needed for meaningful negotiations.

- We will not restrict workers from developing alternative mechanisms to represent their interests and protect their rights as regards working conditions and terms of employment. This may include:
 - recognising worker committees
 - allowing workers to choose representatives for dialogue with management.
 We will not seek to influence or control these mechanisms.

Working relationships

- We ensure that all workers are provided with a written contract and that this includes their entitlement to wages, hours of work and rest periods, overtime arrangements and overtime compensation, and any benefits such as leave for illness, maternity/paternity or holiday.
- We are committed to communicating to all workers their rights under national labour law.
- We ensure that HR management systems respect the rights of workers to privacy and data protection.

Occupational health and safety

- Our goal is to prevent occupational injuries and accidents.
- We are committed to providing our workers with a healthy and safe working environment and controlling risks that arise from our work activities.
- We consult with our workers on matters regarding their health and safety.
- We provide and maintain safe plant and equipment.
- We provide information, instruction and supervision for workers on health and safety matters.
- We ensure that all of our workers are competent to do their jobs and have adequate ongoing training to do their jobs safely.
- We ensure safe handling and storage of hazardous substances.
- Where occupational accidents occur, we document and report them in accordance with national law.
- We have emergency prevention, preparedness and response arrangements in place.

[The section on OHS should clearly state who has overall responsibility for OHS within the organisation and other individuals with key health and safety responsibilities.]

Wages, benefits and conditions of work

- We provide wages, benefits and conditions of work, including hours of work, that meet the minimum standards set by national labour law and are comparable to those offered by equivalent local/regional employers.
- Where we enter into collective agreements, we honour the terms of those agreements.
- We provide clearly understandable verbal and written information to employees about their wages before they enter employment and provide detailed information regarding their wages, including benefits and deductions, for each pay period.
- We ensure that overtime work will be voluntary and will be performed and compensated in accordance with national law.
- We do not make deductions from workers' wages except in line with national law and where the employee has given his/her consent.
- We ensure that any migrant workers receive terms and conditions.

Collective dismissal and retrenchment

- Prior to undertaking any collective dismissals, we will carry out an analysis to identify alternatives to the planned workforce reduction.
- In the event of collective dismissals, we will develop a collective dismissals plan to assess, reduce and mitigate the adverse impacts of the workforce reduction on workers.
- The final collective dismissals plan will reflect the outcomes of consultations with workers and their organisations.
- We will develop selection criteria based on fair, objective, consistently applied criteria, and put in place an effective grievance mechanism.
- We will comply with all legal and collectively agreed requirements relating to collective dismissal, including notification of public authorities, and provision of information to and consultation with workers and their organisations.
- We will pay all outstanding back pay and social security benefits and pension contributions and benefit, either before termination or at a point in time agreed with workers or agreed through collective agreement. Workers will be provided with evidence of such payments.

Worker accommodation

- We have in place policies governing the quality and management of accommodation and provision of services.
- We provide accommodation for our workers that is appropriate for its location, meets national and international accommodation standards, and is clean, safe and meets the needs of workers, in accordance with good industry practice.
- We do not restrict workers' movement to and from the accommodation, except for reasonable security measures or logistical restrictions where necessary.
- We provide accommodation for our workers in a manner consistent with the principles of non-discrimination and equal opportunity, including safeguards against sexual harassment and other forms of GBVH.

Child labour

- We do not employ children below the *[national statutory minimum age for access to employment]*.
- We have procedures in place to verify the age of all young workers between the ages of *[national statutory minimum age for access to employment]* and 18.
- We do not allow young workers between the ages of *[national statutory minimum age for access to employment]* and 18 to work at night or in hazardous conditions, and carry out a risk assessment and regular monitoring of health, working conditions and hours of work.

Forced labour

- We are committed to ensuring that all of our workers enter into employment freely and voluntarily, without coercion or penalty, including through abusive and fraudulent recruitment practices. We do not use any form of forced, bonded or involuntary prison labour.
- We prohibit charging workers any recruitment, processing or placement fees to obtain employment with our company.
- We will exercise appropriate due diligence in the selection and management of recruitment agents and labour providers used to select, recruit and transport workers.
- We ensure that migrant workers are provided with a written copy of the terms and conditions of their employment for their review and signature before they leave their home country.
- We do not require workers to lodge monetary deposits or bonds as a condition of employment.
- We and third parties acting on our behalf will not hold workers' original identity papers, passports, work visas or other personal documents.
- Workers are free to leave their jobs without penalty after reasonable notice.

EBRD PR2 Tool 2: Template code of conduct for suppliers of goods and materials to EBRD clients

[This tool is designed to support EBRD clients in meeting Performance Requirement 2 (PR2) expectations in their supply chains and to promote good practice. It sets the minimum expectations under PR2 for suppliers, but this should not limit EBRD clients from adopting more detailed codes of conduct with a greater scope. All text in italics constitutes information for the client and is for clients to amend or delete as necessary. EBRD clients should openly share this code of conduct with suppliers. Reference to the code of conduct should be included in the client's agreement with the supplier, and suppliers should be required to sign the compliance declaration at the end of the document. The client is required to do this in relevant national languages and in a manner that is understood by all.]

1. Introduction

1.1 Scope of application

The provisions of this code of conduct set forth *[client's]* expectations for direct suppliers with whom [client] does business. *[Client]* expects these principles to apply to suppliers and their employees, *[as well as parent, subsidiary or affiliate entities]*. The code of conduct defines labour standards that aim to achieve decent working conditions.

This code of conduct applies to *[client's]* direct suppliers. However, it is *[client]* that encourages suppliers to impose the same requirements on their own suppliers, for example on suppliers of machinery parts, pesticides and raw materials.

[Client] suppliers are responsible for adhering to the standards set out in this code of conduct.

2. Provisions

2.1 Forced labour

Suppliers will not use forced labour. Forced labour consists of work or service not voluntarily performed that is exacted from an individual under threat of force or penalty, including through abusive and fraudulent recruitment practices.

This includes involuntary or compulsory labour, such as indentured labour, involuntarily mobilised labour

or prison labour, bonded labour or similar labour-contracting arrangements, or trafficking in persons.

The supplier is responsible for paying any fees in connection with a worker's recruitment and no worker should pay a fee to secure work with the employer. This applies equally to workers employed through labour agents and brokers.

2.2 Child labour

Suppliers will not use child labour. This means no person will be employed under the *[applicable national minimum age or minimum age of 15 years, as defined under the International Labour Organisation (ILO) convention if national law is silent on this]*.

Where suppliers employ workers under the age of 18, they will not be employed in a manner that is economically exploitative, likely to be hazardous, likely to interfere with their education or be harmful to the child's health or physical, mental, spiritual, moral or social development.

Young people below the age of 18 years will be identified and not be employed in hazardous work. The work of persons under the age of 18 will be subject to an appropriate risk assessment prior to commencement, as well as regular monitoring of health, working conditions, and hours of work. *[Insert the maximum number of working hours young people below the age of 18 years are allowed to work under national legislation.]*

2.3 Occupational health and safety (OHS)

Suppliers will ensure that workers are employed in a safe and healthy workplace, in compliance with the laws and regulations of the Government of *[country]* (and in accordance with EBRD PR2), and maintain a safe and healthy working environment by:

- providing appropriate controls, safe work procedures, preventative maintenance and necessary technical protective measures to prevent health and safety risks in the workplace
- when hazards cannot be adequately controlled by these means, providing employees with appropriate personal protective equipment (PPE) without cost to them
- protecting employees from any chemical, biological and physical hazards and physically demanding tasks in the workplace, as well as from risks associated with any infrastructures used by them
- making available safety information relating to hazardous materials to educate, train and protect workers from hazards
- providing a safe and healthy working environment, including, at a minimum, potable drinking water, adequate lighting, temperature, ventilation and sanitation and, if applicable, safe and healthy accommodation.

There will be proactive procedures in place to identify risks and prevent accidents and injuries occurring as a result of or linked to the supplier's operations.

Furthermore, the supplier will prevent risk of harm to workers through any form of gender-based violence and harassment (GBVH). GBVH means violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, including sexual harassment.

Suppliers will ensure that steps are taken to prevent, mitigate and remedy instances of GBVH in their workplace by:

- developing and implementing a sexual harassment policy that sets out behaviours that are expected of workers, behaviours that are illegal and behaviours that are not permitted
- providing induction training on the sexual harassment policy for employees and contractors
- implementing a confidential grievance mechanism for filing reports – including anonymous reports – of incidents of sexual harassment in the workplace, including the possibility of filing a report to a female

staff member and a staff member other than the individual's direct supervisor or manager

- providing training to human resources and/or other relevant persons on how to respond to allegations of sexual harassment in the workplace.

[In contexts where risks of GBVH may be greater, clients may need to put in place additional measures and protections. For example, in contexts where discrimination against women or strong gender stereotypes are common, where national law offers weak protections, or where poverty, conflict or corruption are greater, additional GBVH focus may be needed. See Tool 1 for additional requirements that may be included.]

2.4 Monitoring and reporting

[Client] has a right to monitor a supplier's labour and OHS practices and the right to access all relevant labour and OHS information as part of its monitoring.

Where there is a risk of forced and child labour or OHS risks, *[client]* will monitor its primary supply chain on an ongoing basis to identify any significant changes and new risks or incidents of forced or child labour.

The supplier will also report on existing workforce composition, changes in production and identified labour issues at least every six months. This will be done in line with *[client's]* reporting framework *[see Tool 11 for a template reporting form]*.

2.5 Specific measures on forced labour

Where cases of forced labour are identified, suppliers will provide satisfactory evidence that they have taken appropriate steps to eliminate the conditions that constitute forced labour to *[client]* and to remedy those affected. *[Client]* will only continue to procure such goods or materials from that supplier after having received such evidence and upon determining that it is satisfactory.

2.6 Specific measures for child labour

If child labour is confirmed in a supplier's operations, *[client]* will ask the supplier to ensure that measures have been taken in the best interests of the child. In cooperation with the child's family and other relevant parties, the supplier is required to seek a satisfactory solution, taking into consideration the child's age, social situation, education, and so on.

The solution should always aim to improve, not worsen, the child’s situation and will be maintained for the child until the child reaches the legal working age.

[Client] will only continue to work with suppliers where child labour has been detected after having received satisfactory undertakings or evidence that the supplier is committed to implementing measures to eliminate such practices within a reasonable timeframe.

3. Compliance declaration

We, the undersigned, hereby confirm that:

- compliance with [client’s] code of conduct is an essential prerequisite to business relations with [client]
- we have read and acknowledge the [client] supplier code of conduct and commit ourselves, in addition to the commitments set out in the supply agreements with [client], to fully comply with the principles and requirements set out in this code

- we agree that [client] or a third party appointed by [client] may carry out periodic, announced or unannounced inspections or audits of our facilities and sites to verify compliance with the code
- we agree to provide human resources (HR) information to [client] on request
- we will effectively communicate this code to our employees, agents, subcontractors, suppliers and other business partners and ensure all measures are implemented accordingly
- we will aim to eliminate any identified non-compliance in line with the provisions in this code within a reasonable timeframe and report to [client] on such progress at least every six months
- where we fail to improve in observe areas of non-compliance set out under this code, this may result in termination of our supply contract by [client] and we may be prevented from working with [client] in the future.

Name:

Position:

Company name:

Company address:

Date:

Signature:

EBRD PR2 Tool 3: Assessing risks in supply chains

1. Objectives

This tool aims to help relevant managers at EBRD clients (in quality, commercial or sustainability departments) better understand the structure of their supply chains and identify labour risks within those supply chains. To use the tool, it will be necessary to coordinate closely with colleagues in purchasing or procurement teams responsible for working with suppliers.

In addition, undertaking a supply-chain mapping and risk assessment may require specific expertise or the involvement of third-party consultants to safeguard certain vulnerable workers. For the successful assessment of risks, as described below, the EBRD recommends working closely with and calling on expert consultants to undertake the more in-depth and potentially sensitive aspects of this assessment.

2. EBRD requirements

EBRD PR2.25-2.27 require clients to assess their supply chains to identify the risk or presence of child labour, forced labour or (potential) harm to workers in the operations of their primary suppliers.⁴ The requirements further spell out that if the assessment identifies the **presence or significant risk of child labour or forced labour** in the operations of primary suppliers in contravention of ILO standards, or where significant risks of child labour or forced labour are reported **in the lower tiers of the supply chain of goods and materials that are essential to the core operational functions of the project**, the client will take appropriate steps to remedy this in accordance with the following requirements:

- **Presence of child labour:** Best efforts need to be made to remediate/mitigate the situation. Procurement of goods or materials from the identified supplier may only continue if there is satisfactory evidence of the supplier's commitment to implementing specific steps to eliminate practices of child labour within a reasonable

timeframe. The client is further required to report progress regularly to the EBRD.

- **Presence of forced labour:** Procurement of these goods or materials from the identified supplier may only continue if there is satisfactory evidence of the supplier's commitment to implementing specific steps to eliminate practices of forced labour within a reasonable timeframe.
- **Risk of child and/or forced labour:** Ongoing monitoring of suppliers to "identify any significant changes in its supply chain and new risks or incidents of child and/or forced labour".
- **Risk of harm to workers of primary suppliers:** Require relevant suppliers to "introduce procedures and other control measures to prevent or reduce the risk of harm to worker health and safety" and to monitor effectiveness of these procedures/control measures periodically.

Clients' ability to undertake the steps above depends on their level of management control/influence (leverage) over their suppliers. Where prevention or remedy is not possible, clients are required to move their sourcing within a reasonable timeframe to alternative suppliers that can demonstrate fulfilment of the above requirements.



Primary suppliers, or first-tier suppliers, are suppliers with whom you have a direct contracting relationship and which provide you with specific products used in your company operations. Where you have a direct relationship with traders or agents, you are asked to look at the first-level of suppliers that are **directly producing the goods or materials you are sourcing.**

"Goods or materials" means the materials, components, goods or products purchased for use in ongoing operations. A supply chain of goods may include suppliers of raw materials and suppliers of pieces or components for assembly and production. There are also labour risks in construction-material supply chains that clients should assess as part of their project appraisal, in line with PR1,⁵ as this is not covered under Performance Requirement 2 (PR2).

⁴ See EBRD (2019), p.18.

⁵ See EBRD (2019), p.13.

3. Process

There are several steps to assessing your supply chains, as can be seen in Figure 1. All these steps are important in order to identify where there may be risks in your supply chain and to help you to ascertain what course of action to take to limit, reduce or remediate those risks. More simple or direct supply chains may be quicker to assess, while more complex or strategic suppliers may require further information requests or assessments to be undertaken by third parties. The most suitable approach will depend on the company, the supply chain and the resources available.

Supply-chain mapping refers to the process of identifying where your products are being sourced, both in terms of the companies that supply them and the locations in which they are being produced (see section 4).

Assessing risks involves identifying those suppliers where risks of forced labour, child labour or health and safety breaches may exist. This includes understanding known risks at a country, sectoral or tier level and applying these to the profile of your suppliers (see section 5).

Prioritising involves deciding where the risks are highest and most likely (see section 5). In prioritising action on identified risks, it is also important to consider leverage, or the level of management control or influence you may have over your suppliers.

Response or follow-up to this process may include introducing specific human resources policies, codes of conduct or contractual clauses for your suppliers. They may necessitate an onsite labour assessment or the development of an action plan with mitigation and/or remediation action (see section 7).

4. Initial mapping

The first step is to undertake initial mapping of your supply chains in order to identify where your products are being sourced and to find out more information about your suppliers' practices. This mapping should focus on primary suppliers, as defined above, unless risks have been reported in the lower tiers of your supply chains for certain products (see section 5.2).

Mapping can involve requesting information from suppliers on their own suppliers and gathering data from procurement or technical colleagues. However, there is no one way to map supply chains, and it may take time to gather all the necessary information where supply chains are more complex. There may also be gaps in information. It may further be necessary to undertake regular mapping, especially when business relationships change, as few supply chains are static.

Before requesting information from your suppliers, you can first look at the information you already have.

Figure 1: Supply chain risk assessment process



Figure 2: Supply chain mapping



For each of your suppliers, it is important to identify their name, location and sub-sector, as well as the products they supply to your company. This step allows you to understand who your suppliers are and where they are sourcing from.

The initial supply chain mapping may use the the format found in Figure 2.

If there are any information gaps based on this supply-chain map for any of your primary suppliers, especially for suppliers in lower tiers (where applicable), you can send an information request to your suppliers in order to identify all of the above information points.

5. Risk assessment

Once your suppliers have been clearly identified by product and location, the next step is to undertake a **risk assessment process** to identify the risks to or potential instances of forced labour or child labour, or risks to worker health and safety among your first-tier and core suppliers. This process will include prioritisation, by identifying which risks are the most critical and most likely, and which of your suppliers have the highest risk.

“Risk” is traditionally defined as the combination of a particular hazard (such as financial fraud) and the likelihood that it will occur. In the context of PR2, this translates into identifying adverse impacts on workers (for example, forced labour or a worksite health and safety incident) and the probability of such impacts (how frequently these might occur). In these terms, “risk” is theoretical – it is something that may occur – rather than a negative impact that has already occurred.

The aim of **risk assessment** is to identify the possible risks and grade them and prioritise them by their relative importance. The aim of **risk management** is to reduce the likelihood that these hypothetical problems, particularly the most serious ones, will actually occur. This tool aims to focus on risk assessment, with some tips on how to implement risk management plans (see section 7 of this tool).



Mapping creates **transparency and visibility** of your supply chains, which helps clearly **identify and assess the level of risk** or the prevalence of incidents related to child labour, forced labour or health and safety. In addition to helping your business more generally, having more information on and a clear contractual relationship with your suppliers allows you to better **prioritise high-risk** parts of your supply chains and select suppliers that require further focused actions, including engagement, additional specialised assessments or due diligence, and/or mitigation and remediation.

5.1 Contextual risk identification process

An initial risk assessment may be carried out by the client’s personnel to understand where in their supply chain the risks of forced labour or child labour, and the risks to occupational health and safety, are greatest. This risk assessment should be carried out remotely, using information submitted to the client by the supplier’s management team and mapped against available sources of risk information.

5.2 Geographical and sectoral risks

Some risks can be general in nature, in that they are linked to a geographical area, the sector or product you source from, or how workers are deployed. For example, some countries may not have adequate legal protections in place for children and young workers or there may be a high level of poverty that increases the risks of child labour. Seasonal crops often involve temporary workers, who may be at more risk of exploitative practices. Crops produced by smallholder farmers, meanwhile, may be more at risk of the use of child labour. Undertaking analytical research on the sector or product by looking for public reports or media that have reported on working conditions or health and safety incidents will provide an indication of the level of risk in the sector. This information is more likely to be discussed at country level, but it may also help to identify the regions or specific areas where risks are most likely to be present.

In identifying geographical and sectoral risks, it is important to use authoritative sources that provide credible and objective assessments of goods and source countries that carry a high risk of child or forced labour. It may be useful to review the findings of the 2020 US Department of Labor [list of goods produced with child labour or forced labour](#).⁶ Other sources you might use in establishing “reported risk”, depending on geography and sector, could include:

- [US Department of Labor country-by-country assessments](#) of the prevalence of child labour with sectoral distribution⁷
- [ILO country-by-country resources on child labour and forced labour, including sectoral reports](#)⁸
- [US Department of State country-by-country assessments of human trafficking, including sectoral descriptions](#).⁹

5.2.1 Supplier-level risks

Other risks relate to the specific production site and its practices. For example, some production sites may have good OHS standards, while others may have worse practices that may lead to worksite incidents. To assess the potential level of risk (of child labour, forced labour or to workers’ health and safety) specific to your supplier’s operations, it is important to ask suppliers to complete periodic reports and use these to identify and understand potential risks on site (see Tool 11 for a template reporting form to send to suppliers). How your supplier responds will further feed into your risk assessment. As a result of this assessment process, you may decide that this should be complemented by an onsite visit (see section 7).

5.3 Risks in lower tiers of the supply chain

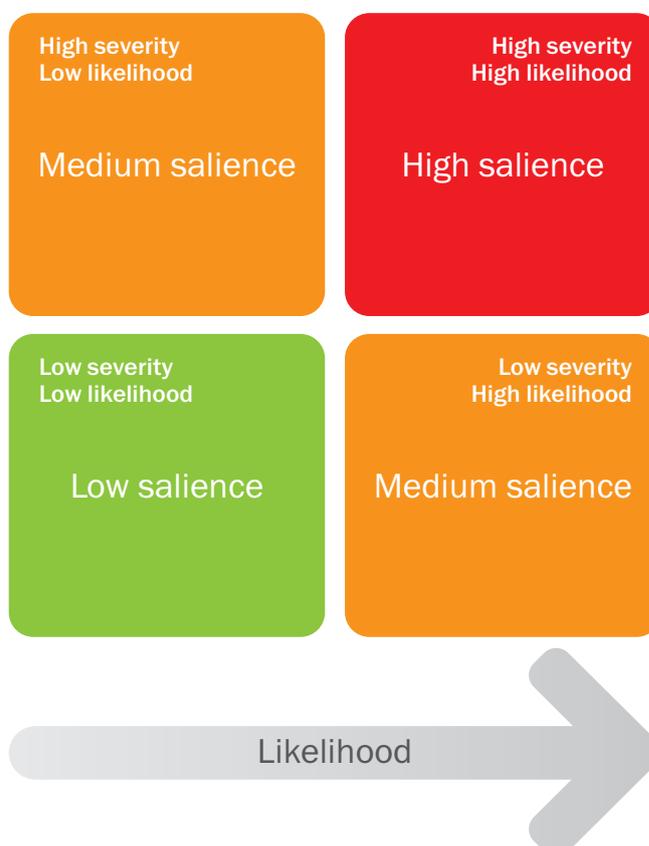
In the case of forced and child labour, risks are often more likely to be present in the lower tiers of the supply chain. If you are sourcing products in which you have identified risks at the primary production level or in processing tiers (not including your direct suppliers), it may be necessary to undertake a further mapping of the supply chain across all applicable tiers to assess the level of potential risk these suppliers may face.

6. Prioritising

Once a basic risk picture has been built across a supply chain, the next step is to assess and prioritise these risks for further action (see Figure 3). Depending on the complexity of your supply chains, you may have arrived at a general list of risks, but not know where to start. It is vital to employ a process that assesses these risks and determines the ones that should be tackled first. No company has unlimited resources, so this prioritisation exercise is important for both identifying the most serious potential impacts on workers and for using resources most effectively.

Where needed, attention should be paid to the suppliers of goods and materials whose trading volumes with the client are highest, which account for a significant volume of sales, or which have a high-profile value for the client, based on the information you should have assembled while mapping your supply chains (see section 4). In addition, it may be helpful and important to prioritise based on how severe and how likely the risks are; this will further help to identify which risks are considered low, medium or high.

Figure 3: Prioritising risks based on severity and likelihood



⁶ See, for example, US Department of State (2022).

⁷ See US Department of Labor (n.d.).

⁸ See ILO (n.d.).

⁹ See, for example, US Department of State (2023).

6.1 Review leverage

In addition to prioritising risks by level of severity and likelihood, you may need to prioritise action based on the level of control or influence you have over your suppliers, generally referred to as **leverage**. This step is important, as it will help assess your ability to fully address PR2 risks in your primary supply chain and thus identify specific action to undertake with each supplier. The level of leverage you have over your primary suppliers will vary based on the structure of your supply chain and your relationship with your suppliers:

- **higher leverage:** when there is a direct contractual relationship, when the commercial relationship is significant and/or where this relationship is longer term
- **lower leverage:** when sourcing from traders, agents, auctions or other wholesale intermediaries with low levels of information on the sources of supplies to the intermediary.

You can identify your level of influence or leverage over your suppliers by understanding how significant your sourcing is to their business (for example, percentage of offtake), how many years you have had this business relationship with the supplier and how strategic the supplier is to your own operations.

There are a range of ways in which your organisation can seek to increase its leverage over supply-chain labour issues (please see table below).

These factors can also help to determine priorities for action. It is reasonable to prioritise those issues over which your company has the greatest leverage. It is also realistic to prioritise risks in business-critical supply

chains where there may be few alternative options. However, other lower-priority issues should not be ignored; rather, the timeframe over which they can be addressed may be longer.

7. Follow-up

Where severe risks are identified (such as forced labour, child labour or harm), it is important to verify the information by visiting the supplier site. It is advisable to hire an independent labour assessor/auditor with adequate qualifications to review the risks. This is important to ensure that the approach safeguards the interests of those workers at risk.

The client may also conduct further investigation.

7.1 Further investigation/verification

At this stage, you should have a better idea of where and what risks there are within your first-tier and core suppliers and which priority risks to address. The final step is, therefore, to determine appropriate follow-up actions to verify the risks and, if necessary, develop an action plan to reduce or remediate the impact on workers. The key questions to consider at this stage are:

- How best to validate the issues that have resulted from the risk assessment? How can you be certain that the impact is occurring?
- What are the root causes of the risks to be addressed? How do you identify the real reasons the impact is occurring?
- What are the most useful actions for mitigating the risks? What is necessary in order to start addressing the root causes and reducing the impacts?

Options for client to enhance supply-chain leverage over PR2 risks

Contractual leverage

What enhanced contractual requirements could be included in purchasing contracts to ensure that supply-chain risk mitigation is in place, effective and demonstrable? (See Tool 4: sample contractual clauses.)

Is there a need for an additional supply-chain on-site assessment? Does this need to be conducted by an independent third party?

Are additional supplier reporting and monitoring requirements needed to drive changes in supplier practices?

Commercial leverage

What incentives could your company offer to the supplier, including direct purchasing practices (predictability of orders, secure trading relationships into the future) and indirect incentives, such as in-store promotions?

Can you develop and demonstrate a business case for your supplier(s)? How can this be strengthened?

Partnership and coordination

Is it possible to build a broader coalition of businesses and, therefore, greater commercial influence?

Have you considered joining a multi-party corporate social responsibility initiative on the issue in question?

If there are still outstanding information gaps from specific suppliers, or if the assessment undertaken so far has led to the conclusion that risks need to be validated or further investigated, it may be necessary to hire a third party to conduct onsite assessments, such as a labour auditor to help your company develop an action plan to close any gaps in a supplier’s practices that give rise to risks.

Independent assessment teams should ensure that, when following up on serious cases (such as forced labour and child labour), the respondent’s confidentiality is maintained and steps are taken to properly safeguard the individual or group. This should be done in line with the requirements of the child and forced labour safeguarding tools.

Further support to improve supplier management of risks include:

- **PR2 Tool 2:** Template code of conduct for suppliers of goods and materials to EBRD clients

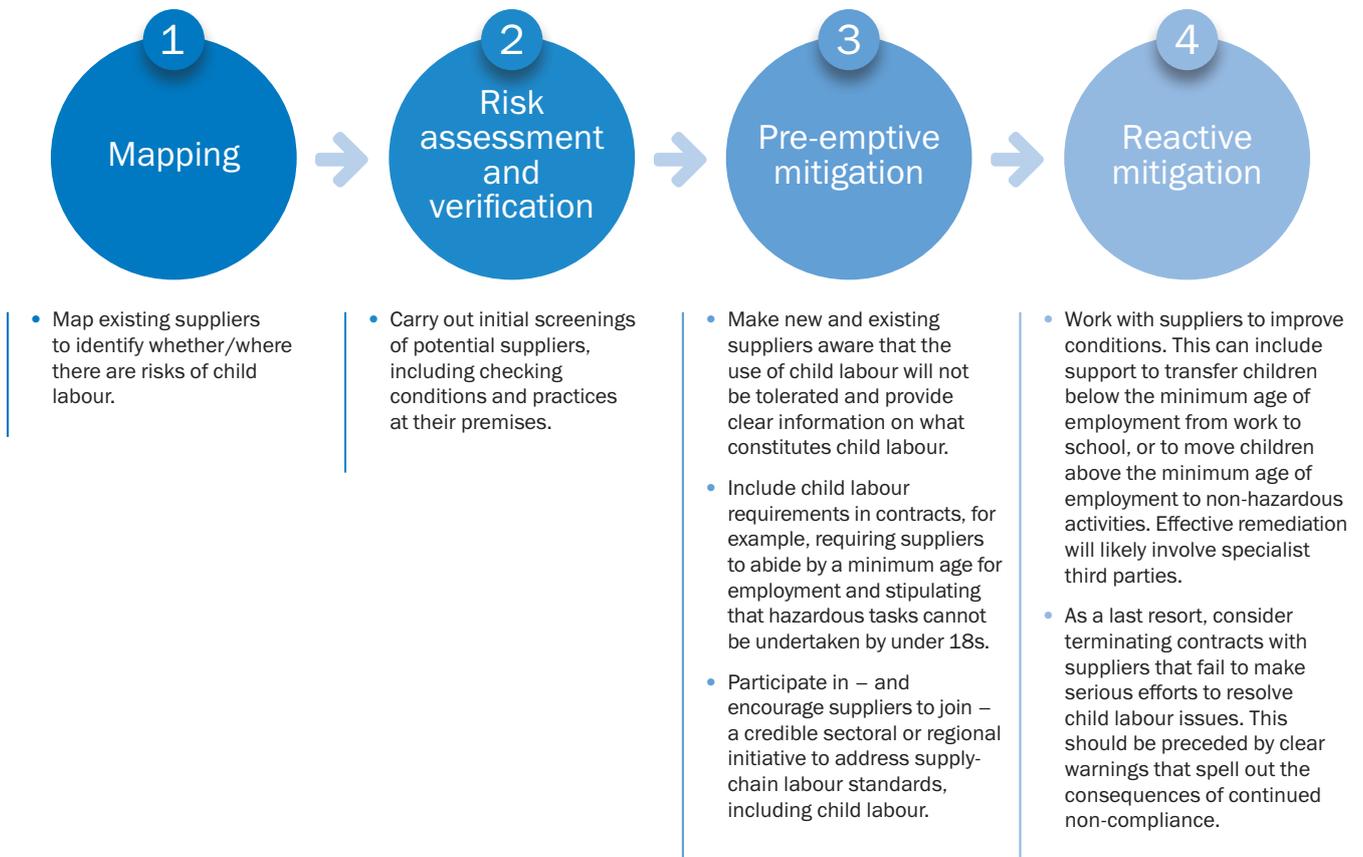
- **PR2 Tool 4:** Template clauses on labour to include in supplier contracts
- **PR2 Tool 11:** Reporting template for suppliers

It may also be necessary to raise the awareness and build the capacity of your suppliers to understand/manage labour risks. Identify if there are ongoing capacity-building activities in which your suppliers could participate, such as training on labour rights, responsible recruitment and HR management, or whether your organisation could commission these activities.

8. Step-by-step example: From mapping to mitigation

The following is an illustrative example of the process to be followed in case of identification of child labour risk in a primary supply chain (see Figure 4).

Figure 4: Process to be followed on identification of child labour in a primary supply chain



EBRD PR2 Tool 4: Template contractual clauses for agricultural suppliers

[The below template could be added to client agreements with suppliers in agricultural supply chains.]

1. Prohibition of forced labour

- *[Supplier]* will ensure that there is no use of forced or compulsory labour in any form. Forced or compulsory labour consists of work or service not voluntarily performed, which is extracted from an individual under threat of force or penalty, and includes bonded or involuntary prison labour, indentured labour and human trafficking.
- Workers will not be required to pay recruitment fees or lodge deposits or to leave their identity papers with their employers.

2. Prohibition of child labour

- *[Supplier]* will ensure that no persons below the age of *[national minimum age for employment]* are employed on the site. Young people who are employed between the ages of *[national minimum age for employment]* and 18 will not be employed to carry out hazardous work, and a risk assessment and ongoing monitoring will be carried out in respect of any work done by such employees.

3. Gender-based violence and harassment

- *[Supplier]* will prohibit any forms of gender-based violence and harassment (GBVH) and adhere to *[client]* code-of-conduct requirements. GBVH refers to any harmful acts perpetrated against a person's will that are based on socially ascribed gender differences. This includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion or other deprivation of liberty.
- *[Supplier]* will ensure that workers have access to effective grievance procedures to raise anonymous concerns and that staff are trained on unacceptable behaviours and procedures to escalate concerns.

4. Health and safety

- *[Supplier]* will ensure that workers are employed in a safe and healthy workplace, in compliance with the laws and regulations of the Government of *[country]* and in accordance with EBRD PR4.¹⁰ There should be procedures in place to prevent accidents and injuries occurring as a result of or linked to the supplier's operations.
- *[Supplier]* will provide regular information and training to staff, labourers and persons entitled to be on site with regard to the potential hazards to health and safety, and on the measures in place to prevent accidents, injuries and ill health.

5. Monitoring and enforcement

- *[Client]* reserves the right to inspect supplier's sites and relevant documentation, and to speak with workers and management employed on the site to ensure ongoing compliance with the requirements set out in this contract/labour and health and safety requirements. Such inspections may be carried out with or without prior notice by *[client]* or other party nominated by *[client]*.
- *[Supplier]* will ensure that there is a person or persons responsible for monitoring and reviewing HR policies and procedures in line with contractual requirements. These persons should report findings to *[client]* every month.
- Where gaps in *[supplier's]* performance against EBRD PR2 requirements are identified, *[supplier]* will be obliged to implement the recommendations of *[client]* to address the identified issues. *[Supplier]* will provide evidence of action taken and seek agreement from *[client]* to close gaps.
- *[Supplier]* agrees to adopt and implement requirements consistent with *[client's]* code of conduct.
- *[Supplier]* will include the above requirements as contractual obligations in agreements with their own suppliers.

¹⁰ See EBRD (2019), p.23.

EBRD PR2 Tool 5: How to incorporate labour-standard requirements into procurement of works

How to use this tool

This information is intended to assist EBRD clients in ensuring that working conditions on construction projects comply with applicable national labour laws, health and safety regulations, and international standards as defined in EBRD Performance Requirement 2 (PR2).

This tool applies only to EBRD private-sector clients.

Procurement rules for public-sector operations can be found in the EBRD Procurement Policy.¹¹

This tool includes guidance on the basic principles that all clients should consider when working with contractors (section 2), more detail on how this can be implemented in practice through process (section 3), and specific template contractual clauses that clients can use in their agreements with contractors (section 4).

PR2 applies to all workers on an EBRD project site, whether they are employed or engaged by the client directly, or whether they are “non-employee workers” employed or engaged by contractors, subcontractors

or labour agencies. The standards also apply to temporary workers.

In addition, the client may agree further specific actions or standards in its environmental and social action plan (ESAP) with the EBRD, such as the provision of a certain type of personal protective equipment (PPE) or the development of particular labour management and reporting systems.

Through its procurement practices, it is the client’s responsibility to pass these requirements on to their contractor(s) and, through the contracting chain, to subcontractors, and to monitor the implementation of these standards.

To ensure that EBRD requirements on labour and working conditions are fully embedded in a client’s construction project, it is vital that such requirements be integrated throughout the different stages of the client’s procurement process.

Glossary of key terms

Terms	Definitions
Client	Private-sector recipient of EBRD financing and project lead. In International Federation of Consulting Engineers (FIDIC) terms, referred to as the “employer” (namely, the entity that commissions works).
Contractor	Company appointed by the client to deliver construction works. The lead contractor is also referred to as primary contractor or engineer-procure-construct (EPC) contractor. Note that while, in procurement terms, contractors are commonly referred to as “suppliers”, for EBRD Performance Requirements, “suppliers” refers only to providers of goods and materials, not service providers.
Employed	Refers to workers that are hired to work on a construction project.
Engaged	Refers to contractors or subcontractors that are appointed to execute works on a project and to workers engaged on service (rather than employment) contracts.
OHS	Occupational health and safety (labour protection).
Subcontractor	A company appointed by the contractor to deliver specific works on a construction project.
Supervising consultant	Individual or team appointed by the client to supervise and monitor the contractor’s delivery of work and compliance with the contract. Where a supervising consultant is appointed by the client to manage labour and OHS across procurement and execution of work, this guidance should be applicable to them. May also be referred to as a supervisor’s/employer’s/consultant engineer.

¹¹ See EBRD (2022).

Introduction

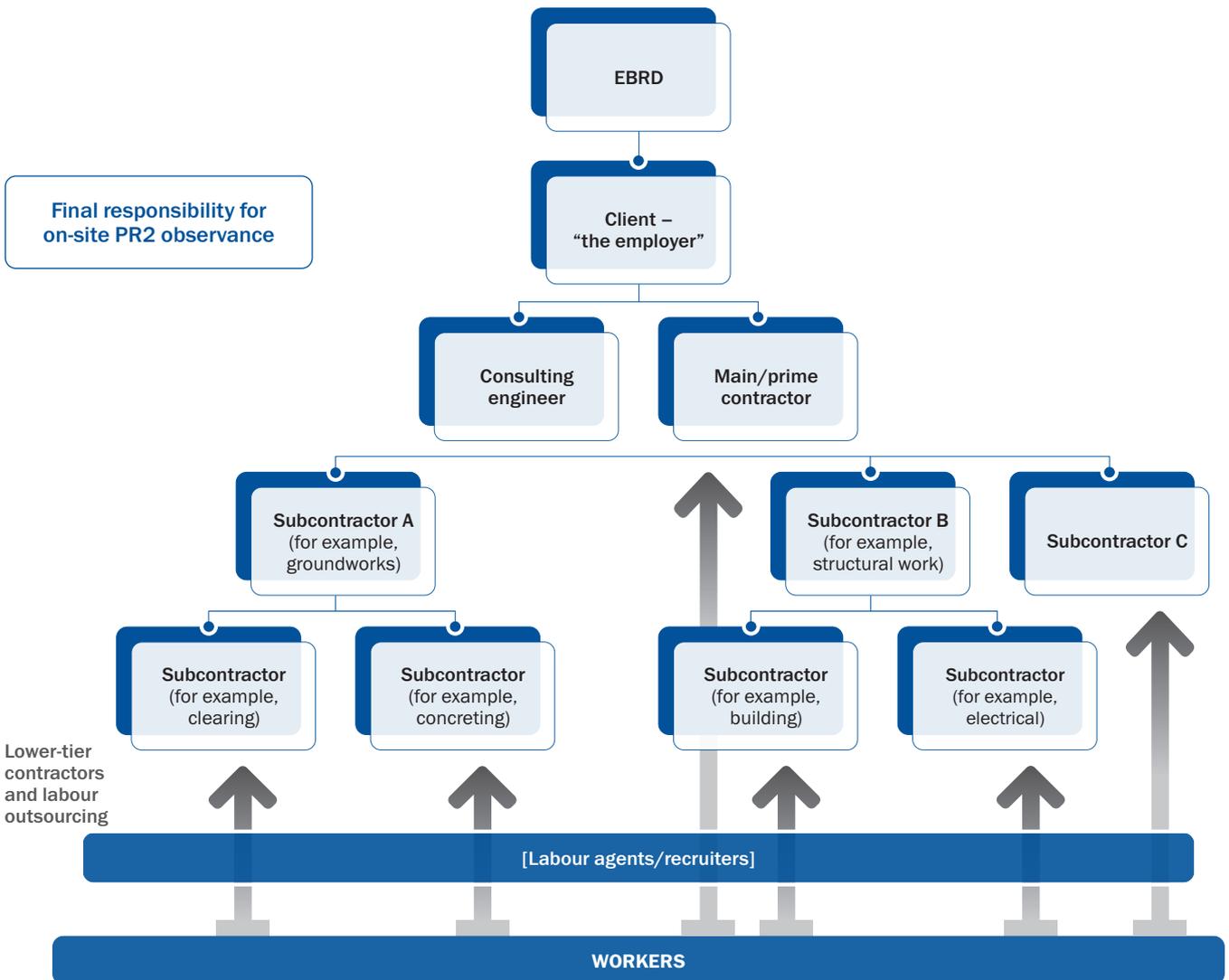
This document provides an overview of how to incorporate labour standards into procurement activities on construction projects contracted by private-sector clients of the Bank. Specifically, it contains:

- **Section 1.** An overview of the responsibilities of different contracting parties towards PR2 implementation.
- **Section 2.** Key actions that all EBRD clients need to consider to strengthen their management of contractor labour practices.
- **Section 3.** More detailed stage-by-stage guidance for clients that need more support or want more information on integrating labour and working conditions into client procurement practices.
- **Section 4.** Link to conditions of contract that clients can include in works contracts to ensure that PR2 provisions are covered.

1. Overview of the applicability of PR2 across the contracting chain

Figure 5 gives a simplified example of the potential structure of a client’s construction project, along with the differing roles with regard to EBRD PR2.

Figure 5: Example structure of a client’s construction project and roles as regards PR2



2. Core requirements: Integrating PR2 into phases of procurement of works

This section includes the minimum considerations that EBRD client procurement functions should take into account when procuring works. The core principles set out in subsection 2.2 also apply to those situations where contractors are appointed without recourse to competitive tender.

2.1 EBRD requirements



The EBRD's Performance Requirements include specific requirements for EBRD clients in respect of projects financed by the EBRD, regardless of whether these requirements are carried out directly by the client or through third parties, such as contractors or subcontractors (Section III: Scope 3.2).

PR1.27 states that "it is the client's responsibility to ensure that contractors working on project sites meet the ESMS requirements by adopting and implementing an appropriate contractor management system".¹²



EBRD PR2.22 - 23 specifies how these requirements apply to the management of labour risks in contractor and subcontractor workforces.

"For non-employee workers to be engaged through contractors or other intermediaries, the client will use reasonable efforts prior to contracting to: (i) assess the past performance of these contractors or intermediaries with regard to employment and occupational safety and health, to establish their current capacity to implement the requirements of this PR and PR 4; and (ii) require that they apply the requirements stated in paragraphs 7-19 and 21 of this PR and paragraphs 11-15 of PR 4. The client will identify risks associated with the recruitment, engagement, and demobilisation of project workers by third parties and establish commensurate policies and procedures for managing and monitoring the performance of third party employers in relation to the project and requirements of this PR. In addition, the client will use reasonable efforts to incorporate these requirements in contractual agreements with such third party employers and where relevant, will develop and implement a contractor management plan. In the case of subcontracting, the client will use reasonable efforts to cause third parties to include equivalent requirements in their contractual agreements with their subcontractors."¹³

2.2 Key actions for all EBRD clients

1. **Build an understanding of the potential impacts associated with contracted works and services.** These may be clearly stipulated in an impact assessment carried out during due diligence and can include challenges ranging from health and safety concerns to long working hours, low wages and non-payment of wages. For more guidance on this, see section 3.1 of this tool.
2. **Identify contractors and services providers that are best equipped to meet the EBRD's PR2 standard as part of the tendering process** (or as part of the appointment, where works are not tendered). At its simplest, this step can include basic checks to ensure that appointed contractors have a good track record on health and safety performance, or that they are reputable in the way they employ workers. For more details on how to undertake a competitive tender process that integrates PR2, see section 3.2 of this tool.
3. **Select contractors whose bids demonstrate capability of implementing EBRD PR2.** This evaluation of contractor capability should ideally take into account their technical capability and the financial feasibility of the bid. This is important, to avoid selecting contractors who submit very low bids, but which cannot then deliver on the terms and conditions of the contract. See Section 3.3 of this tool for more on this.
4. **Ensure that agreements with contractors include clauses related to labour and working conditions.** This is important in order to ensure that there are clear minimum standards against which the contractor can be held to account. This is also vital to ensuring that PR2 standards are cascaded to any other subcontractors appointed by the contractor. See sections 3.4 and 4 of this tool for more.
5. **Monitor the contractor's compliance with contractual conditions.** This is key to making sure that EBRD requirements are being met. Developing monitoring and reporting procedures can help with this and make sure that all parties are aware of their responsibilities. More information on how to do this can be found in section 3.5 of this tool and the labour management plan template in Tool 6.

¹² See EBRD (2019), p.15.

¹³ See EBRD (2019), p.18.

2.3 Benefits of integrating PR2 into procurement activities

It is important to utilise the procurement process to incorporate requirements that increase clients' ability to leverage and enforce these requirements throughout the contracting chain. Undertaking such steps can be further helpful for:

- **Risk mitigation:** To demonstrate to the client and the EBRD that PR2 requirements will be met throughout the project's timeframe and activities.
- **Awareness:** To ensure that the contractor is aware of these requirements and understands their implication for the performance of the contract.
- **Competence:** To ensure that the contractor has the technical and organisational capacity to implement these requirements, including appropriately qualified personnel, adequate management systems and training.
- **Commitment:** To ensure that the contractor is contractually committed to implementing, monitoring and reporting on the implementation of these requirements, both in their direct workforce and in the workforce of any subcontractors, including workers provided by labour agents.

3. Detailed stage-by-stage guidance

3.1 Procurement planning

3.1.1. Identifying/integrating relevant findings of initial risk assessment/ESAP

It is important to understand the project risks addressed by PR2. Where an impact assessment or ESAP is available, consult it. It is important to know the risks before starting to think about the approach to procurement. Where no impact

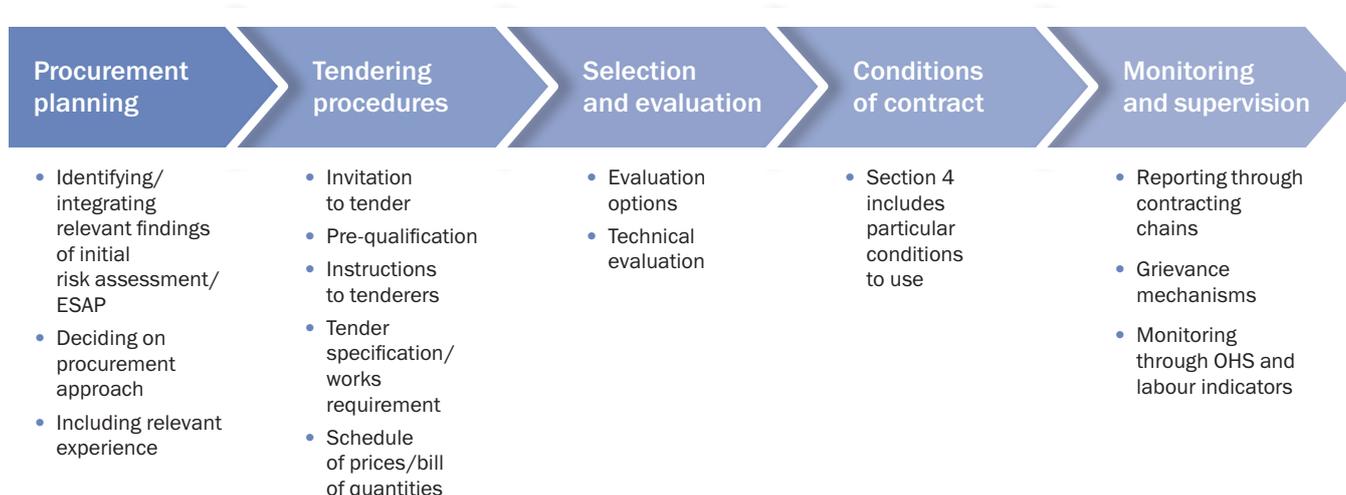
assessment or ESAP is available, refer to PR2 Tool 6, which provides guidance on developing the labour component of a contractor management plan. Tool 6 covers typical risks that workers may face on construction projects.

[Where works are not to be subject to competitive tender, it is important to select a contractor in line with the principles set out in PR2, that: i) the contractor must have demonstrated capacity to comply with PR2, and ii) performance in line with PR2 requirements – which remains the responsibility of the client – should be contractually required of contractors (and their subcontractors).]

3.1.2. Deciding on a procurement approach

There are a range of template procurement documents that clients can use for a construction project, including, but not limited to, that of the International Federation of Consulting Engineers (FIDIC). Within these documents, be they national or international, there are typically few specific requirements as regards labour rights.

Once the template documents have been selected, or mandated by a lender, it is important to understand the extent to which labour standards are specified. This should be mapped against the requirements set out in EBRD PR2 to understand where there are gaps and what general conditions in relation to labour need to be added to the contract as a result. For an overview of the general conditions against which a procurement framework should be assessed, see section 4 of this tool.



If tenderers are not provided with detailed information on the particular labour standards and systems for implementing those standards, they are unlikely to include associated costs in their financial proposals accordingly, which may lead to challenges in implementation if and when appointed.

3.1.3 Including relevant experience

Clients should ensure that prior to inviting tenderers to bid, sufficient planning has taken place to understand potential labour risks and to make certain that there is sufficient internal capacity to ensure that labour and working condition requirements are integrated into tender documents and that such expertise is involved in reviewing bids.

3.2 Tendering procedures

3.2.1 Invitation to tender

The introduction or preface to the invitation to tender must include reference to EBRD policy on labour standards, national labour law and the ESAP.

At a minimum, this reference should state that: “As part of its commitment to sustainable development, *[client]* promotes the application of best practice regarding environmental and social matters, including labour and working conditions, as stipulated in the EBRD’s Environmental and Social Policy, 2019”.

3.2.2 Pre-qualification

Prior to inviting companies to tender, a client may choose to pre-qualify potential candidates. The client can consider stating that demonstrable competence to comply with the Bank’s Performance Requirements, including PR2 on labour and working conditions, forms part of the qualification to perform the service contract satisfactorily.

Where pre-qualification is used by the client, it is important to consider labour and health and safety capacities to screen out poorly performing contractors from the formal tender process. Clients could, for example, require bidding companies to provide information on the number of fatalities on previous projects or the number of labour disputes or complaints.

3.2.3 Instructions to tenderers

Instructions to bidding companies must clearly explain what information is required and how bids will be evaluated and selected. See section 3.3 on selection requirements that may be considered.

The award of contract should be based on a combination of the cost and quality of the bidder’s submission.

3.2.4 Tender specification/works requirements

Tender documents should clearly set out the specific requirements that contractors are expected to meet on labour and working conditions. Simple reference to EBRD PR2 and national labour law is insufficient. Rather, detailed requirements should be included in the tender (or works requirement where works are not tendered), so that the bidding company has a clear expectation of what is required and the standards against which it will base its commercial bid.

Depending on the nature and size of contracted services needed, the client should consider including the following in the tender documents to clearly set out the requirements related to labour management:

- **Labour rights commitments:** Executive management of the contractor should sign a statement committing to aligning practices with EBRD PR2, national labour law and client requirements on labour, as defined in client policies and procedures. Contractors should also be asked to commit to supporting the client in closing gaps identified in the ESAP. The full details of these requirements should be included as attachments to bidding documents for full transparency.
- **Staffing and capacity:** The contractor has a named manager with defined responsibility for HR, OHS and worker accommodation – including those in relation to subcontractors and labour agencies. Consider requiring bidders to submit organisational charts and/or job descriptions.
- **HR policies:** Copies of the contractor’s policies, procedures or plans for managing HR, including coverage of non-discrimination, equal opportunity and GBVH. This should include any specific training plans.
- **OHS policies:** Copies of the contractor’s policies, procedures or plans for managing OHS for its staff and subcontracted workers. This should include any plans for worker accommodation and training.
- **Grievances:** Copies of the contractor’s existing worker grievance policy and procedures. This should clearly describe how workers’ confidentiality is maintained.
- **Monitoring and reporting:** Description of the procedures used by the contractor to monitor and report on working conditions and health and safety for its own workers and the workers employed by subcontractors.
- **Implementation commitments:** The executive management of the contractor should sign a statement of commitment to communicating

identified labour violations to the client, to permitting the client to inspect and monitor all aspects of the project when it chooses, and to closing identified violations in line with the client's recommendations.

3.2.5 Schedule of prices/bill of quantities

In specifying the parameters for the schedule of prices, clients may consider requesting disaggregated labour-cost data in order to ascertain the practicality of the tender vis-à-vis payment of statutory or agreed minimum wage levels. The quoted price must be consistent with the treatment of workers in accordance with national labour law. Quoted labour costs must reflect payment of wages comparable to those paid by equivalent employers in the sector and region, and at least consistent with statutory or agreed overtime premiums.

For instance, labour and OHS items that could be priced separately include:

- wage costs that are comparable to those paid by equivalent employers in the sector and region
- costs of recruitment
- worker training: induction training, job-specific training and periodic refresher training
- the preparation and updating of a site-specific labour and OHS plan, including a supervision and reporting scheme (covering subcontractors)
- provision of temporary protective works (scaffolds, hoardings)
- recruitment of a qualified safety officer, provision of labour and OHS training for workers and supervisors
- time to attend meetings of the OHS safety committee
- provision of welfare facilities (water, food, housing)
- provision of PPE
- provision of medical examinations, first aid and emergency facilities.

3.3 Selection and evaluation

3.3.1. Evaluation options

The approach to assessing and selecting contractors will depend on whether procurement is a single or two-stage process. A request for bids entails the selection of the most economically advantageous bid, which is “substantially responsive” to the tender specifications. A request for proposals can include both technical (quality) and commercial (cost) criteria for evaluation, including specific criteria on the quality of the proposed environmental and social management approach. (Note that in public-sector operations, the EBRD refers to both as an invitation to tender.)

The procedure for evaluation and selection should be clear to all bidding companies. Depending on the form of procurement, there may be scope to include the following labour and OHS considerations in bid evaluation:

- **Technical evaluation:** Analysis of the adequacy of the technical submission, as well as their capacity with regard to labour and contractor management, including resource, policies and management systems (see below). This may be a weighted category as part of the whole bid or evaluated on a pass/fail basis.
- **Commercial evaluation:** Analysis of the labour-cost component priced in the schedule of prices/bill of quantities. This can help clients evaluate bids that are abnormally low and that will not be able to meet the contractor's required labour costs. This assessment should be against the specific line items included in the schedule of prices/bill of quantities.
- **Previous performance:** Consideration of the tenderer's health and safety record and record of labour violations, including summary findings of any recent labour inspections, fines imposed and cases outstanding, as well as examples of safe practices. Where significant poor performance is identified, bidders may be disqualified from the tender process. Note that this would not require clients to include detailed items within the tender specification or schedule of prices.

3.3.2. Technical evaluation

The selection of contractors should be based on the evidence and information that contractors have been asked to submit. Therefore, clients should evaluate evidence and information in response to the tender specification/works requirements (see 3.2.4) to help decide on whether a contractor is selected or not.

Clients should aim to select a contractor based on their ability and willingness to comply with requirements. This means that all evidence submitted should be reviewed and assessed against the information and evidence the client has asked tenderers to submit, to check whether they are compliant or not. Clients should make use of staff or consultants with labour expertise in the bid review process. This may include human resources or OHS managers, and could include SCs, where appropriate (see PR2 Tool 9, which provides an example terms of reference for SCs). This is to ensure that evidence and information submitted related to labour management can be reviewed by individuals with expertise in this area.

Even where there are still gaps, clients can elect to select the best bid and to put in place a contractually defined remedial action plan to ensure that the contractor takes progressive steps to close those gaps.

3.4. Conditions of contract

The performance conditions should specify the contractor's labour obligations in as much detail as possible. This should reflect the details included in the tender documents. Conditions in the contract should also clearly explain the potential sanctions for non-compliance with labour conditions, including potential encashment of performance securities/bonds.

Any gaps in the contractor's practice or capacity on labour and working conditions should be addressed contractually, either as specific clauses or as part of a corrective action plan included as an annex to the contract.

Sample contractual clauses are provided in Section 4.

3.5 Monitoring and supervision

3.5.1 Reporting through contracting chains

Ultimately, PR2 places responsibility for ensuring compliance with the EBRD's labour requirements on the client. *[Where a supervising engineer is appointed by the client and their terms of reference expressly includes management of labour and OHS across the procurement and implementation phases, these responsibilities are delegated in practice to the supervising engineer.]*

Contractors also need to assume responsibility for implementing – and reporting on – the labour standards outlined in their contract with the client. They should ensure that these are met for workers on site, not just their own employees. To do this, contractors must:

- Establish systems to monitor their own employment practices and the practices of any appointed subcontractors. This is best done by building on existing health and safety monitoring of parties on site, which can be clearly set out in the contract.
- See below for suggested indicators for monitoring OHS and labour compliance that could form the basis of regular reports. The Bank suggests that OHS and PR2 indicators be integrated into a single reporting framework.
- Report back to the Client on how these systems are set up and the findings of all monitoring.

In particular, any instance of severe infringement of labour standards – such as the presence of forced labour or fatalities on site – must be reported immediately to the client.

3.5.2 Grievance mechanism

EBRD PR2.20 requires that workers on site have access to equivalent grievance mechanisms.¹⁴ While clients will have an overarching grievance mechanism in place, per tender specifications/works requirements, contractors should also ensure that they have grievance mechanisms in place so that their employees or the employees of subcontractors can file a grievance to their direct employer, most commonly a contractor or labour provider/agency.

Subcontractors should regularly report the findings and outcomes of grievance procedures to the contractor, and the contractor should report these to the client.

However, where non-employee workers are active on a project site – potentially alongside direct employees of the client – it may be appropriate to explore the possibility of establishing a shared grievance mechanism for site workers.

3.5.3 Monitoring through OHS and labour indicators

In addition to the suggested monitoring frameworks above, it is important to monitor a project's activities through a series of indicators that can help establish whether the project complies with EBRD requirements on labour and working standards. In particular, this includes monitoring health and safety indicators and other labour indicators. Where possible, clients/contractors should keep sex-disaggregated data.

¹⁴ See EBRD (2019), p.18.

Suggested OHS indicators

Reactive	Proactive
Average no. of workers	No. of OHS training hours
Total man hours worked	No. of OHS inductions
No. of fatal accidents	No. of OHS management visits
No. of lost time injuries	No. of “toolbox talks” (regular, short presentations to the workforce on a single aspect of health and safety)
No. of medical treatment cases	No. of OHS meetings
No. of first aid cases	No. of OHS inspections
No. of community injuries	No. of OHS safety observations
No. of “near misses”	
No. of lost workdays	
No. of road traffic accidents	

Suggested labour indicators (sex-disaggregated where possible)

Area	Risk issue	Key labour indicators	Where to report?
Wages and working conditions	Wages at least equivalent to national minimum wage or collective agreement	No. of incidences of sub-minimum wage payment	Reporting through contracting chain Grievance mechanism
	Workers receive wages on time and/or in full	No. of reported instances of delayed or unpaid wages	Monitoring and evaluation visits Grievance mechanism No. of fatal accidents
	Hours of work do not exceed legal maximum	Hours worked per worker/ week No. of reported instances of excessive hours/overtime	Reporting through contracting chain Grievance mechanism Worker interviews
	Overtime premiums paid to workers	No. of reported instances of unpaid overtime premiums	Reporting through contracting chain Grievance mechanism Worker interviews Monitoring and evaluation visits
	Quality and take-up of worker accommodation	No. of workers on site living in employer-provided accommodation No. of reported instances of poor quality housing and sanitary facilities/amenities Percentage of workers reporting restrictions on their movement from their accommodation	Reporting through contracting chain Grievance mechanism Monitoring and evaluation visits Worker interviews
Grievance mechanisms	Number of grievances effectively resolved through the grievance mechanism(s)	Grievances resolved/ grievances received Grievances resolved to the satisfaction of the worker	Grievance mechanism Worker interviews

4. Specific supplementary conditions of contract

Area	Sample requirements
Definitions	<p>“Workers” refers to all labour performing services under the direct control and supervision of [contractor] (and subcontractors), even where labour is provided by a third-party.”</p>
HR policies and management systems	<p>“[Contractor] will have HR management systems and policies in place that are appropriate to its workforce size and that are clear, accessible and understandable to all workers. [Contractor] will ensure that workers are informed of their rights under national labour law.”</p>
Prohibition of forced labour	<p>“[Contractor] will ensure that there is no use of forced or compulsory labour in any form. Forced or compulsory labour consists of all work or service not voluntarily performed that is extracted from an individual under threat of force or penalty and includes bonded or involuntary prison labour, indentured labour and human trafficking. Workers will not be required to pay recruitment fees or lodge deposits or to leave their identity papers with their employers.”</p>
Prohibition of child labour	<p>“[Contractor] will ensure that young people are not employed below the appropriate national age for employment, namely [national minimum age for employment]. Young people who are employed between the ages of [national minimum age] and 18 will not be employed on hazardous work, and a risk assessment will be carried out in respect of any work carried out by such employees.”</p>
Non-discrimination and equal treatment	<p>“[Contractor] will ensure non-discrimination and equality of opportunity and treatment in respect of employment and occupation, training and working conditions, in compliance with national law. [Contractor] will ensure equal remuneration for men and women for work of equal value.”</p>
Freedom of association and collective bargaining	<p>“All workers will have the right to form and join trade unions and to bargain collectively, as provided for under national law. [Contractor] will ensure that workers’ representatives are not discriminated against and have access to all workplaces necessary to enable them to carry out their representation functions.”</p>
Wages	<p>“[Contractor] will pay rates of wages and benefits that meet at least statutory minimum rates or those established in a binding collective agreement. Deductions from wages for disciplinary measures will not be permitted, nor will any deductions from wages not provided for by national law be permitted without the express permission of the worker concerned. Deductions must never lead to an employee receiving less than the applicable minimum wage.”</p> <p>“All workers will be provided with clearly understandable verbal and written information about the conditions in respect of wages before they enter employment and of the particulars of their wages for the pay period concerned each time they are paid. Wages will be paid in legal tender in full, on time and directly to the workers concerned. [Contractor] will maintain records of all payments and deductions made.”</p>
Hours of work	<p>“Hours of work will comply with applicable laws, collective agreements and industry standards. Workers will be provided with a period of rest per week as provided by national law. Overtime arrangements and overtime compensation will comply with applicable laws and collective agreements.”</p>
Health and safety	<p>“[Contractor] will provide [client] with a written health and safety policy and a project-specific health and safety plan (OHS plan) before the commencement of work. The OHS plan should be made available to [client] prior to the start of construction.”</p> <p>“[Contractor] will ensure that a safe and healthy working environment is provided and that best OHS practices are promoted. [Contractor] should provide regular information and training to all staff, labourers and persons entitled to be on site on the potential hazards to health and safety and on the measures in place to prevent accidents, injuries and ill health.”</p> <p>“[Contractor] will provide or make arrangements for the medical treatment of workers, so as not to overload the resources of the local communities. In collaboration with local health authorities, [contractor] will ensure that medical staff, first aid facilities and ambulance service are available at all times on all relevant project site(s) and accommodations for [contractor’s] personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.”</p> <p>“[Contractor] will appoint an accident prevention officer at the site, responsible for maintaining safety and protection against accidents. [Contractor] will send to [client/supervision consultant] details of any accident as soon as practicable after its occurrence.”</p> <p>“[Contractor] will develop a preventative approach to worker health concerns, including providing inoculations or other preventative treatments for disease that are either global in nature or endemic in the project area, as well as condoms and information to raise awareness among employees of sexually transmitted disease and HIV/AIDS. [Contractor] will undertake appropriate measures to reduce the risk of transfer of sexually transmitted diseases (STDs) and HIV/AIDS among the [contractor’s] personnel and the local community.”</p>

Area	Sample requirements
Worker accommodation	<p>“<i>[Contractor]</i> will put in place and implement policies governing the quality and management of any accommodation and related services provided to workers. The accommodation services will be provided in accordance with good international practice (GIP), as set out in the EBRD/IFC guidance on worker accommodation¹⁵ and in a manner consistent with the principles of non-discrimination and equal opportunity, including safeguards against sexual harassment and other forms of gender-based violence.”</p> <p>“Workers’ freedom of movement to and from the employer-provided accommodation will not be unreasonably restricted.”</p>
Social security	<p>“<i>[Contractor]</i> will ensure that obligations to staff and labour under labour or social security laws and regulations arising from the employment relationship are respected, and that such obligations will not be avoided through the use of labour-only contracting arrangements.”</p>
Grievance mechanisms	<p>“<i>[Contractor]</i> will ensure that a confidential grievance mechanism is available to all workers to use without fear of intimidation or retaliation. <i>[Contractor]</i> will ensure that employees understand how to use the grievance mechanism, that the mechanism is part of training for new employees, and that information is posted in relevant areas on site.”</p>
Code of conduct	<p>“<i>[Contractor]</i> will develop and ensure that a code of conduct for employees is enforced, including policies on alcohol, smoking and non-smoking areas, sexual harassment and gender-based violence, and interaction with local communities. The code of conduct will be part of the training programme for new employees and be posted in relevant areas in the construction camp.”</p>
Reports	<p>“<i>[Contractor]</i> will record occupational accidents and occupational diseases and provide information to workers and their representatives on the recording system.</p> <p>“<i>[Contractor]</i> will notify the competent authorities of occupational accidents and occupational diseases and provide appropriate information to workers and their representatives on the notified cases.”</p> <p>“<i>[Contractor]</i> will ensure that there are people responsible for monitoring and reviewing labour and working conditions, and will provide regular reports on its management and monitoring of working conditions of direct and indirect employees on <i>[(all) work site(s)]</i>.”</p>
Engagement of staff and labour	<p>“Except as otherwise stated in the specification, <i>[contractor]</i> will decide on the engagement of all staff and labour, local or otherwise, and be responsible for their payment, feeding, transport and, where appropriate, housing.”</p>
Monitoring	<p>“<i>[Client]</i> reserves the right to inspect project sites, announced or unannounced, or to commission a third party to do so.”</p> <p>“<i>[Client]</i> or another party nominated by <i>[client]</i> will have the right to access the project site, speak with workers and management, and inspect working and living conditions, where applicable.”</p> <p>“Where gaps in <i>[contractor’s]</i> performance against EBRD PR2 requirements are identified, <i>[contractor]</i> will be obliged to implement the recommendations of <i>[client]</i> or its appointed third party to address the identified issues.”</p>
Subcontracting conditions	<p>“<i>[Contractor]</i> will take steps to ensure that appointed subcontractors are reputable and capable of meeting the standards set forth in this contract.”</p> <p>“The requirements set forth in this contract will also be incorporated as binding obligations in contracts between <i>[client]</i> and <i>[contractor]</i>, and along the contracting chain between <i>[contractor]</i> and its subcontracting parties.”</p>

¹⁵ See EBRD and IFC (2009).

EBRD PR2 Tool 6: Developing the labour component of contractor management plans for construction projects

This template aims to provide information to EBRD clients on developing the labour component of a contractor management plan (CMP) to facilitate the planning and implementation of construction projects.

How to use the template

The labour component of the CMP template provisions on labour, below, have been developed to help identify the main labour requirements and risks associated with the project in question and help clients identify any resources necessary to respond to potential labour issues within the project.

Any CMP developed on the basis of this template should be reviewed and updated throughout the life of the project (for example, during the development and implementation phases).

The content of this template is indicative. Where the issues identified are relevant to a project, clients should capture them in a CMP. Some issues may not be relevant; some projects may have other issues that need to be included from a planning perspective. In preparing and updating the labour component of a CMP, clients should refer to the requirements of national law and the EBRD's Performance Requirement 2 (PR2).

A concise and up-to-date CMP will enable different project-related parties – such as the staff of the project implementing unit, contractors and subcontractors, as well as project workers – to have a clear understanding of what is required on a specific labour issue. It is also an effective way to demonstrate compliance with PR2 requirements.

The level of detail contained in the labour component of a CMP will depend on the type of project and information available. Where relevant information is not available, this should be noted, and the CMP should be updated as soon as possible.

Those sections in *[blue, brackets and italics]* should be amended and deleted as appropriate.

[Name of construction project]: Contractor management plan

1. Objectives and overview

[This section should clearly set out the parameters of the labour component of a CMP.]

Where appropriate, the CMP should be adopted by clients, contractors, subcontractors and other appropriate parties using the project site, along with any related employer-provided accommodation.

Project activities should be clearly described, including the type and location of the project, as well as the different activities the project workers will carry out.

2. Overview of labour use on the project

This section gives an overview of the workforce for the project, based on available information.

[This can be filled in using the table below.]

Required information	Description
Number of project workers	Total number of workers to be employed on the project and the different types of worker: direct workers and non-employee/contracted workers. Where numbers are not yet firm, an estimate should be provided.
Characteristics of project workers	To the extent possible, a broad description and indication of the likely characteristics of the project workers, for example, local workers, national or international migrants, female workers, young workers (aged between <i>[national statutory minimum age for access to employment]</i> and 18 years), casual and day labourers.
Timing of labour requirements	The timing and sequencing of labour requirements in terms of numbers, locations, types of job and skills required.
Contracted workers	The anticipated or known contracting structure for the project, with numbers and types of contractor/ subcontractor and the likely number of project workers to be employed or engaged by each. If it is likely that project workers will be engaged through brokers, intermediaries or agents, this should be noted, together with an estimate of how many workers are expected to be recruited in this way.
Migrant workers	If it is likely that migrant workers (either domestic or international) are expected to work on the project, this should be noted, and details should be provided of where they have come from and how they have been recruited (that is, whether directly or through a broker or intermediary).

3. Roles and responsibilities

This section should clearly set out the responsibilities of the following roles, or their equivalents.

[Use and amend the tables as necessary to clearly highlight responsibilities across the project. This should clearly set out who is responsible for setting standards, implementing standards and monitoring compliance against these standards.]

3.1 Client

Role	Responsibilities for ensuring supervision of and reporting on PR2 and PR4 compliance during procurement and execution of works
Project manager	
Project procurement manager	
Human resources (HR) manager <i>[where relevant]</i>	
Health and safety manager <i>[where relevant]</i>	
Project engineers <i>[where relevant]</i>	
Supervising consultant <i>[where relevant]</i>	
Environmental and social/monitoring and evaluation consultant <i>[where relevant]</i>	

3.2. Contractor

Role	Responsibilities
Contract managers	
Project designer	
HR manager(s)	
Health and safety manager(s)	
Site supervisors/ managers	
Subcontractor manager/supervisor(s)	

Information on subcontractor management responsibilities must be retained by the contractor.

4. Legal standards

This section sets out the relevant standards with which parties should comply.

[This should include an overview of EBRD PR2 requirements and key elements of national labour law. This section should call out key gaps in national labour legislation, where applicable.]

4.1 Labour requirements applicable to the project

The table below provides an overview of the labour requirements that apply to the project. These are based on national legal requirements and the standards set out in EBRD PR2. Note that all PR2 provisions, other than those relating to collective dismissals and supply chains (namely, paragraphs 7-19 and 21), apply to non-employee workers, such as contractor and subcontractor site labour.¹⁶ Similarly, paragraphs 11-15 of PR4 provisions on health and safety apply to the entire site workforce.¹⁷

[This table should include the relevant provisions detailed in national law.]

Category	PR2/4 requirement	National labour law	Benchmark standard
HR policies			
Working relationships			
Child labour			
Forced labour			
Non-discrimination and equal opportunity, including gender-based violence and harassment (GBVH)			
Workers' organisations			
Wages, benefits and conditions of work			

¹⁶ See EBRD (2019), pp.16-18.

¹⁷ See EBRD (2019), pp.23-24.

Category	PR2/4 requirement	National labour law	Benchmark standard
Worker accommodation			
Grievance mechanism			
Non-employee workers			
Operational health and safety (OHS) (PR 4 paras. 11-15)			

5. Project labour risks

5.1 Assessment of key potential PR2 risks

Key labour risks for construction projects: This section should clearly set out the potential labour risks on the project. Examples of potential risks on construction sites include forced labour, gaps with regards to OHS regulation or implementation of adequate OHS standards, inadequate grievance mechanisms and poor worker accommodation.

Each identified risk should be explained so that the likely causes are clearly defined.

6. Policies and procedures to mitigate risks

This section provides an overview of the key policies and procedures that apply to the scope of the project. These policies and procedures should be clearly referenced.

6.1 Details on specific labour provisions

This section sets out how key labour issues will be managed, including those related to forced labour, worker accommodation, OHS, non-employee workers, employment terms and conditions, and grievance mechanisms. Below are examples of common risk issues on construction projects. This section should be filled in and amended as necessary.

6.1.1. Forced labour

This section should clearly set out:

- a prohibition of all forms of forced labour on the project
- defined procedures for recruiting workers that mitigate risks of forced labour
- procedures on any form of document retention and limitations of freedom of movement of workers (for example, where this is a necessary result of community safety policies).

6.1.2. Hazardous child labour

This section should state the national statutory minimum age of access to employment in the country of operation.

No workers aged under *[statutory minimum age]* are to be employed on the site.

This section should clearly set out:

- restrictions on employing young workers (aged *[statutory minimum age]*-18) on the construction site, including a list of jobs and activities from which they are prohibited
- rules related to recruiting and employing young workers (aged *[statutory minimum age]*-18), including medical checks, record keeping and restrictions on overtime and overall working hours.

6.1.3. Worker accommodation

This section sets out specific requirements and specifications that workers' accommodation must meet. It should be in line with the EBRD PR2.19,¹⁸ the EBRD/IFC Best Practice Guidelines on Worker Accommodation¹⁹ and national regulations on worker accommodation.

See the Worker Accommodation Plan template (Tool 7) for guidance on what this section should summarise and for more information on national and international standards.

6.1.4. OHS

This section sets out details on the health and safety standards of the project site(s) for all types of worker on the project (direct and contracted). It should include, at a minimum:

- risk assessment procedures
- PPE requirements
- site safety procedures
- induction and training requirements (in particular, where there is high rotation/use of casual or day labour)
- fire safety and detection
- chemical storage and handling procedures

¹⁸ See EBRD (2019), p.18.

¹⁹ See EBRD and IFC (2009).

- list of hazardous activities
- safe method working statements
- OHS reporting and monitoring procedures.

6.1.5. Coronavirus measures

Where applicable, this section should include details of the measures being taken to prevent and control Covid-19. Clients should summarise key sections of a Covid-19 management plan, including:

- risk assessments that have been completed in worksite and camps
- plans and changes that have been developed to mitigate and control risks
- measures that have been taken to communicate controls to workers and to build worker capacity
- emergency response procedures and escalation channels.

6.1.6. Gender-based violence and harassment (GBVH)

This section should, at a minimum, include:

- the commitments made within a sexual harassment policy
- the process for communication of and training on the sexual harassment policy for all managers, supervisors and workers
- the procedures for raising complaints – including anonymous complaints – related to incidents of sexual harassment in the workplace
- the training requirements for all HR and other relevant persons on how to respond to reports of GBVH on site or in the community.
- If there are perceived to be higher risks of GBVH, additional requirements may be included in this section. See the HR Policy Tool (Tool 1) for additional criteria.

6.1.7. Non-employee workers

This section should clearly explain requirements related to:

- the process for selecting contractors, in which the client will use reasonable efforts prior to contracting to: (i) assess the past performance of these contractors or intermediaries with regard to employment and OHS, to establish their current capacity to implement the requirements of PR2 and PR4; and (ii) require that they apply the requirements
- requirements for contractors to cascade equivalent requirements in their agreements with their subcontractors
- procedures for reporting and monitoring contractors' labour performance.

6.1.8. Terms and conditions

This section should clearly provide details on:

- the procedures for informing workers of terms and conditions of employment
- the standard contract form for workers on the project
- specific wages, hours (including overtime) and other provisions that apply to the project
- maximum number of hours (daily, weekly and monthly) that can be worked on the project and procedures for record keeping
- any collective agreements that apply to the project; where relevant, provide a list of agreements and describe key features and provisions
- other specific terms and conditions.

6.1.9. Grievance mechanism

This section should include details of the grievance mechanism that will be provided for direct and contracted workers and describe the way in which these workers will be made aware of the mechanism.

See [EBRD client guidance on developing and implementing a worker grievance mechanism](#) for information on what this section should summarise and for more detail on applicable standards.

7. Procedures for monitoring and reporting

7.1 Monitoring

This section includes a template report for clients to use to monitor labour and working conditions on a project. Monitoring should be carried out in line with guidance in PR2 Tool 8, which provides a monitoring methodology for contractors. Where amendments are made to Section 6, above, these should be reflected in the table below.

[Client] (or expert third parties appointed by *[client]*) has the right to access all areas of the project site, including worker accommodation, to speak with all workers engaged on the project and to review the documentation of all contractors and subcontractors. *[Client]* will undertake an evaluation of each contractor and subcontractor's labour management practices according to contractually agreed provisions and performance on labour management.

[Name of contractor/subcontractor]

Category	Identified gaps in performance	Corrective actions	KPIs	Frequency	Responsibility
Forced labour					
Hazardous child labour					
Worker accommodation					
OHS					
Terms and conditions of employment					
GBVH					
Non-employee workers					
Grievance mechanisms					

7.2 Reporting

[Contractor] will implement and report on the labour standards outlined in their contract with [client].

[Contractor] should ensure that these requirements are met for workers on site, including those employed through subcontractors or other intermediaries. To do this, [contractor] must:

- establish systems to monitor their own employment practices and the practices of any appointed subcontractors
- report back to [client] on how these systems are set up
- report on the findings of monitoring related to labour and OHS.

Contractors should report to [client] on labour practices annually and may be required to do so more frequently, per performance against contractual requirements.

In particular, any instance of a severe infringement of labour standards must be reported immediately to [client]. Instances of such severity are:

- occurrence of fatalities
- instances of forced labour
- instances of hazardous child labour
- instances of GBVH
- occurrence of strike(s).

2. Worker accommodation standards

Accommodation provided on projects will comply with the requirements of EBRD Performance Requirement 2 (PR2) and EBRD guidance on worker accommodation²¹ and will meet the standards set out in national legislation.

Since the start of the Covid-19 pandemic, workers living in employer-provided accommodation face an additional set of health risks, as they are living in close proximity to other workers in densely populated accommodation camps, where the transmission rate of the virus is likely to be higher. The EBRD has developed a number of [guidance materials](#) to support clients and prevent and mitigate risks faced by their workers.²²

The worker accommodation inspection checklist takes into account the above EBRD standards and all relevant national standards set out below. See the checklist in Annex 7.1.

2.1 EBRD provisions on worker accommodation

EBRD PR2.19 states that “where a client provides accommodation for project workers, the client will put in place and implement policies governing the quality and management of the accommodation and provision of services. The accommodation services will be provided in accordance with GIP and in a manner consistent with the principles of non-discrimination and equal opportunity, including safeguards against sexual harassment and other forms of gender based violence. Workers’ freedom of movement to and from the employer-provided accommodation shall not be unreasonably restricted.”²³

In addition, relevant PR4 standards on specific issues must be taken into account.²⁴ These are:

- PR4.18, which states: “The client will assess project-related gender based violence risks of sexual harassment, sexual exploitation and abuse to project-affected persons and communities. Where appropriate, the client will adopt specific measures to prevent and address these risks, including the provision of confidential channels for reporting incidents and providing support.”

- PR4.19, which states: “The client will incorporate health and safety considerations into the design, construction, commissioning, operation, maintenance and decommissioning of the structural elements or components of the project in accordance with GIP taking into consideration health and safety risks to third parties and project-affected communities. Structural elements will be designed and constructed by qualified professionals. Third-party life and fire safety audits will be undertaken for all new public buildings and their major refurbishment, prior to their commissioning or use.”
- PR4.34-35, which state: “The client will take measures to avoid or minimise transmission of communicable diseases that may be associated with the influx of temporary and/or permanent project workers” and “The client will take measures to avoid or minimise transmission of communicable diseases and prevent gender based risks that may be associated with the influx of temporary and/or permanent project labour.”
- PR4.39-40, which state: “The client will identify and assess project security threats to workers and project-affected communities. Where risks have been identified, adequate security management arrangements will be implemented in accordance with GIP to manage these risk” and “When the client retains employees or contractors to provide security to safeguard its personnel and property, it will assess risks posed by these security arrangements to those within and outside the project site. In making such arrangements, the client will be guided by the principle of proportionality, GIP, and applicable laws in terms of hiring, rules of conduct, training, equipping and monitoring the conduct of such personnel. The client will not sanction any use of force except when used for preventive and defensive purposes in proportion to the nature and extent of the threat.”

2.2 EBRD guidance on worker accommodation

The EBRD and International Finance Corporation’s (IFC) good practice guide on worker accommodation provides detailed minimum standards that worker accommodation should meet.²⁵ This covers:

- general living facilities
- room/dormitory facilities
- sanitary and toilet facilities
- canteen, cooking and laundry facilities
- standards for nutrition and food safety

²¹ See EBRD and IFC (2009).

²² See EBRD (n.d.).

²³ Limitations on workers’ freedom of movement are considered “reasonable” where they are a proportionate mitigation of significant risk, for example, of community gender-based violence or broader health concerns, such as infectious or contagious diseases. See EBRD (2019), p. 18.

²⁴ See EBRD (2019), pp. 23-26.

²⁵ See EBRD and IFC (2009).

- medical facilities
- leisure, social and telecommunications facilities
- managing workers' accommodation
- management and staff
- charging fees for accommodation and services
- health and safety on site
- security of workers' accommodation
- workers' rights, and rules and regulations on workers' accommodation
- consultation and grievance mechanisms
- management of community relations

2.3 National legal provisions on worker accommodation

This section should set out any national legal provisions on worker accommodation. It should be reviewed regularly to ensure that any legal changes are captured. Identified national legal provisions on worker accommodation should be added to the checklist in Annex 7.1.

Annex 7.1 contains a checklist outlining potential requirements under national law and GIP. In some cases, GIP goes beyond national requirements, including specifying requirements in areas where national provisions are silent.

3. Implementing the plan

[Client] and its appointed contractors and subcontractors are responsible for ensuring that accommodation on [project] meets the standards set out in this accommodation plan.

3.1 Responsibilities

3.1.1 Client

[Client] [designation/team] will:

- specify the expected housing and management standards detailed in this plan and include the same standards in relevant contracts with contractors
- implement reporting mechanisms with contractors and ensure contractors send regular reports on the application of and compliance with the standards detailed in this plan
- monitor the implementation of the standards detailed in this plan at accommodation sites operated by contractors
- review the worker accommodation plan annually and make necessary amendments.

3.1.2 Contractor

[Contractor] will ensure that accommodation provided by [contractor] and its subcontractors complies with the standards set out in this plan. Any new accommodation sites will be reported to [client] as part of regular reporting.

[Contractor] will clearly communicate the standards in this plan to subcontractors. [Contractor] will also monitor the compliance of subcontractors with the plan by including the obligation of compliance and the rights to inspection and audit in its contracts and agreements with subcontractors. [Contractor] is responsible for undertaking inspections of any camps operated by its subcontractors and for ensuring that subcontractors submit self-inspection reports in accordance with the checklist set out in this plan.

Camp managers

On camps, [contractor] will ensure that there are camp managers in place who:

- are responsible for overseeing staff working within the camp, including catering and laundry personnel
- have overall accountability for food hygiene and housekeeping standards
- have responsibility for fire safety and meeting fire safety standards in this plan
- are suitably qualified and experienced, with overall authority and responsibility for managing all aspects of each worker accommodation camp
- are competent and able to implement the standards set out in this plan
- have the authority to ensure compliance with the requirements set out under this plan
- are responsible for carrying out/assisting with regular audits to monitor compliance with the standards set forth in this plan.

Workers

On camps, workers that live in the accommodation will:

- maintain clean and hygienic conditions in their rooms
- not prepare or cook food in the bedrooms
- smoke only in designated smoking areas
- monitor the actions of any visitor they bring to the camp
- behave respectfully to other workers and camp staff
- sign in and out of the camp when leaving and returning.

3.2 Management of plan

3.2.1 Planning for accommodation

When planning to build workers' accommodation, *[client]* and *[contractor]* will:

- assess the need for new workers' accommodation if project work is to be carried out by workers who are not living in neighbouring communities and will require separate worker accommodation
- ensure that there is no or insufficient housing available in neighbouring communities for the workers that will work on the project.
- strongly discourage the use of old shipping or train containers as temporary housing facilities; where such containers are used, ensure they meet the detailed requirements set out in Annex 7.1
- assess the impact of workers' accommodation on surrounding communities
- assess and manage the construction of workers' accommodation and its potential impacts on surrounding communities. *[Client]* and *[contractor]* must identify impacts on, among other things, health and safety, disturbance issues arising from construction, including traffic (dust, noise and vibration), any displacement of existing local communities, use of security, and risks of gender-based violence as a result of the labour influx associated with worker accommodation.

3.2.2 Monitoring

Accommodation facilities will be subject to regular monitoring in line with Section 3.3 of this plan. Monitoring will be conducted both by *[client]* and *[contractor]*.

[Client] will undertake a full detailed inspection of each accommodation site on *[project]* at least once every six months. The inspection will be led by *[designation/team]* and be carried out against the checklist in Annex 7.1. *[Contractor]* will ensure that the designated camp manager is available to participate in each inspection.

[Contractor] is responsible for the regular monitoring and upkeep of accommodation facilities. Such monitoring will cover, at a minimum:

- water supply facilities
- sewage and waste disposal systems
- transportation facilities
- use of security management arrangements and impact on workers' freedom of movement
- sanitation and washing facilities
- basic medical services
- firefighting, fire detection and emergency response
- health and hygiene facilities
- food safety in canteens
- relations with surrounding communities, including risks of gender-based violence relating to labour influx
- pest control
- environmental surroundings of the camp, including treated sanitary wastewater
- maintenance of buildings.

The following table sets out the minimum frequency and coverage of monitoring *[contractor]* must undertake:

The EBRD may inspect the worker accommodation on *[project]* at any time to ensure the standards set forth in the plan are being met.

Required information	Monitoring
Daily	<ul style="list-style-type: none"> • Housekeeping in all toilets • Washroom and shower/bath areas
Weekly	<ul style="list-style-type: none"> • Inspection of kitchens, food preparation and restaurant areas • Housekeeping and worker conditions in all accommodation and recreational areas • Inspection of campgrounds for stagnant water, rubbish accumulation and general care and maintenance
Monthly	<ul style="list-style-type: none"> • Inspection of medical inventories • Inspection of fire systems and evacuation alarms • Check-up of pest eradication systems
Annually	<ul style="list-style-type: none"> • Inspection of electrical system and fittings

3.3 Corrective actions

Where issues of non-compliance are identified in the inspection, *[contractor]* is obliged to remedy these within an agreed timeframe.

Timeframes for the resolution and frequency of monitoring will be based on the severity of risk. Risk is determined based on the percentage of non-compliance identified.

3.3.1 Reporting

Planning and monitoring records should be maintained by *[client]* *[designation/team]*.

Periodic reports will be prepared by *[designation/team]* and submitted to the EBRD as required. Records will be maintained internally and made available to the EBRD or its representatives.

3.3.2 Training

[Contractor] is also responsible for ensuring that workers receive an adequate induction at the worker accommodation site. The induction will be in *[the main*

language(s) spoken by the workforce] in a manner that is understood by all. This induction should cover, at a minimum:

- the emergency evacuation procedure for the accommodation
- how to obtain medical care when at the accommodation
- the roles and responsibilities of key personnel at the accommodation
- the facility management and health and safety rules and requirements relating to the accommodation.
- an explanation or summary of workers' rights and protections under law and the types of breaches a worker may experience and are entitled to report
- the use of the support mechanisms outlined in this plan
- the contractor's policies and procedures relating to the accommodation.

Risk assessment			Frequency of monitoring
Low risk	80-100%	Meets intended standard	Every six months
Medium risk	70-79.9%	Below required standard, with some issues	Every four months
Higher risk	50-69.9%	Below required standard, with numerous issues	Every two months
Critical risk	<50%	Unacceptably low performance, requiring immediate improvement	Every month

Annex 7.1: Accommodation inspection checklist

[Clients should add any benchmarks based on national legal requirements for worker accommodation to this checklist in italics].

The following table sets out the specific standards to which worker accommodation on *[project]* must adhere. This is in line with *[national]* and international standards. *[When assessing, assign a score of “1” next to each “Yes”. When complete, calculate the percentage of non-compliance (note a 100 per cent compliant accommodation camp would score 138. Where there are non-applicable benchmarks, the potential top score would be lower).]*

Category	Benchmark	Yes/No/NA	If “Yes” score “1”	Comments
General living facilities	<p>Living facilities are located to avoid flooding and other natural hazards.</p> <p>Where possible, living facilities are located within a reasonable distance of the worksite.</p> <p>Transport from the living facilities to the worksite is safe and free.</p> <p>The living facilities are built with adequate materials, kept in good repair, and kept clean and free from rubbish and other refuse.</p>			
Drainage, water, heating and waste	<p>The building site is adequately drained to avoid the accumulation of stagnant water.</p> <p>For facilities located in cold weather zones, the temperature is kept at a level of around 20 degrees Celsius, notwithstanding the need for adequate ventilation.</p> <p>For facilities located in hot weather zones, adequate ventilation and/or air conditioning systems are provided.</p> <p>Both natural and artificial lighting are provided and maintained in living facilities. It is best practice that the window area represent not less than 5 per cent to 10 per cent of the floor area. Emergency lighting is provided.</p> <p>Workers have access to electricity in the worker accommodation facilities.</p> <p>Access to an adequate and convenient supply of free potable water is always available to workers. Depending on climate, weather conditions and accommodation standards, 80 litres to 180 litres per person per day are available.</p> <p>All tanks used for the storage of drinking water are constructed and covered to prevent water stored therein from becoming polluted or contaminated.</p> <p>Drinking-water quality is monitored regularly.</p> <p>Specific containers for rubbish collection are provided and emptied on a regular basis. Standards range from providing an adequate number of rubbish containers to providing leak-proof, non-absorbent, rust and corrosion-resistant containers protected from insects and rodents. In addition, it is best practice to locate rubbish containers 30 metres from each shelter on a wooden, metal or concrete stand. Such containers must be emptied at regular intervals (to be determined based on temperatures and volumes generated) to avoid unpleasant odours associated with decaying organic materials.</p> <p>Pest extermination, vector control and disinfection are carried out throughout the living facilities, in compliance with local requirements and/or good practice. Where warranted, pest and vector monitoring should be performed on a regular basis.</p>			

Category	Benchmark	Yes/No/ NA	If “Yes” score “1”	Comments
<p>Room/ dormitory facilities</p>	<p>Rooms/dormitories are kept in good condition.</p> <p>Rooms/dormitories are aired and cleaned at regular intervals.</p> <p>Rooms/dormitories are built with easily cleanable flooring material.</p> <p>Sanitary facilities are located within the same buildings and provided separately for men and women.</p> <p>Density standards are expressed either in terms of minimal volume per resident or of minimal floor space. Good international practice (GIP) is 10 to 12.5 cubic metres (volume) or 4 to 5.5 square metres (surface).</p> <p>A minimum ceiling height of 2.10 metres is provided.</p> <p>In collective rooms, which are minimised, in order to provide workers with some privacy, only a reasonable number of workers are allowed to share the same room. Standards range from two to eight workers.</p> <p>Doors and windows should be lockable and provided with mosquito screens where conditions warrant.</p> <p>There should be mobile partitions or curtains to ensure privacy.</p> <p>Every resident is provided with adequate furniture such as a table, a chair, a mirror and a bedside light.</p> <p>Separate sleeping areas are provided for men and women, except in family accommodation.</p>			
<p>Bed arrangements/ storage facilities</p>	<p>A separate bed is provided for each worker. The practice of “hot-bedding” (rotational sharing of beds) must be avoided.</p> <p>There is a minimum space between beds of 1 metre.</p> <p>Double deck bunks are not advisable for fire safety and hygiene reasons and their use is to be minimised. Where they are used, there must be enough clear space between the lower and upper bunk of the bed. GIP is 0.7 to 1.10 metres.</p> <p>Triple-deck bunks are prohibited.</p> <p>Each worker is provided with a comfortable mattress, pillow, cover and clean bedding.</p> <p>Bed linen is washed frequently and applied with repellents and disinfectants on a weekly basis.</p> <p>Facilities for the storage of personal belongings for workers are provided. Standards vary from providing an individual cupboard for each worker to providing 475 litre big lockers and 1 metre of shelf unit.</p> <p>Separate storage for work boots and other personal protection equipment, as well as drying/airing areas may need to be provided, depending on conditions.</p>			

Category	Benchmark	Yes/No/ NA	If “Yes” score “1”	Comments
<p>Sanitary and toilet facilities</p>	<p>Sanitary and toilet facilities are constructed of materials that are easily cleanable.</p> <p>Sanitary and toilet facilities are cleaned frequently and kept in working condition.</p> <p>Sanitary and toilet facilities are designed to provide workers with adequate privacy, including floor-to-ceiling partitions and lockable doors.</p> <p>Sanitary and toilet facilities are not shared between men and women, except in family accommodation.</p> <p>An adequate number of toilets is provided to workers. Standards range from 1 unit per 15 persons to 1 unit per 6 persons. For urinals, the usual standards are 1 unit to 15 persons.</p> <p>Toilet facilities are conveniently located and easily accessible. Standards range from 30 to 60 metres from rooms/dormitories. Toilet rooms will be located so as to be accessible without any individual passing through any sleeping room. In addition, all toilet rooms should be well lit, have good ventilation or external windows, have sufficient handwashing basins and be conveniently located. Toilets and other sanitary facilities should be (“must be” in cold climates) in the same building as rooms and dormitories.</p> <p>Shower/bathroom flooring is made of anti-slip hard washable materials.</p> <p>An adequate number of handwashing facilities is provided to workers. Standards range from 1 unit for each 15 persons to 1 unit per 6 workers. Handwashing facilities should consist of a tap and a basin, soap and hygienic means of drying hands.</p> <p>An adequate number of shower/bathroom facilities is provided to workers. Standards range from 1 unit per 15 persons to 1 unit per 6 persons.</p> <p>Showers/bathrooms are conveniently located.</p> <p>Shower/bathroom facilities are provided with an adequate supply of cold and hot running water.</p>			
<p>Fire safety</p>	<p>A clear fire management plan is in place, including risk identification and escalation procedures.</p> <p>Smoke detectors are fitted in bedrooms and communal areas.</p> <p>Manually operated fire alarms are located across the accommodation site.</p> <p>Fire exits are clearly marked and illuminated and easily accessible from all locations.</p> <p>Floor plans and emergency escape routes are clearly marked on signs across the accommodation.</p> <p>An appropriate number and type of fire extinguishers are provided within the accommodation.</p> <p>Fire detection systems are set up across the accommodation facilities.</p>			

Category	Benchmark	Yes/No/ NA	If “Yes” score “1”	Comments
<p>Canteen, cooking and laundry</p>	<p>Canteen, cooking and laundry facilities are built in adequate and easy-to-clean materials.</p> <p>Canteen, cooking and laundry facilities are kept in a clean and sanitary condition.</p> <p>If workers can cook their own meals, kitchen spaces are provided, separate from sleeping areas.</p> <p>Adequate facilities for washing and drying clothes are provided. Standards range from providing sinks or tubs with hot and cold water, cleaning soap and drying lines to providing washing machines and dryers.</p> <p>When work clothes are used in contact with dangerous substance (for example, application of pesticide), special laundry facilities (washing machines) should be provided.</p> <p>Canteens have a reasonable amount of space per worker. Standards range from 1 square metre to 1.5 square metres.</p> <p>Canteens are adequately furnished. Standards range from providing tables, benches, individual drinking cups and plates to providing special drinking fountains.</p> <p>Places for food preparation are designed to permit good food hygiene practices, including protection against contamination between and during food preparation.</p> <p>Kitchens are provided with facilities to maintain adequate personal hygiene, including a sufficient number of washbasins designated for cleaning hands with clean, running water and materials for hygienic drying.</p> <p>Wall surfaces adjacent to cooking areas are made of fire-resistant materials. Food preparation tables are also equipped with a smooth, durable, washable surface. To enable easy cleaning, it is good practice that stoves are not sealed against a wall, benches and fixtures are not built into the floor, and all cupboards and other fixtures and all walls and ceilings have a smooth, durable, washable surface.</p> <p>All kitchen floors, ceiling and wall surfaces adjacent to or above food preparation and cooking areas are built using durable, non-absorbent, easily cleanable, non-toxic materials.</p> <p>Adequate facilities for the cleaning, disinfecting and storage of cooking utensils and equipment are provided.</p> <p>Food waste and other refuse is to be adequately deposited in sealable containers and removed from the kitchen frequently to avoid accumulation.</p>			
<p>Nutrition/food safety</p>	<p>The World Health Organization’s (WHO) five keys to safer food, or an equivalent process, are implemented.</p> <p>Food provided to workers contains an appropriate level of nutritional value and takes into account religious/cultural backgrounds; different choices of food are served if workers have different cultural/religious backgrounds.</p> <p>Food is prepared by cooks. It is also best practice that meals be planned by a trained nutritionist.</p>			

Category	Benchmark	Yes/No/ NA	If “Yes” score “1”	Comments
Medical facilities	<p>A number of first-aid kits are available, adequate for the number of residents.</p> <p>First-aid kits are adequately stocked. Where possible, a 24/7 first aid service/facility is available.</p> <p>An adequate number of staff/workers is trained to provide first aid.</p> <p>Emergency services and ambulances should have full access to the accommodation site.</p> <p>Where possible and depending on the medical infrastructures existing in the community, other medical facilities are provided at an easily accessible location and included in the accommodation area (health centres, nurse’s rooms, dental care, minor surgery).</p>			
Leisure, social and telecommunications facilities	<p>Basic collective social/rest spaces are provided to workers. Standards range from providing workers with multi-purpose halls to providing designated areas for radio, TV and cinema.</p> <p>Recreational facilities are provided. Standards range from providing exercise equipment to providing a library, swimming pool, tennis courts, table tennis and educational facilities.</p> <p>Workers are provided with dedicated places for religious observance if the context warrants.</p> <p>Workers have access to public phones at affordable/public prices (that is, not inflated).</p> <p>Internet facilities can also be provided, particularly where large numbers of expatriates/third-country nationals are accommodated.</p>			
Management and staff	<p>There are management plans and policies in place, especially in the field of health and safety (with emergency responses), security, workers’ rights and relationships with the communities.</p> <p>An appointed person with adequate background and experience is in charge of managing the workers’ accommodation.</p> <p>If contractors are being used, there are clear contractual management responsibilities and monitoring and reporting requirements.</p> <p>Depending on the size of the accommodation, there is a sufficient number of staff in charge of cleaning, cooking and of general maintenance.</p> <p>Such staff are recruited from the local communities.</p> <p>Staff have received basic health and safety training.</p> <p>Persons in charge of the kitchen are trained in nutrition and food handling and adequately supervised.</p> <p>When fees are charged, workers are provided with clear information and a detailed description of all payments made, such as rent, deposit and other fees.</p>			

Category	Benchmark	Yes/No/ NA	If “Yes” score “1”	If “Yes” score “1”
<p>Fees for accommodation and services</p>	<p>When company housing is considered part of workers' wages, it is best practice that workers are provided with an employment contract clearly specifying housing arrangements and regulations, in particular, rules concerning payments and fees, facilities and services offered, and rules of notice.</p> <p>When fees are charged, the renting arrangements are fair and do not cost the worker more than a small proportion of income and never include a speculative profit.</p> <p>Food and other services are free or reasonably priced, never above the local market price.</p> <p>The provision of accommodation or other services by employers as payment for work is prohibited.</p> <p>Workers living in worker accommodation are provided with social welfare services.</p> <p>Workers have the right to a weekly shower.</p>			
<p>On site health and safety</p>	<p>Health and safety management plans, including electrical, mechanical, structural and food safety have been carefully designed and are implemented.</p> <p>The person in charge of managing the accommodation has a specific duty to report to the health authorities the outbreak of any contagious diseases, food poisoning and other important casualties.</p> <p>An adequate number of staff/workers is trained to provide first aid.</p> <p>Guidance on the detrimental effects of the abuse of alcohol and drugs and other potentially harmful substances, and the risk of and concerns relating to HIV/AIDS and of other health risk-related activities, is provided to workers. It is best practice to develop a clear policy on this issue.</p> <p>Workers have access to adequate preventive measures such as contraception (condoms, in particular).</p> <p>Workers have easy access to medical facilities and medical staff. Where possible, female doctors/nurses should be made available for female workers.</p> <p>Emergency plans on health and fire safety are prepared. Depending on the local context, additional emergency plans are prepared as needed to handle specific occurrences (earthquakes, floods, tornadoes).</p>			

Category	Benchmark	Yes/No/ NA	If “Yes” score “1”	Comments
<p>Security of workers’ accommodation</p>	<p>A security plan including clear measures to protect workers against theft and attack is implemented.</p> <p>A security plan including clear policies on the use of force has been carefully designed and is implemented.</p> <p>Security staff have been checked to ensure that they have not been implicated in any previous crimes or abuses. Where appropriate, security staff from both genders are recruited.</p> <p>Security staff have a clear mandate and have received clear instruction on their duties and responsibilities, in particular, their duty not to harass, intimidate, discipline or discriminate against workers.</p> <p>Security staff have received adequate training in dealing with domestic violence and the use of force.</p> <p>Security staff have a good understanding of the importance of respecting workers’ rights and the rights of the communities.</p> <p>Body searches are only allowed in specific circumstances and are performed by specially trained security staff using the least intrusive means possible. Pat-down searches on female workers can only be performed by female security staff.</p> <p>Security staff adopt appropriate conduct towards workers and communities.</p> <p>Where possible, an adequate transport system to surrounding communities is provided. It is good practice to provide workers with free transportation to and from local communities.</p> <p>Withholding workers’ ID papers is prohibited.</p> <p>Freedom of association is expressly respected. Provisions restricting workers’ rights on site should take into account the direct and indirect effects on workers’ freedom of association. It is best practice to give trade union representatives access to workers on the accommodation site.</p> <p>Workers’ gender and religious, cultural and social backgrounds are respected. In particular, workers should be provided with the possibility of celebrating religious and cultural holidays and observances.</p> <p>Workers are made aware of their rights and obligations and are provided with a copy of the internal workers’ accommodation rules, procedures and sanction mechanisms in a language or through a medium they understand.</p> <p>Housing regulations, including those relating to the allocation of housing, should be non-discriminatory. Any justifiable discriminatory rules – for example, male dormitories – should be strictly limited to rules that are necessary to ensure the smooth running of the worker camp and to maintain a good relationship with the surrounding communities.</p> <p>Where possible, visitor access should be allowed.</p> <p>Decisions should be made on whether to prohibit alcohol, tobacco and third-party access to the camp and the relevant rules should be clearly communicated to residents and workers.</p> <p>A fair and non-discriminatory procedure exists to implement disciplinary procedures, including the right of workers to defend themselves (see also next section).</p>			

Category	Benchmark	Yes/No/ NA	If “Yes” score “1”	Comments
<p>Consultation and grievance mechanisms</p>	<p>Mechanisms for workers’ consultation have been designed and implemented. It is best practice to set up a review committee that includes representatives elected by workers.</p> <p>Processes and mechanisms for workers to articulate their grievances are provided to workers.</p> <p>Workers subjected to disciplinary proceedings arising from behaviour on the accommodation site should have access to a fair and transparent hearing, with the possibility to contest decisions and refer the dispute to independent arbitration or relevant public authorities.</p> <p>Where conflicts between workers or between workers and staff break out, workers have the possibility to easily access a fair conflict resolution mechanism.</p> <p>Where more serious offences occur, including serious physical or mental abuse, there are mechanisms to ensure full cooperation with the relevant police authority (where adequate).</p>			
<p>Management of community relations</p>	<p>Community relations plans addressing issues around community development, community needs, community health and safety – including gender-based violence – and community social and cultural cohesion have been designed and implemented.</p> <p>Community relations plans include the setting up of a liaison mechanism, allowing a constant exchange of information and consultation with local communities in order to identify and respond quickly to any problems and maintain good working relationships.</p> <p>A senior manager is in charge of implementing the community relations management plan and liaising with the community.</p> <p>The impacts of workers’ accommodation on local communities are periodically reviewed, mitigated or enhanced.</p> <p>Community representatives are provided with an easy means of voicing their opinions and lodging complaints.</p> <p>There is a transparent and efficient process for dealing with community grievances, in accordance with PR1/PR10.²⁶</p>			

²⁶ See EBRD (2019), p.13 and p.47.

Category	Benchmark	Yes/No/ NA	If “Yes” score “1”	Comments
<p>Covid-19 response measures (if cases are high in the country/region) – check against these measures²⁷</p>	<p>Risk assessment:</p> <ul style="list-style-type: none"> • risk assessment undertaken of key accommodation risks • risk assessment shared with workers. <p>Social distancing:</p> <ul style="list-style-type: none"> • Social distancing measures of 1 meter are implemented. • Interaction points are identified, • Social distancing is promoted in camps through communications, signs on site or other physical distancing measures, such as fencing. • Work teams are kept in different camps to reduce transmission risk. • Recreation areas are closed or access is staggered. • Shower and eating areas are accessed using rosters to reduce overcrowding. • Where possible, the number of people sharing rooms is reduced. • Isolation areas are created, separate from the regular accommodation site. • Transport capacity is increased to reduce overcrowding and maintain social distancing. <p>Cleaning:</p> <ul style="list-style-type: none"> • Apply and maintain strict worker hygiene standards in camps. • Ensure regular detergent cleaning schedules and procedures are in place using a product that is active against bacteria and viruses • Cleaning is increased in frequency in common areas and at touch points. • Cleaners are provided with adequate PPE. • Signposts to site sanitation points are erected across the camp. • Shared spaces should be well ventilated, with clear instructions for residents on how to ventilate shared spaces. <p>Site access:</p> <ul style="list-style-type: none"> • Quarantine facilities/procedures are put in place if individuals and their roommates or colleagues have to self-isolate if someone tests positive. <p>Handwashing:</p> <ul style="list-style-type: none"> • Communications are provided on the importance of regular handwashing, with guidance on appropriate handwashing, in line with WHO guidelines.²⁸ • Additional soap and hot water are provided. • Additional handwashing points are provided on camp and at entry points. <p>Emergency response:</p> <ul style="list-style-type: none"> • A plan is developed in case of outbreak or emergency. • Workers are informed of the details of specialist, named medical service providers to contact in the event of an outbreak. • Workers are clearly informed of staff mechanisms for seeking medical support. • Local health service providers/authorities are informed of the emergency response plan. • Sufficient PPE is provided to health workers and staff are trained in when and how to use it. <p>Local communities:</p> <ul style="list-style-type: none"> • Where necessary, secure alternative housing is provided for workers accommodated outside the accommodation camps to minimise interaction with communities. • Plans to reduce contact between workers and local communities are put in place. 			

²⁷ Based on EBRD guidance on safe working during the pandemic (www.ebrd.com/sustainability-covid.html) and the WHO’s guidance on providing worker accommodation during the Coronavirus pandemic.

²⁸ <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public>

EBRD PR2 Tool 8: On-site labour assessments tool

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Introduction

Audience

This tool is intended to provide information for staff of EBRD clients who play a role in monitoring working conditions on construction projects. It is particularly relevant for staff who are based on project sites in a monitoring or assessment role, whose primary technical specialism is not labour and working conditions. On construction projects, this may include engineers, health and safety supervisors, supervision consultants (SCs) and others with project oversight roles, either based on the project or who visit the site periodically.

The approach described here aims to support EBRD client staff in assessing the adequacy of the management systems put in place by their contractors and subcontractors (where applicable) to comply with the requirements of EBRD Performance Requirement 2 (PR2) and national law.²⁹

Note that this tool is not to be used by clients to undertake assessments to investigate serious labour rights issues on a construction project site. This includes investigations of forced labour, child labour and gender-based violence.

Client staff should under no circumstances engage directly with workers on contractor or subcontractor workplaces or work sites. Any form of worker engagement should only be conducted by a qualified labour assessor, according to the competences and qualifications specified in the template for terms of reference for labour assessors (see Tool 10).

Where fatalities have occurred on a worksite and an investigation is necessary, clients should report this immediately to the EBRD and cooperate with local labour authorities in their investigation.

Objective

This document aims to provide support in monitoring contractor labour management practices on construction projects, in line with EBRD PR2. It includes practical activities that should be carried out during site monitoring and provides support for identifying and responding to risks and issues. It is designed to complement existing approaches and other PR2 Toolkit resources that have been developed to support the identification of labour issues in the workplace.

The additional tools include:

- **PR2 Tool 5:** Contractual clauses for clients to use in relation to their contractors
- **PR2 Tool 6:** Labour management plans for construction projects
- **PR2 Tool 10:** Terms of reference for commissioning independent labour assessments of high-risk construction workplaces.

1. Preparation

1.1 Permissions

It is important that clear contractual terms are provided that allow the review of a contractor's labour management practices. If engaging with subcontractor workers, make sure that this is contractually permitted. See Tool 5 on integrating labour into procurement practices for example clauses. Prior to reviewing contractor practices, ensure that these contractual terms are clear for all involved, so there is no disagreement about the scope of the assessment.

1.2 Background information

Prior to assessing working conditions as part of ongoing monitoring on a construction site, clients should already have a clear understanding of the national legal requirements that apply to working conditions on the site, including those in the labour code and supporting regulations, and sanitary norms relevant to the sector.

It is also important for clients to know the general background information on a project, including the contractor's structure, the working hours on the site, existing management systems in place, and the use of subcontractors.

Where this is not known, it is important to ensure this information is asked for in advance or clarified as part of discussions with management.

- General information to be clear on includes the contractor's organisational structure, shift times, number of subcontractors being used, information from previous assessments and/or government labour inspections.
- Existing management policies and procedures to be aware of in advance include any human resources (HR) policies, worker accommodation plans, labour/contractor management plans and procedures, and grievance mechanisms.

²⁹ See EBRD (2019), p.16.

- Information about subcontractors to be aware of are the numbers being used, the activities they perform, information about how they have been contracted, and key contact points that should be involved in monitoring.
- Workforce names and numbers, disaggregated by gender, nationality, job type and direct employer.

1.3 Communication

Contractors and any subcontractors should also be familiar with client staff responsible for monitoring and, where relevant, any schedule for monitoring. They should also be familiar with:

- what will be done during the monitoring
- management that need to be available and documents that need to be made available (see Annex 8.3 for an example list of documentation to review in advance of the assessment)
- potential outcomes.

The review of contractor practices should focus on those labour requirements set out in the agreement between the client and contractor. Such agreements should reflect EBRD PR2 provisions set out in the loan agreement and in the environmental and social action plan (ESAP), along with permissions for the client to monitor subcontractors' practices.

1.4 Data protection

When monitoring labour and working conditions on a construction project, clients are likely to gain access to sensitive personal information about workers or staff on the site. It is important, therefore, that personal privacy is maintained while still achieving the objectives of the monitoring. Key points to consider on data protection include:

- Only the minimum amount of information necessary to fulfil the purpose should be collected.
- This should only be collected for the specific, explicit and legitimate purpose of gaining a better understanding of labour and working conditions on the site.
- Measures should be taken to ensure that data that are recorded are accurate.
- Data on individuals should be kept no longer than necessary for the purposes of processing information or analysing/following up on the results of the assessment. Data will be held on secure/encrypted servers.

- Personal information about any individual should be processed and stored in an appropriate, secure manner, protected from accidental loss or damage.

2. Monitoring

Client monitoring of contractor practices should consist of three elements: interviews with management and supervisory staff, a review of relevant documentation and a walk around the site. This should inform the client's understanding of project risks and gaps in the contractor's capacity to meet their contractual requirements.

2.1 Interviews with management and supervisory staff

During site monitoring, clients should speak with management and supervisory staff.

This will help clients get a broad overview of the management team's capacity to manage labour issues and identify their main systems for managing labour. For gaining information on labour rights risks, it would be most useful to try and engage with individuals responsible for the management of workforce relations (HR) and OHS policies and their implementation and, where relevant, subcontractor management (procurement).

Template interview sheets for interviewing management, human resources personnel and OHS supervisory staff can be found in Annexes 8.1 and 8.2.

2.2 Documentation review

Reviewing documentation is another key component of labour monitoring, as it allows clients to verify management testimony and to make a thorough assessment of management practices. Clients may review some of documentation in conjunction with management interviews.

Note that document availability will often rely on management being notified in advance of the documents clients would like to look at during the monitoring process. It is, therefore, important that this list is clearly communicated at the outset of a project, so contractors know what to make available.

A list of key documentation can be found in Annex 8.3.

Support on what to assess and what questions to ask with regards to the different categories of key documentation can be found in the table below.

Document type	What to assess
Human resources policies	Review broad policy contents and ensure they follow PR2 requirements. See Tool 1 on how to develop PR2-aligned HR policies.
Collective bargaining agreements	Where relevant, review a collective bargaining agreement and record key content.
Payroll sample	Verify/record the following information: <ul style="list-style-type: none"> • compliance with minimum wage requirements • deductions from salary • frequency and form of wage payment (ie, cash or bank transfer) • overtime payments • benefits • payments for statutory leave • lowest, highest and average wage for the pay period.
Payslips	Ensure information written on payslips: <ul style="list-style-type: none"> • includes overtime payments • includes basic salary, net salary and deductions • matches payroll and time records.
Time records	Review time records, verify against pay register and record: <ul style="list-style-type: none"> • average hours for each of the months selected • overtime hours for each of the months selected (including average overtime across the workforce, maximum overtime worked by any one person or department, and frequency of overtime work).
Personnel files	Review contents of personnel files, including: <ul style="list-style-type: none"> • records of job applications, interviews and job history (as part of workers' employment record book) • copies of proof-of-age documentation • disciplinary sanctions • records of workplace accidents or illnesses • any other key issues.
Grievance records	Review and record grievance patterns (main areas of concern, number of grievances raised).

2.3 Site assessment

A key part of monitoring labour and working conditions is to walk around the site. Here, attention should be paid to how workers and managers behave, both independently and in their interactions with each other, as this can be useful to help build a picture of potential labour issues on the site.

While walking around the site, the following should be considered to get a better overview of actual and potential labour rights issues on a worksite:

- Are workers engaged when spoken to, do they speak freely with interviewers and with others? Are they happy to talk to interviewers?
 - Vulnerable workers may act as though instructed by others, allow others to respond for them, be distrustful of interviewers and other authorities, or demonstrate fear/anxiety.
- How healthy do they look? Are the overall conditions safe and hygienic?

- More vulnerable workers may look overly tired/undernourished, show visible signs of injury from assault, wear clothes that are inappropriate for the job, or be unclear about the rules or personal protective equipment (PPE) they should be wearing.
- Do there appear to be unnecessary controls on worker movement beyond reasonable security and health and safety controls?
 - More vulnerable workers may be unable to move freely or leave the site without the employer. On some manufacturing sites, workers may be locked in.

The key things to look for also broadly apply to any worker accommodation sites if these are being assessed.

For visiting and inspecting worker accommodation provided by a contractor or subcontractor, please see Tool 7 on worker accommodation planning.

3. Follow-up

After the assessment of working conditions, clients should take some time to review their notes and think about what they have observed against what the contractor is contractually required to be implementing on their site.

As part of this process, clients should clearly identify whether there are gaps in the policies, procedures and systems that the site is using, or in management capacity to deal with these risks.

These gaps should be clearly set out and explained to the contractor, and effort should be made to agree on approaches to close these gaps.

Where clients are concerned that there may be forced labour or child labour, in following up on such serious cases, it is important to ensure that the complainant’s confidentiality is maintained and that steps are taken to properly safeguard the individual or group in question. Where gender-based violence and harassment (GBVH) or significant health and safety risks are identified, consider commissioning an independent investigation of these issues.

Annex 8.1: Interview template for interviewing HR staff

[These questions should be used when interviewing HR managers of both contractors and subcontractors. They serve as a guide only and should be amended by each client based on the contractor or subcontractor they are assessing. These may also be amended and tailored based on any previous monitoring assessments.]

HR management systems and policies

Interview questions	Response
Who is responsible for managing day-to-day employment at site level?	
Where are the HR policies determined? Site level or at headquarters?	

Recruitment

Interview questions	Response
Can you describe your recruitment procedure?	
How do you plan/forecast your workforce?	
Who manages the recruitment process?	
Do you use a recruitment agency or labour broker to recruit workers? How are they selected?	Please list all agencies and provide information about workers they provide.
What measures do you have in place to review the practices of labour brokers/recruitment agencies you use?	
How do you select job applicants for interviewing?	
What documentation do you request of candidates?	

Young workers

Interview questions	Response
What is the youngest age of a worker on this site?	
What process do you have in place to verify workers' ages at the time of hiring?	
How do you ensure that your subcontractors are in compliance with the law in this regard?	
Have you conducted a risk assessment of tasks to determine which ones are inappropriate for under 18s?	

Contracts

Interview questions	Response
Do workers receive written contracts?	
What information is included in these contracts?	
How long do workers' contracts typically last?	

Communication and engagement with workers

Interview questions	Response
What methods are used to communicate with workers?	
What information do workers receive upon hire?	
What training do new employees receive?	
Who is responsible for leading communications with workers?	
What training do supervisors receive (does it include components on people management)?	
Is there a worker committee or other form of worker representation?	
Have you got any records of meetings?	
Is there a collective bargaining agreement or any other union agreement?	
Have there been any labour disputes?	
How can workers raise complaints directly to you? Which workers are able to do this?	
How was the grievance mechanism communicated to employees?	
Who is responsible for receiving and managing worker complaints?	
How are complaints monitored, recorded and addressed?	
How do you ensure that workers are not retaliated or discriminated against as a result of raising grievances?	

Wages and benefits

Interview questions	Response
Who is responsible for payroll?	
Who is responsible for checking wage/overtime calculations?	
What is the lowest wage/starting salary? How many workers are on this rate?	
What type of benefits does the company offer workers? For example, medical, disability insurance and so on.	
What deductions are made from employees' wages?	

Working hours

Interview questions	Response
What are the working hours on the site?	
How are employees' hours recorded?	
How many breaks do workers get? Are these paid?	
Do workers ever work seven days per week? If so, do workers have at least 24 hours of rest per week?	
How often do workers work overtime? Why?	
How is this compensated?	
What is the procedure for using overtime? If workers decline, what is the consequence?	

Annex 8.2: Interview template for OHS staff

[These questions should serve as a guide only and should be amended by each client based on the contractor or subcontractor that they are assessing.]

Interview questions	Response
Who is responsible for health and safety on site? Can you list all individuals?	
How many OHS specialists do you have on site? Where there are more than 50 workers on the site, do you have an OHS specialist?	Note that good practice requires there to be at least 1 OHS specialist per 50 workers,
What qualifications do these people have and how much time do they dedicate to OHS-related work?	
How do you assess health and safety risks for each job? How regularly are these assessments conducted?	
What are the hazardous jobs on your worksite?	
What measures have been put in place to control the health and safety risks and hazards?	
How do you evaluate which jobs require the use of personal protective equipment (PPE)?	
What fire safety measures are being implemented? What measures are in place to detect fires?	
How do you ensure all workers on site wear PPE?	
What training do you provide to employees on health and safety?	
How is the training documented?	
How can employees report health and safety concerns to management?	
Covid-19 measures (where there are Covid-related risks on the site, information may be gathered remotely if site access not possible)	
Interview questions	Response
Have you identified vulnerable groups of workers? What measures have been taken to protect them?	
Who is responsible for implementing the Covid-19 action plan? What are their responsibilities?	
How are workers and contractors made aware of actions taken to address Covid-19 risks? How frequent are these communications?	
How have workers been trained in the hazards, risks and control measures associated with the recommended actions relating to Covid-19?	
Have any modifications been made to your worksite to reduce transmission risks? If not, why?	
How are additional safety requirements enforced? And by whom?	

Interview questions	Response
What additional cleaning and sanitation requirements have been introduced? Please describe in detail.	
What additional personal hygiene measures have been implemented, for instance, additional handwashing facilities, training and so on?	
Please describe how the site responds to a case of Covid-19 in the workforce? Are workers required to stay at home? Are there quarantine facilities? Is there medical support?	
What engagement has there been with local health authorities in planning the company's Covid-19 emergency response?	

Annex 8.3: Key documentation for review

[The table below sets out a list of documentation that could be reviewed as part of the assessment process. It is suggested that clients notify site management of this list of documents in advance of the assessment to ensure that they are available for review.]

Source	Relevant documents
Employee documentation	<ul style="list-style-type: none"> • employment contracts/terms and conditions of employment • personnel files (including employment application, disciplinary notices and so on) • proof-of-age documentation (copies of identification cards, birth certificates, medical clearance and so on) • records of issuance of employee benefits (that is, annual leave, maternity leave and so on) • records of employee grievances • staff turnover rates for the last year
Facility policies and procedures	<ul style="list-style-type: none"> • internal operating policies and procedures (wages and hours, annual leave, disciplinary rules and other HR policies) • labour management plans • any other relevant policies (such as anti-discrimination and harassment policy employee/management grievance policy, freedom of association policy) • records/minutes of meetings with employee representatives and/or unions, collective bargaining agreements • any relevant government licences, certificates of operation and so on • records of previous government labour inspections
Payroll documents	<ul style="list-style-type: none"> • payroll records for the last three pay periods may be requested for review; these should include records of all salary payments, including regular and overtime payments, as well as deductions from employees' salaries • time records for the last three pay periods; these should show daily start and stop times for workers during the pay period and should include regular and overtime work • payment receipts for mandatory social insurance payments. • any government waivers or special permissions used to conduct work hours or pay schedules outside of the standard legal limits
Occupational health and safety (OHS) documents	<ul style="list-style-type: none"> • site and worker accommodation plans • records of employee OHS training and fire/evacuation drills • emergency response plan • OHS programme and/or manual • OHS management records (agendas, meeting minutes, activity logs) • inspection reports and maintenance records for lifts, dangerous machines and electrical equipment • testing, inspection and maintenance records for firefighting equipment • accident investigation forms and reports • list of staff trained in first aid • list and qualifications of medical staff • list of PPE • drinking water analysis reports • records of noise, temperature and lighting inspections • chemical inventory and material safety data sheets

EBRD PR2 Tool 9: Template terms of reference for a supervision consultant (annex)

[Note that text in blue, brackets and italics is guidance and should be deleted/amended as necessary after finalisation by the client.]

The below template may be used by EBRD clients as an annex to their standard terms of reference for an SC on construction projects. Note that these terms of reference may also be used to help appoint supervising engineers, engineers, independent engineers, employer's engineers, consulting engineers and others who fulfil a similar expert monitoring and implementation role.

This template aims to guide clients when appointing an SC, while also clarifying their responsibilities as regards labour. Where possible, the SC is hired prior to bidding procedures for project contractor(s). However, where activities are already taking place, reference to providing support on bidding documents can be removed from the terms of reference as necessary.]

1. Annex [X]: Labour requirements of supervision consultants for [client]

1.1 Purpose of assignment

The supervision consultant (SC) will be responsible for ensuring that relevant project facilities (both construction sites and worker accommodation), activities and systems follow the labour requirements of the EBRD. The SC will ensure that they have defined expertise within their team to ensure that project labour standards are adequately implemented and monitored.

She/he is responsible for the day-to-day supervision of labour standards implemented in the project and to identify and manage labour risks that may arise in the course of the project. The SC will also be the main point of reference for monitoring and reporting on application of EBRD and [client] requirements on labour and social issues.

The main responsibilities of the SC as regards labour rights are to:

- ensure the inclusion of the labour component of a contractor management plan (CMP) in the bidding documents as needed and assess the bid proposals on labour and health and safety safeguards during contract bids
- *[when the SC and contractor are mobilised at similar times]* provide support to contractors in carrying out a labour risk assessment and developing a labour management plan or labour component of a CMP.
- ensure that all national legislation on labour and health and safety, EBRD Performance Requirement 2 (PR2) and any other relevant standards identified by the EBRD or [client] are complied with in respect of any direct or indirect employees
- ensure that subcontractors are required to comply with all national legislation on labour and health and safety, EBRD PR2 and any other relevant standards identified by the EBRD or [client], such as through the inclusion of relevant PR2 provisions in agreements signed between contractors and subcontractors
- ensure the effective development and implementation of systems to monitor compliance with the labour management plan/relevant labour and health and safety standards and initiate corrective action where necessary
- update the labour component of the CMP as required and prepare *[quarterly/semi-annual]* labour monitoring reports in accordance with [client] and the EBRD

- assist as necessary relevant project staff, such as human resources (HR) personnel, in developing their capacity as regards labour standards compliance and implementation
- deliver training for contractors and subcontractors to develop their capacity with regard to *[client]* and EBRD labour standards requirements.
- knowledge and understanding of the EBRD's PR2 or equivalent standards of other development finance institutions with regard to procurement, tendering and contracting processes
- ability to work and communicate in *[the main language(s) spoken by the project workforce]*.

1.2 Additional qualifications

The qualifications below are those expected of the SC's labour expert:

- ten years' professional experience working in the construction sector, ideally in the project country or the broader region, with demonstrable previous assistance to contractors on labour management and the implementation of labour standards

EBRD PR2 Tool 10: Template terms of reference for an independent labour assessor for construction projects

[Note that text in brackets and italics is guidance and should be deleted/amended as necessary after finalisation by the client.]

The below template may be used by EBRD clients when commissioning a labour assessment of contractors for construction projects. This template should be used as the basis for the terms of reference for appointing an independent labour assessor and includes the minimum requirements in terms of scope and qualifications. This terms of reference can be used both prior to and after delivery of work.

Given restrictions in place related to the Covid-19 pandemic, these terms of reference may require some adjustment to facilitate remote monitoring or assessment of worksite conditions. While site access may not be possible, an assessment may still continue based on remote engagement with management, remote document review and remote worker interviews. Ability to carry out remote worker interviews will depend on access to worker contact details provided either by management as part of the worker information request, through information provided by worker representatives, or through a snowball sampling, whereby workers provide contact details of other workers.]

1. Terms of reference: Labour rights assessment for [client]

1.1 Overview

These terms of reference outline the activities to be conducted by [labour assessor] on behalf of [client] in relation to [project].

Based on an [initial assessment of labour risks/ identified issues on project], a more detailed assessment of labour and working conditions on [project] is necessary to provide assurance that the contractors and subcontractors are complying with the labour rights requirements set out in project contracts and policies. The assessment should cover all different types of worker present on the project, including full-time and temporary workers, daily labour and contractors employed on site, focusing specifically on the potential labour risks for construction projects (among others: forced labour, gender-based violence and harassment (GBVH), discrimination, occupational health and safety (OHS), worker grievance mechanisms, worker accommodation, and employment terms and conditions).

1.2 Background

[Where known already, briefly describe the number of workers employed on the project, the location and size of project site and how many locations it covers, and any past assessments or recommended resources (including procurement frameworks, contracts, impact assessments and environmental and social action plans) that assessors should consider.]

1.3 Objectives

The overall objective of the assignment is to assess the capacity of the contractor and its subcontractors to manage labour risks on [project] in line with international and national law, and the specific requirements of EBRD Performance Requirement 2 (PR2). Where gaps in practice and non-compliance are identified, specific time-bound recommendations should be made to mitigate risks.

The specific objectives are to assist [client]:

- in obtaining an understanding of current and potential labour risks posed by the project activities

- (including any high-risk contextual issues, as well as complaints, disputes and industrial conflict)
- in assessing whether the human resources and health and safety policies, practices and management systems of both contractor and subcontractors applicable to the project can adequately manage identified risks
- in assessing how the human resources policies and management systems apply across the contracting chain, that is, to all (sub-)contractors
- in identifying any business environment and/or regulatory reforms that may have led or might lead to organisational change that could impact the workforce of the contractor/subcontractors, including prospects for demobilisation or retrenchment
- in evaluating the capacity of the contractor(s) and its subcontractor(s) to comply with [project] requirements on labour and working conditions, occupational health and safety and accommodation
- in prescribing a set of mitigation, management and monitoring measures to address the root causes of actual or potential labour issues, including a timeframe for such measures and advice on prioritisation.

1.4 Scope of work

Activity 1: Desk-based scoping and review

In advance of the site visit, the following desk-based reviews should be undertaken:

- Undertake a legal review to understand the extent to which national labour law is aligned with relevant aspects of the EBRD’s PR2 (on labour and working conditions) and International Labour Organisation (ILO) Core Conventions.³⁰

- Conduct a desk-based review of: (i) media coverage of labour issues related to the project, contractors, sector and country with consideration of breaches of national law or international labour standards; (ii) any existing labour assessments; (iii) existing litigation, labour unrest or government fines due to non-compliance with national labour law; (iv) fatalities and major incidents and accidents; (v) existing programmes related to the workforce, contractors and suppliers.
- Review [project] documentation related to labour management and contractor management, including any policies or procedures.
- Send [contractor] an information request in advance of the assessment. [See Annex 10.3, component A.] This should take place as soon as the assignment has started and focus on data and sites included in the scope of the assessment. Analyse responses received from the contractor for an overview of the likely management systems and resources in place and for additional information on workers and contractors.
- Prepare and submit a proposed workplan for the on-site visit and assessment.

[Consider also whether to share with the assessor the legal gap analysis and methodology for carrying out the assessment once appointed.]

Activity 2: Client visit and assessment

Undertake a [xxx-]day assessment at the project site (and any other relevant worksites within scope). [Use the guidance from Table 1 below to determine the length of the visit. This guidance is based on the time taken, based on the number of workers per worksite.]

Table 1: Guidance for determining assessment days

Assessor days	No. of workers	Individual interviews	Group interviews	Total employees interviewed	Worker files/ records checked	Time for worker interviews
1	1-100	6	1 group of 4	10	10	2.5 hrs
2	101-500	6	4 groups of 5	26	26	6 hrs
3	501-1000	12	6 groups of 5	42	42	8.5 hrs
4	1001-2000	20	8 groups of 4	52	52	12.5 hrs
4	2000+	22	8 groups of 5	62	62	14 hrs

³⁰ See ILO (n.d.).

The assessment will focus on the management capacity and systems in place to ensure that employment is in line with labour standards set out in the project documents and national and international standards. *[Where there are subcontractors being used on the project,]* Specific attention will be paid to the adequacy of the procurement framework used by the contractor (including additional particular conditions) against international good practice to ensure the cascading of project requirements through the contracting chain, and as well as the ongoing monitoring of and reporting on labour performance.

This review should check that client contractual provisions include specific clauses that reflect PR2 requirements and that these are also included in contracts between contractors and subcontractors.

The visit and assessment will comprise the following:

- interviews with relevant management representatives, including, where applicable, the lead contractor's human resources, health and safety, medical, security and procurement management
- interviews with human resources, security, medical and health and safety management representatives of subcontractors, labour agents or representatives, or equivalent
- a review of contractor and subcontractor documentation to validate compliance with project requirements, national legislation and EBRD PR2
- a post-assessment meeting to review findings, obtain the contractor's (and other assessed parties') acknowledgment of the identified issues and begin discussions about potential actions and next steps to address them.

Management interviews should cover:

- management awareness and commitment to labour requirements, specifically related to non-employee workers
- management awareness of responsibilities and communication channels across the contracting chain in relation to OHS, human resources and grievance management, including GBVH
- internal capacity to implement and comply with labour requirements; see Annex 10.3, component A for more detail.

Where work is already underway *[retain/remove as necessary]*:

- interviews with workers and worker representatives (where applicable), using a methodology in line with that set out in Annex 10.3, component B.
- a site walkthrough and inspection of general working conditions
- a walk-through and inspection of worker accommodation (where applicable) according to EBRD/IFC guidelines on worker accommodation, including a focus on free movement and the use of security.³¹

Activity 3: Suggested mitigation and management measures

The assessor will provide concrete, time-bound recommendations for the contractor *[and client]* to mitigate identified risks and cases of non-compliance (see suggested format in Annex 10.1). Mitigation and management measures should be designed to achieve compliance with PR2.

Recommendations should include an assessment of the impact on (all types of) workers, their income and working conditions.

[Where possible, these should be developed collaboratively by the client and the contractor].

1.5 Deliverables

The following deliverables are to be submitted:

- A draft report should be submitted within *[four]* weeks of the assignment start date.
- The report will be completed per the table in Annex 10.1.
- A final report will be submitted within *[two]* weeks of receiving *[client's]* comments on the draft version.

1.6 Reporting

This report should provide sufficient information to inform *[client]* on the key labour and working conditions risks on *[project]* along with suggestions on how to address them. It should include:

- an executive summary, including a summary of the key findings and recommendations
- a brief description of the workplace assessment, scope of work, approach and methodology
- the results of the desk review, including media search, relevant business environment changes and/or regulatory reforms that may impact the

³¹ See EBRD and IFC (2009).

- contractor’s HR and OHS management systems, previous labour inspections/assessment reports (for example, SA8000/ISO 26000) and a summary of outstanding complaints against the contractor
- an overview of the total project workforce, including sex-disaggregated workforce data, lists of (sub-) contractors, labour intermediaries, labour-only contractors, day labourers and migrant workers within the scope of PR2, as well as turnover rates.
- an overview of the structure, use and outcomes of any worker grievance mechanism, including responsibilities, scope, measures to protect confidentiality and so on
- findings on the management of non-employee workers, worker accommodation and OHS risks, along with any findings of non-compliance
- recommendations
- annexes – a list of documents reviewed; a list of management meetings, interviews, focus-group discussions; checklists and questions/questionnaires used; key workforce statistics and HR data; and pictures/visual records (where applicable).

1.7 Qualifications

The assessor(s) should have strong proven expertise in carrying out the desired workplace assessment, including:

- a good understanding of national labour legislation, including recent relevant reforms

- experience working in the construction sector, in *[relevant country]* or the broader region and experience in undertaking labour assessments in the same sector
- understanding of the EBRD’s PR2, or equivalent development finance institution/international financial institution standards
- technical expertise in addressing key thematic issues (for example, the management of contractor workforces, OHS, worker accommodation, grievance mechanisms and employee engagement and forced labour)
- familiarity with and experience of social research ethics as described in Annex 10.3, component B
- the ability to work and communicate in *[relevant language for the client]*, including report writing, and the capacity to carry out worker and management interviews in relevant languages
- the ability to communicate and gain the confidence of workers on the grounds of language, gender and/or nationality
- [SA8000/ISO 26000 Lead Assessor certification is an advantage].*

1.8 Financial proposal

Proposals will be quoted in euros, including a breakdown of daily costs per person and anticipated reimbursable expenses for travel, food, accommodation and so on.

Annex 10.1: Suggested format

No.	PR2/PR4 issue	Risk rating (high/medium/low) ³²	Policies and procedures	Key risks identified	Recommendations	Agreed corrective measures	Responsibility	Timing
1	Human resources policies							
2	Working relationships							
3	Child labour							
4	Forced labour							
5	Non-discrimination and equal opportunity (including gender-based violence and harassment)							
6	Workers’ organisations							
7	Wages, benefits and conditions of work							
8	Worker accommodation							
9	Grievance mechanism							
10	Non-employee workers							
11	Occupational health and safety							

³² See Annex 10.2.

Annex 10.2: Suggested risk rating criteria

The risk rating in Annex 10.1 can be undertaken using the below criteria.

Source	Definition	Examples
Low risk	Client, contractors and subcontractors have adopted policies consistent with the principles of PR2 and have either developed systems or can demonstrate concrete steps taken towards implementing the policies. No suspected, reported or observed breaches.	<ul style="list-style-type: none"> The EBRD's PR2 (on labour and working conditions) is generally being implemented and the specific labour component of the CMP is being managed appropriately. There is a good understanding of the issues and risk based on the information obtained through internal management. Where additional monitoring data and/or mitigation measures are required, these are likely to be easily implemented without significant additional effort or resources.
Medium risk	Isolated, occasional or passive breach of principles of PR2 and/or national legal requirements, often linked to lack of policy or misunderstanding.	<p>Labour practices are resulting in or are likely to result in adverse impacts on workers and/or difficulty in meeting [client] or EBRD requirements. The reasons include some or all of the following:</p> <ul style="list-style-type: none"> There are inadequate policies and procedures in place to manage PR2 risks, including the absence of a worker grievance mechanism accessible to workers on site. There is a lack of understanding of the issues and impacts, and further internal measures are required to support effective mitigation of risks.
High risk	Severe, material or systematic breach of principles of PR2 and/or national legal requirements, implying harm to workers.	<p>Labour is resulting in negative impacts or likely negative impacts on workers that are considered unacceptable or create significant reputational risk for [client]. Reasons include some or all of the following:</p> <ul style="list-style-type: none"> Ineffective or no mitigation, remediation management and internal monitoring measures are being implemented to address impacts and risks and implement corrective actions. There are notable capacity constraints evident in terms of the number/roles of management staff, and training is urgently needed. Additional resources, support and oversight are required to more effectively address high-risk issues and impact.

Annex 10.3: Suggested components of labour assessments

The components below provide a structure for how various components of a labour assessment should be carried out.

Component A: Legal and workforce analysis

Review of national law and regulations against PR2 requirements and the provision of an explicit comparison.

- Review relevant laws, regulations and agreements that have a direct impact on the project workforce, including:
 - selection, hiring (including minimum age of hiring) and firing
 - training and promotion
 - wages (including deductions) and benefits
 - working hours and overtime
 - employment of migrant workers
 - trade unions and collective bargaining
 - rules relating to retrenchment / collective dismissals
 - requirements related to occupational health and safety and worker accommodation.
- Conduct an analysis of current (or anticipated) staff levels and main characteristics of the workforce, disaggregated by sex:
 - number of workers (direct and contracted workers)
 - number of workers by category (permanent, semi-permanent, seasonal, temporary, part-time, probationer, apprentice, or others as appropriate)
 - number of migrant workers
 - average age of workers
 - average years working at the company
 - staff turnover rate from previous year
 - number of workers subscribed to unions
 - number of grievances per month
 - region of origin or registration (if appropriate)
 - level of education achieved
 - grade and pay scale.

Component B: Evaluate management systems

A review of management systems is central to understanding a contractor's or subcontractor's capacity to manage labour issues and implement labour requirements, including the following:

- an assessment of organisational capacity to manage labour and working condition issues
- a review of policies, procedures and monitoring systems related to human resources, OHS, GBVH and contractor management.
- an evaluation of procurement documentation including bidding documents, evaluation and selection criteria and service agreements used by the contractor with its subcontractors
- where possible, a review of the quality of HR records of the contractors or subcontractors that are employing workers on the project through an assessment of:
 - a random sample of payroll records, worker contracts and payslips
 - a review of any computerised human resource systems, including evidence of any data entry validation procedures and standard reporting outputs
 - interviews with managers responsible for implementing and monitoring human resources, OHS and contractor management procedures
- a review of policies and mechanisms in place for *[contractor(s)]* to handle grievances in line with EBRD PR2 requirements. This should verify that the mechanism in place is transparent, impartial and confidential; that staff and management are informed and aware; that worker concerns are addressed promptly; that records are kept; that the mechanism is sensitive to the needs of workers, including vulnerable groups; and that the mechanism does not replace other channels as defined by law or collective agreements.

Component C: Worker interviews

- Worker interviews should be conducted in line with known assessment standards (such as SA8000 or equivalent). *[Details on the SA8000 standard and required audit procedures can be found here.]*
- Worker interviews should primarily be focused on workers in the lower levels of wage distribution (that is, non-managerial). These can be conducted individually or in groups (selection should be made in line with the guidance in Table 1).
- Interviewees should be selected at random by the assessment team and cover a sufficiently representative sample of the workforce (as indicated in Table 1).
- Ensure workers are protected against retaliation. Interviews should be carried out in a location away from management where they feel comfortable. Management and supervisors may not attend these interviews. Information obtained from worker interviews should not be reported to management in a way that the worker may be identified.
- Workers should be asked about key labour issues from their perspective, covering the entire employment cycle from how they found the job, were recruited, their terms and conditions of employment, and life after they leave the job.
- In the event of child or forced labour being identified, the assessor should follow *[client's]* defined safeguarding policies.

EBRD PR2 Tool 11: Reporting template for suppliers

How to use this template

As part of the supply-chain assessment process outlined in Performance Requirement 2 (PR2),²³ the client will identify and assess the risk of child labour and forced labour being used in the operations of its primary suppliers, as well as risks of harm to worker health and safety. If the risk assessment identifies the presence of significant risks of child labour or forced labour in the operations of the primary suppliers, or if significant risks of child labour or forced labour are reported in the lower tiers of supply chains of goods and materials that are essential to the core operational functions of the agricultural project, the client must take appropriate steps to remedy this.

To achieve this, first-tier suppliers of agricultural products and commodities should report on workplace conditions and information, along with any relevant data about their own supply chain. This should be clearly set out in the contract with suppliers. See PR2 Tool 4 for example supply-chain labour rights clauses and Tool 2 for a template supplier code of conduct. The template reporting forms cover forced labour, child labour and occupational health and safety, as set out in PR2. The client is requested to include these reporting requirements in supplier reporting forms. Where possible, client and supplier should maintain sex-disaggregated data.

2.2 Workforce information

Worker information	Male	Female	Total
Number of permanent employees			
Number of temporary (fixed-term or seasonal) employees			
Number of workers provided by private agencies/labour brokers in reporting period			
Number of day/casual workers employed in reporting period			
Number of workers below the age of 18			

[Name of client]: Supplier reporting form

1. Reporting frequency

In line with the agreement between [client] and [supplier], [supplier] will ensure that there are persons responsible for monitoring and reviewing human resources policies and procedures and implementing PR2 requirements. This person should report findings to [client] every six months.

Where there are any risks of forced labour, child labour or occupational health and safety issues (OHS), [supplier] will notify [client] in line with [client's] supplier code of conduct.

2. Company overview

2.1 Supplier details

Company name:	
Company address:	
Location:	
Company representatives responsible for human resources and occupational health and safety	
Names:	
Titles:	
Contact details	
Telephone:	
Mobile:	
E-mail:	

²³ See EBRD (2019), p.16.

2.3 Company update

[Please provide a summary update on company operations and potential changes in the supplier-client relationship in the reporting period.]

3. Primary supply chain – human resources (HR) management³⁴

Reporting indicator	Response
Number of grievances raised by workers in reporting period Of which: <ul style="list-style-type: none"> no. of grievances related to young workers no. of grievances received on withholding and non-payment of wages no. of grievances received on retention of identity documents or other valuable personal belongings no. of grievances received on threats of dismissal from work or other penalties for not complying to labour 	Please also provide details of how the complaints have been resolved Please also provide details of how the complaints have been resolved Please also provide details of how the complaints have been resolved Please also provide details of how the complaints have been resolved
Age of the youngest worker working on site in reporting period?	
Results of labour inspection findings in reporting period	Please attach if labour inspection has been carried out

4. Primary supply chain – OHS management

Reporting indicator	Response
List of hazardous jobs on the site	Please list and describe hazards for each
Measures in place to reduce hazards for each hazardous job	
No. of fatal accidents	
No. of first aid cases	
No. of fires	
No. of qualified health and safety managers	
No. of sick days (full-time equivalent [FTE] person days)	
No. of OHS inductions/training sessions within reporting period	

5. Primary supply chain – Covid-19 management

[Include where relevant.]

Reporting indicator	Response
No. of tests Covid-19 tests carried out on workers	
No. of identified Covid-19 cases	
No. of suspected Covid-19 cases	
No. of sick days due to Covid-19 (FTE)	
Measures in place to reduce Covid-19 transmission risks	
No. of Covid-19 training and awareness-raising sessions	

6. Declaration

I certify that the data contained in this report completely and accurately represent operations during this reporting period.

Name:

Signature:

Date:

³⁴ PR1 defines “primary suppliers” as “those suppliers who, on an ongoing basis, directly provide goods or materials essential for the core operational functions of the project”. See EBRD (2019), p.13.

EBRD PR2 Tool 12: Reporting through the contracting chain – template for contractors

How to use the template

This document includes a templated “reporting form” that EBRD clients can use to receive information on labour performance from contractors and subcontractors.

Contractors should implement – and report through the contracting chain – the labour standards outlined in their contract with the client. They should ensure that these are met for workers on site, not just their own employees. In order to do this, contractors should report to the client using a modified version of the template below.

Clients should modify the template based on their specific labour rights issues. Clients are requested to include any mandatory reporting requirements resulting from the environmental and social action plan (ESAP) in the report through contracting chain forms for contractors. Specific risks that have been identified in the ESAP may require specific reporting through contracting chain requirements that have to be put in place.

Clients are encouraged to distribute their modified reporting template to their contractors. Contractors are encouraged to distribute the modified reporting template to of their subcontractors. Clients and contractors should keep sex-disaggregated data.

[Name of construction project]: Contractor reporting forms

1. Reporting frequency

Contractor(s) must implement and report on the labour standards outlined in their contract with the client. They should ensure that these are met for workers on site, not just their own employees. In order to do this, contractor(s) must:

- establish systems to monitor their own employment and labour management practices and the practices of any appointed subcontractors
- report back to the client on how these systems are set up
- report on the findings of all monitoring related to labour and occupational health and safety (OHS).

In particular, any instance of a severe infringement of labour standards must be reported immediately to the client. Instances of such severity are:

- occurrence of fatalities, serious or permanent injuries
- instances of forced labour
- instances of child labour
- occurrence of strike(s).

2. Forms

2.1 Contractor and project details

Company name:	
Company address:	
Location:	
Company representatives responsible for human resources and occupational health and safety	
Names:	
Titles:	
Contact details	
Telephone:	
Mobile:	
E-mail:	

2.2 Project information

Information	Response
Location of project	
Expected peak construction phase	Please provide date and expected workforce

2.3 Subcontractor information

Information	Response
Names of all subcontractors used on project	Please list all subcontractors being used on the project, their activities and the number of workers they employ
No. of staff responsible for subcontractor engagement	Please name and provide job titles and responsibilities
Labour and OHS policies covering subcontracted workers	Please attach as evidence
Copy of contractual clauses used in contracts with subcontractors related to labour and health and safety	

2.4 Workforce information

Worker information	Male	Female	Total
No. of permanent employees			
No. of temporary employees			
No. of subcontractor workers			
No. of workers provided by private agencies/labour brokers in reporting period			
No. of day/casual workers employed in reporting period			
No. of workers from local communities			
No. of foreign national workers			
No. of skilled workers			
No. of unskilled workers			
No. of workers from other regions within the country			
No. of workers below the age of 18			

Project update	
Please provide a summary update on the project implementation in reporting through contracting chain period	

3. Human resources management

Reporting indicator	Response
No. of HR personnel employed	Please name and provide job title
Human resources policy/policies	Please attach as evidence
List of labour management plans and procedures in place	Please attach as evidence
Hours worked per worker/week	

4. Grievance-related indicators

Reporting indicator	Response
No. of grievances raised by workers in reporting period	
Summary of types of grievance raised by workers and how they have been resolved	Please provide details of the complaints and how the complaints have been resolved
No. of complaints related to gender-based violence and harassment	Please provide details of these complaints and how they have been resolved (DO NOT share information about the victim or alleged perpetrator here)
No. of reported instances of delayed or unpaid wages	Please provide details of these complaints and how they have been resolved
No. of reported instances of excessive hours/overtime	Please provide details of these complaints and how they have been resolved
No. of reported instances of unpaid overtime premiums	Please provide details of these complaints and how they have been resolved
No. of reported instances of poor quality housing and sanitary facilities/amenities	Please provide details of these complaints and how they have been resolved
Percentage of grievances resolved	
Percentage of grievances resolved to the satisfaction of the worker	

5. OHS management

Reporting indicator	Response
List of hazardous jobs on the site	Please list and describe hazards for each
Measures in place to reduce hazards for each hazardous job	Please list
Procedures in place on chemical storage and handling	Please attach as evidence
Procedures in place to ensure safe personal protective equipment (PPE)	Please attach as evidence
Procedures in place for risk assessment	Please attach as evidence
No. of fatal accidents	
No. of first aid cases	
No. of qualified health and safety managers	
No. of sick days	
No. of OHS inductions/training sessions	
No. of "toolbox talks" (regular, short presentations to the workforce on a single aspect of health and safety)	Please list topics
No. of OHS inspections	

6. Worker accommodation management

Reporting indicator	Response
No. of camp managers employed	Please name
No. of workers on site living in employer-provided accommodation	
How many workers are living in each room and how much space is there per worker?	Please list all rooms, the numbers of workers in them, and m ² per worker in these rooms
How many workers are there per toilet in the accommodation site?	
How many showers are there per worker in the accommodation?	
No. of grievances received on worker accommodation	Please also provide details of the complaints how the complaints have been resolved
Procedures in place for monitoring worker accommodation site	Please attach as evidence
Number of worker accommodation sites that are critical risk	Please use the worker accommodation inspection form to help determine whether the accommodation site is a critical risk. Also attach the inspection form here if the inspection has been carried out.

7. Covid-19 management

Reporting indicator	Response
No. of tests Covid-19 tests carried out on workers	
No. of identified Covid-19 cases	
No. of suspected Covid-19 cases	
No. of sick days due to Covid-19 (full-time equivalent person-days - FTE)	
Measures in place to reduce Covid-19 transmission risks in the workplace	
Measures in place to reduce Covid-19 transmission risks in accommodation	
No. of Covid-19 trainings and awareness raising sessions	

8. Declaration

I certify that the data contained in this report completely and accurately represent operations during this reporting period.

Name:

Signature:

Date:

EBRD PR2 Tool 13: Collective dismissals

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1. Introduction

This toolkit is designed to provide guidance to EBRD clients on planning and implementing collective dismissals (also commonly referred to as mass lay-offs or collective redundancy or retrenchment). Whenever a project is likely to give rise to multiple job losses, it is

important that any collective dismissals are carried out in accordance with the EBRD’s requirements and in line with national law. EBRD requirements on redundancy are contained in Performance Requirement (PR) 2.20 (see below).³⁵

EBRD requirements on collective dismissals (PR2.20)

“Prior to implementing any collective dismissals* in connection with the project, the client will carry out an analysis of alternatives to the planned workforce reduction. If the analysis does not identify viable alternatives, the client will develop and implement a collective dismissals plan to assess, reduce and mitigate the adverse impacts of the workforce reduction on workers, in accordance with national law and GIP and based on the principles of non-discrimination and consultation.

“The selection process will be transparent, based on fair, objective, consistently applied criteria, and subject to an effective grievance mechanism. The client will comply with all legal and collectively-agreed requirements relating to collective dismissal, including notification of public authorities, and provision of information to, and consultation with, workers and their organisations.

“The final collective dismissals plan will reflect the outcomes of consultations with workers and their organisations. All outstanding back pay and social security benefits and pension contributions and benefits will be paid: (i) to the workers on or before termination of the working relationship; (ii) where appropriate, for the benefit of the workers; or (iii) in accordance with a timeline agreed through a collective agreement. Where payments are made for the benefit of workers, workers will be provided with evidence of such payments. The client will provide advance notification to the EBRD of the planned workforce reduction and, where requested by the EBRD, a copy of the proposed plan for collective dismissals.

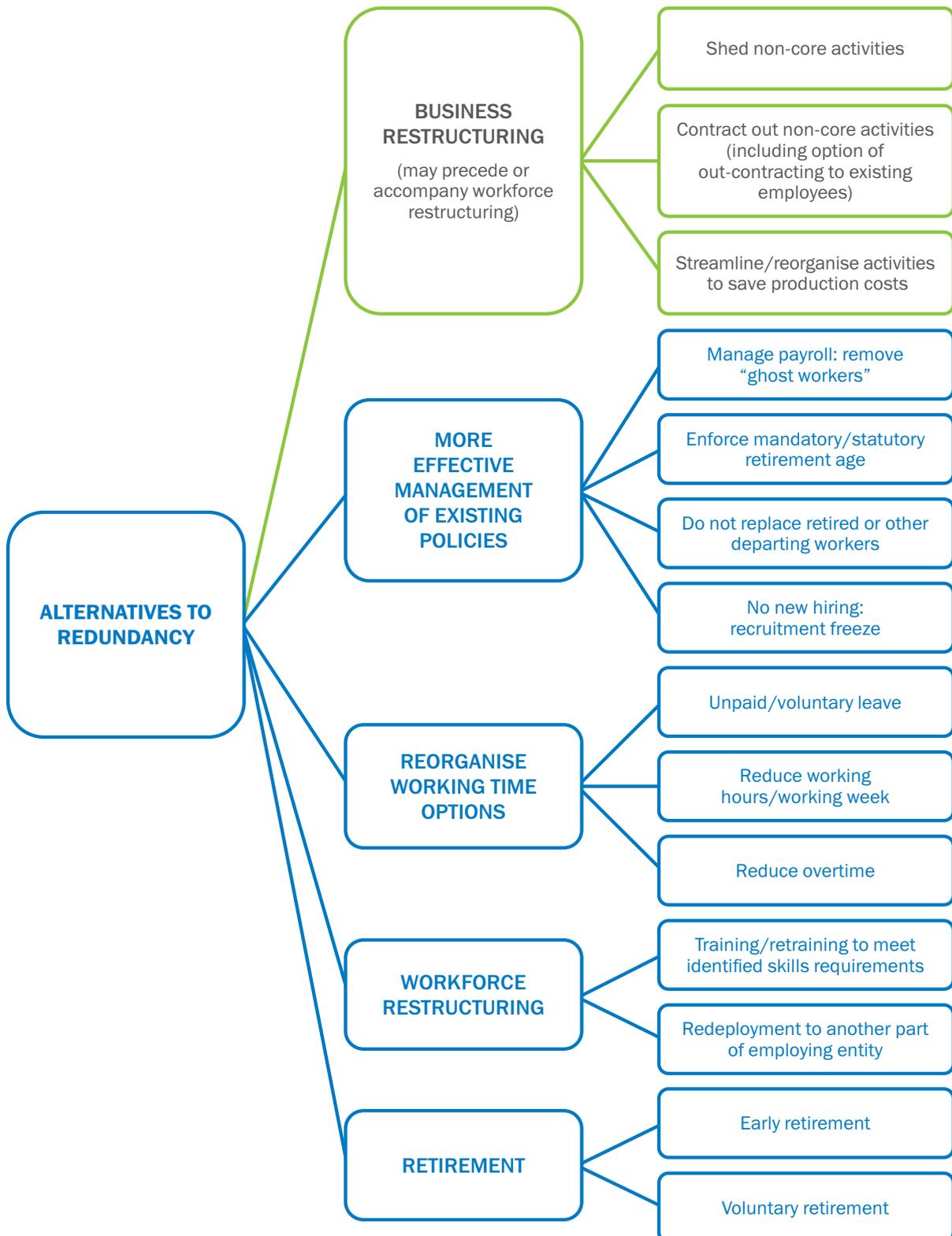
“*Collective dismissals cover all multiple dismissals that are a result of an economic, technical, or organizational reason; or other reasons that are not related to performance or other personal reasons.”

³⁵ See EBRD (2019), p.18.

2. Analysis of alternatives to collective dismissal

Before implementing any collective dismissal in connection with the project, EBRD clients are required to carry out an analysis of potential alternatives. The use of natural attrition or other alternatives to dismissal has the benefit of making workforce restructuring smoother, helping to maintain workforce morale.

The figure below indicates some options for alternatives to collective dismissal that could be considered as part of an analysis:



3. Template collective dismissal plan

3.1 Overview and rationale

This version of the collective dismissal plan is dated *[date]*.

The nominated management representative with responsibility for developing the collective dismissal plan is *[name, position]*.

Overview of the business rationale for workforce reductions	
Anticipated timeframe	
Size of the planned redundancy	Does this trigger national legal requirements relating to collective dismissal?
Job categories and occupations that are likely to be affected	
Are there any anticipated issues that may affect compliance with PR2?	For example, salary arrears
Are further workforce reductions expected within the period of the EBRD's investment?	If yes, what?

3.1.1 Overview of current workforce and staff turnover

	2018			2019			2020		
	Full time	Part time	Other	Full time	Part time	Other	Full time	Part time	Other
Total									
Men									
Women									
Aged 18-40									
Aged 41-60									
Aged over 60									
By occupation/ department									
-									
-									
-									
-									

3.1.2 Overview of applicable requirements

Sources of national legislation or regulations applicable to the collective dismissal process?	Including labour law, as well as any sectoral agreements.
Is there a collective agreement?	If yes, what is its period of validity? Are all workers covered?
Are there any anticipated issues as regards compliance with national legislation or a collective agreement?	
Are there likely to be any changes to the legal framework or collective agreement prior to the conclusion of the collective dismissal process?	If so, describe.
Who is responsible for providing legal advice on the collective dismissal process?	
Has/will any independent legal advice been/be sought?	If so, describe.

3.1.3 Anticipated budget implications (please add/modify line items as appropriate)

Type of cost	Amount
Severance budgets:	
Statutory entitlement (severance pay)	
Wages paid for untaken annual leave	
Wages paid for time off	
SUBTOTAL	
Measures to mitigate effects of redundancy:	
Such as: cost of career counselling and training in new skills for dismissed workers	
Cost of training in financial management or small business development	
SUBTOTAL	
Alternatives to redundancy:	
Such as: early retirement packages	
Gratuity benefit for voluntary resignation	
SUBTOTAL	
TOTAL	

3.2 Alternatives to collective dismissals

3.2.1 Planning and analysis

Does national law or a collective agreement require any alternatives to collective dismissal?

If yes, describe.

Other potential alternatives to collective dismissal:

Description of alternatives considered	Pros	Cons	Estimated effect on number of workers to be retrenched	Conclusion: to be used yes/no?
(Such as redeployment, reduction in working hours, early retirement, and so on)			If so, describe.	

Explanation of why collective redundancies have been chosen instead of or in addition to alternatives above:

[Empty space for explanation]

Description of any consultation carried out in relation to analysis of alternatives, including any staff surveys:

[Empty space for consultation description]
--

3.2.2 Implementation of alternatives to collective dismissal

Overview of the implementation of alternatives to collective dismissal:

Alternatives implemented	Dates	Description

3.3 Consultation and notification

3.3.1 Planning and summary of legal requirements

What are the provisions of national law and collective agreement relating to consultation and notification?

List of trade unions with which consultation will take place and description of their membership.

List of public bodies with which consultation will take place.

Description of how and when notification of affected workers will take place.

3.3.2 Implementation

Summary of consultation meetings held (attach minutes of consultation meetings as annex):

Consultation meeting/session	Themes	Participants	Timing	Key outcomes
Including trade unions, public bodies				

3.4 Selection criteria

3.4.1 Planning and analysis of options

Are there any requirements from national law/collective agreement?

For example, protected categories of worker

Analysis of options:

Mechanisms “tested”	Explanation of how mechanism works	Criteria used	Pros and cons of mechanism	Decision to use – yes/no
(Name of mechanism – for example, skills-based, voluntary, last in, first out)		Such as performance, length of service)		

Do you have all of the relevant personnel information and documentation to be able to implement the chosen selection criteria?

For example, performance and disciplinary record, absence record, skills/knowledge of each worker

3.4.2 Implementation

- Disaggregation of dismissed workers by skill/job description/operating unit
- Staffing ratios (based on relevant benchmarks)
- Total wages and staff-related costs (from financial management reports)
- Total employment changes in the enterprise – inflows and outflows (monthly or quarterly reports).

3.5 Severance payments

3.5.1 Planning

What are the requirements of national law and the collective agreement?

Description of the methodology for calculating each worker’s severance payment.

What is the foreseen budget for severance payments?

3.5.2 Implementation

- Time between workers' termination and receipt of severance compensation
- Total and average severance payments
- Percentage of disbursements with queries/outstanding (sorted by reason)
- Numbers of appeals filed by workers against severance period.

3.6 Active support measures and other mitigation measures

3.6.1 Planning and analysis of options

What active support measures are required by national law or collective agreement?

Needs assessment:

Summary of any formal impact assessment that has taken place	Including date, consultant, terms of reference
Which services or infrastructures, including social and medical services, are provided by the company?	Are workers and their families currently provided with healthcare/insurance, accommodation, education that is linked to employment?
Eligibility of retrenched workers for unemployment benefits and other types of national support	
Summary of prospects for redundant workers (market demand for skills, alternative sources of income/ employment)	
Summary of training and other service providers that are available in the local area	
Which workers within the scope of the collective dismissal are particularly vulnerable?	
Any anticipated impacts on wider community?	

Based on this, which active support measures would be appropriate? What are the cost implications?

3.6.2 Implementation and monitoring

Activity	Time	Conducted by (employer, national employment agency, and so on)	Number/type of workers in receipt of support
For example, training for dismissed workers, career support)			

Monitoring the implementation of programmes

No. and percentage of dismissed workers who receive counselling of different types, job-search assistance, training or retraining	
Disaggregation of displaced workers by age, grade, years of service, gender, ethnic group	
No. (percentage) of dropouts from different training programmes/ percentage completing training	
Duration of training programmes (training days per worker) disaggregated by type of training and worker characteristics	

How will outcomes for workers be monitored and recorded?

Follow up on the situation of workers affected by redundancy, including the duration of unemployment and types of jobs found, especially if it is a large-scale redundancy and/or has a major redeployment and training component.

3.7 Appeals and grievances

Requirements of national law and collective agreement

Description of the appeals/grievance procedure to be used

Description of any appeals or grievance lodged

3.8 Final monitoring and evaluation

3.8.1 Financial monitoring – final costs

Type of cost	Amount
Severance budgets:	
Statutory entitlement (severance pay)	
Wages paid for untaken annual leave	
Wages paid for time off	
SUBTOTAL	
Measures to mitigate effects of redundancy:	
Such as: cost of career counselling and training in new skills for dismissed workers	
Cost of training in financial management or small business development	
SUBTOTAL	
Alternatives to redundancy:	
Such as: early retirement packages	
Gratuity benefit for voluntary resignation	
SUBTOTAL	
TOTAL	

3.8.2 Summary overview of collective dismissal process

	Departing workers – alternatives to dismissal			Departing workers – collective dismissal process			New overall staff numbers		
	Full time	Part time	Other	Full time	Part time	Other	Full time	Part time	Other
Total									
Men									
Women									
Aged 18-40									
Aged 41-60									
Aged over 60									
By occupation/ department									
-									
-									
-									
-									

Does the new organisation respond to the new business environment in terms of its skills base? If not, what measures might still need to be taken?

4. Legal and process checklist

Before proceeding with a collective dismissals process, clients should assure themselves that national statutory provisions, as well as those of binding collective agreements, are known to parties and that systems are in place to ensure compliance.

<ul style="list-style-type: none"> Is the enterprise/sector covered by a collective agreement and, if so, what are the provisions with respect to collective redundancy?
<ul style="list-style-type: none"> Is the enterprise/sector covered by another binding agreement or statute, such as a decision of council of ministers? If so, what are the provisions relating to collective redundancy?
<ul style="list-style-type: none"> How much scope is there under national legislation to reduce working hours and overtime as an alternative to job cuts?
<ul style="list-style-type: none"> Is governmental permission required to proceed?
<ul style="list-style-type: none"> What are the requirements for consultation with trade unions or other worker representatives over the privatisation/restructuring and/or redundancies?
<ul style="list-style-type: none"> Have you developed selection criteria in consultation with workers' representatives which are objective and non-discriminatory?
<ul style="list-style-type: none"> Is voluntary severance/early retirement a possible legal alternative?
<ul style="list-style-type: none"> How are minimum severance payments to be calculated?
<ul style="list-style-type: none"> How much notice must be given to each worker?
<ul style="list-style-type: none"> What are the individual requirements that must be observed in relation to each worker's dismissal?
<ul style="list-style-type: none"> Is there specific legislation relating to women or other protected groups, such as minorities?
<ul style="list-style-type: none"> What statutory protections are there for workers on maternity leave, parental leave or long-term sickness absence?
<ul style="list-style-type: none"> What legislation, if any, covers unemployment insurance and other aspects of social security, regulated welfare funds, pension funds, childcare and other social systems of workplace support?
<ul style="list-style-type: none"> What rights do workers have in the event of transfers to other employers ("transfer of undertaking") and outsourcing? What employment obligations are binding on the new operator?
<ul style="list-style-type: none"> What state agency procedures exist relating to dispute resolution, including conciliation and mediation?
<ul style="list-style-type: none"> What laws are in place related to the rights of "atypical" workers, such as temporary, part-time, self-employed, seasonal and home-based workers?
<ul style="list-style-type: none"> Are public and private pension arrangements "portable" from one employer to another?
<ul style="list-style-type: none"> Are there any rules that require preferential treatment for retrenched workers in respect to future employment?

5. Protocol for labour-market analysis

The supply of and demand for labour and skills relevant to the workers leaving an enterprise will form the core of the labour-market analysis. The analysis will typically include assessments of:

- the capacity of the labour market to provide new formal jobs through estimates of job creation and labour turnover in the economy
- trends in formal and informal employment and areas of job growth and decline
- alternative employment opportunities, including levels of wages and benefits and any trends
- the probability of finding formal and informal sector employment
- patterns of employment in the private sector, including changing hiring practices and skill requirements

- any barriers to entry into and exit from formal employment (including those based on gender).

The labour-market analysis needs to consider both the formal job market and the informal sector, because the latter is often a major source of employment.

While state employment agencies will be able to provide much of the requisite data in many economies where the EBRD operates, in other countries, there are limitations on resources and capacity, meaning that these data are not collected consistently by state agencies. In such cases, it is often helpful to identify donors operating in the labour-market sphere, such as the International Labour Organisation (ILO) or European agencies.

The company may wish to engage external experts to conduct the labour-market analysis.

Protocol for labour-market analysis

Secondary data review	<p>Examine available secondary documentation about the labour market, including:</p> <ul style="list-style-type: none"> • national and regional employment statistics (sex-disaggregated) • reports of national and regional public employment offices (relating to placements, vacancies and unemployment benefits) • any other relevant consultancy reports commissioned by the government or publicly available • other socioeconomic assessments (for example poverty reports prepared under poverty reduction strategy programmes; economic reports with input-output tables for the sector, United Nations human development reports; impact studies on structural adjustment or civil-service reform, ILO reports and statistics on employment; sector-specific reports and statistics, published academic papers).
Interviews	<ul style="list-style-type: none"> • Supplement desk research with interviews with public officials, private-sector businesses, employers' and employees' representatives (trade unions), labour arbitration agencies, public and private placement agencies, business development services agencies, women's groups and other relevant agencies and institutions.
Analysis	<ul style="list-style-type: none"> • Estimate the number of new workers (young workers, women and men) coming onto the market in the next five years and compare with the number of workers retiring – net supply of new labour. • Estimate levels of formal and informal employment, also considering any trends in worker migration (permanent or seasonal) on labour supply. • Identify the impact on labour demand of any large-scale projects (dams, ports, roads) that are likely to have significant demand for workers. • Identify trends in any key employment-creating sectors in the region (to illustrate, examples could be textiles, agro-processing or heavy engineering). • Identify general patterns of demand from the private sector (noting any trends, annual variation, changing skill demands). • Estimate the underlying trends in labour supply and demand. Present high, median and low case scenarios. • Identify specific sectors where women workers may be absorbed, taking into account particular constraints faced by women job-seekers. High-value-added sectors should be identified if there are opportunities in the local labour market.

6. Employee survey – skills assessment

Employee surveys provide a descriptive profile of the workforce in terms of the level and characteristics of its skills and qualifications. In the context of redundancy, this information can be used in two different processes:

- at the beginning of collective dismissals planning, to assist the company in identifying areas of skill shortages and avoiding problems of “adverse selection”, where the best people might leave during the course of workforce restructuring

- during the latter stages of redundancy, where workers have already been selected for redundancy, in order to understanding their employability (how well their skills match those skills required by the labour market) and, therefore, to guide the form and degree of support that will be necessarily to assist them in finding new work following the redundancy.

1. Personal details

1.1 Gender of respondent

Male Female

1.2 What is your date of birth?

Day		Month		Year			
<input type="text"/>							

1.3 What education do you have?

None Basic Secondary University

2. Work history

2.1 How many years have you worked here?

2.2 How many years have you worked in this sector?

2.3 What is your job title?

3. Skills

3.1 Describe the tasks you regularly perform that are critical to carrying out your job effectively

3.2 Describe the type of equipment you are required to use (for example, machinery, tools)

3.3 What skills would you say you have?

Building (includes bricklaying and carpentry)

Drilling

Driver

Welding

Mechanical (includes servicing and machinery)

Farming

Electrical

Supervising

Other, specify

3.4 Do you require a high degree of technical knowledge for your job?

Yes No

3.5 How do you work? Please circle

Alone

Part of a team

Other (specify)

3.6 If you work as part of a team, do you perform the same or different work to members of your team?

Yes

No

3.7 Do you have certificates or papers that show proof of your skills (if so, what)?

Yes

No

3.8 What training or skills have you acquired outside your current job that may be relevant?

4. Training

4.1 What training have you received since you have been working here?

5. Final comments

Is there anything else you would like to say?

7. Monitoring and evaluation of the collective dismissal process

The following indicators can be used by clients to monitor and evaluate the collective dismissals process:

Dismissal and severance indicators

- i. no. of workers dismissed by different mechanisms (early retirement, voluntary departure, mandatory departure, administrative leave)
- ii. disaggregation of dismissed workers by age, grade, years of service, gender, ethnic group, region
- iii. disaggregation of dismissed workers by skill/job description/operating unit
- iv. staffing ratios (based on relevant benchmarks)
- v. total wages and staff-related costs (from financial management reports)
- vi. total employment changes in the enterprise – inflows and outflows (monthly or quarterly reports)
- vii. time between workers' termination and receipt of severance compensation
- viii. total and average severance payments
- ix. percentage of disbursements with queries/outstanding (sorted by reason)
- x. no. of appeals filed by workers against severance period.

Active measures indicators

- i. no. and percentage of dismissed workers who receive counselling of different types, job-search assistance, training or retraining
- ii. disaggregation of displaced worker by age, grade, years of service, gender, ethnic group.
- iii. no. (percentage) of dropouts from different training programmes/percentage completing training
- iv. duration of training programmes (training days per worker) disaggregated by type of training and worker characteristics.

8. Sample terms of reference – retrenchment plan development and implementation support

Background

[Overview of the company, including overview of the workforce.]

[Overview of the planned/anticipated retrenchment, including rationale, number of affected workers, expected timeframe.]

In the event of a collective dismissal of employees, the company will be required to develop and implement a collective dismissals plan to assess, reduce and mitigate the adverse impacts of the workforce reduction on workers, in accordance with PR2 and good international practice and based on the principles of non-discrimination and consultation.

[Client] thus wishes to engage a consultant to provide support to the company in developing and implementing a collective dismissals plan (the “assignment”).

Objectives of the assignment

The key objective is to support the company in aligning its existing staff reduction programme with EBRD requirements and in developing and implementing a collective dismissals plan that includes measures to reduce and mitigate the adverse impacts of retrenchment on workers. Achieving this overarching objective includes:

- working alongside the Company's HR function, relevant public agencies and other relevant stakeholders to build *[client's]* capacity to develop and implement the retrenchment plan
- ensuring that any reputational risk to both *[client]* and the EBRD is anticipated and minimised, including through internal and external communication strategies
- promoting adequate consultation with workers and their representatives and ensuring redundant workers are informed of relevant grievance mechanisms
- supporting the implementation of the plan by identifying training/outplacement measures for redundant workers requiring such support and promoting consultation with relevant national employment services
- monitoring the implementation of the plan in accordance with national law, EBRD PR2.20 and good international practice.³⁶

³⁶ See EBRD (2019), p.18.

Scope of work

The scope of the assignment is composed of two phases, first, supporting the company with the development of a collective dismissals plan in line with EBRD requirements and good international practice and, second, supporting the company with the implementation of the collective dismissals plan.

Phase I: Development of a collective dismissals plan

Gap analysis: The consultant will review the company's existing policies and documents relating to the collective dismissals process, HR policy, agreements with trade unions, mechanisms of engagement, consultation and grievance redress, as well as other procedures relevant to the programme to identify alignment with and gaps to national labour laws and EBRD requirements.

Retrenchment plan: Building on the above two steps, the consultant will support the company in developing a collective dismissals plan that is aligned with EBRD PR2 and national law, explaining how a well-executed workforce reduction can help the business better deliver on its objectives.

The scope and level of detail of the retrenchment plan will vary, depending, among other things, on the number of anticipated job losses and associated socioeconomic impacts, including gender-related impacts. Generally, the structure of a retrenchment plan includes:

- background and rationale for the workforce reduction, including project impacts
- relevant economic context
- analysis of alternatives to retrenchment
- legal framework
- engagement, consultation and grievance mechanism
- selection mechanism and criteria for selection
- management arrangements
- impacts on workers and communities
- active support measures for the redundant workforce.

Phase II: Implementation of the collective dismissals plan

The consultant will support the company with the implementation of the collective dismissals plan to ensure it is executed in accordance with EBRD requirements and national law, based on the principles of non-discrimination and consultation. The implementation process will be fully documented and include the development of monitoring indicators.

The consultant will also support the company in identifying and implementing active measures

to promote labour-market reintegration for departing workers. These measures include:

- pre-dismissal advice and counselling
- job search assistance
- training and/or outplacements
- supporting the potential enterprises of redundant staff.

Deliverables

Documents will be prepared in *[project language]* and the below deliverables to the EBRD should be prepared in *[project language]* and English:

1. monthly progress reports, due on the last day of the month
2. an interim report at the end of Phase I
3. a final report on the completion of Phase II.

The EBRD will provide comments on deliverables 2 and 3 and the consultant will have up to two weeks to incorporate these into the final versions of the reports.

Implementation arrangements

The consultant will report to *[client]* on all aspects of the assignment and the person responsible for the project will be *[name]*.

Assignment duration

The assignment is expected to commence on *[date]* and last for a period of *[x]* months.

Execution schedule

Deliverable	Month
Inception report	<i>[x]</i>
Monthly progress reports	<i>[x]</i>
Final assignment report	<i>[x]</i>

Proposal content

Technical proposal

The consultant will submit a proposal for the above work which must contain the following:

- a description of their experience in *[country of operation]* and *[sector]*
- a description of their experience working with clients on the development and implementation of a collective dismissals plan
- a list of proposed experts (see consultant profile below) and their level of involvement in a table format (man-days on site and in the office) for each phase

- a description of the proposed methodology
- a schedule
- a summary of the proposal in English (focusing on CV and experience).

8.1 Consultant profile

The consultant will require an excellent track record in providing advisory services to government, the private sector and, preferably, international institutions, with regard to strategic HR management, workforce engagement and skills development. Expertise in developing and implementing retrenchment plans to meet PR2 (or equivalent) requirements is mandatory.

The consultant will work closely with the company and, whenever feasible, be co-located in the company's offices for much of the assignment. The consultant will

preferably have their teams embedded within the HR team and the company will provide suitable work space, equipment, and access to electronic data and intra-/ internet connectivity for the duration of the assignment.

The consultant's team is expected to include *[positions can be amended, depending on identified needs]*:

- a project manager experienced in organisational management and large-scale restructuring, international financial institution standards and management systems
- a HR specialist
- a specialist in *[country]* labour law
- a specialist in training and upskilling.

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1641 Toolkit for clients – EBRD Performance Requirement 2:
Labour and working conditions

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