

Summary of Labor Management Procedures by Ministry of Energy and Mineral Resources

EITI Transition and Mainstreamin Support (P175864)

The Labor Management Procedure (LMP) is intended for PMU staff and consultants. This document is prepared to comply with one of the provisions of the Environmental and Social Commitment Plan (ESCP) point 2.1 and in line with Environmental and Social Standards (ESS) 2 on Labor and Working Conditions and national laws. The Ministry of Energy and Mineral Resources prepared the full LMP in Bahasa Indonesia as part of Project Implementation Manual and attached in this summary.

1. Assessment of Key Labor Risks

Project Activities: The project activities will include communication and outreach, public dialogue, systematic disclosure of extractive information, enhancement and integration of e-reporting platforms, which will not have a direct physical footprint in a particular geographic location that requires environmental and social assessment of the activity in question. Project activities will be located in Jakarta and implemented under the coordination of the Ministry of Energy and Mineral Resources (ESDM) and involve relevant ministries and agencies, civil society groups (CSOs), extractive companies, and industry associations.

Key Labor Risks: Project workers include Direct Workers who are staff of the EITI National Secretariat within the MEMR and are in charge of day-to-day implementation of the project as the project implementation agency (PIU). They are civil servants who operate under the national civil servant code. In addition, it is expected that consultants will be hired on: (i) supporting project implementation; (ii) portal enhancement, data and systems integration and other technical tasks; (iii) organizing stakeholder engagement events. Their labor risks are deemed low since all consultants engaged in project activities will be hired following the Bank's procurement guidelines under written contracts; no vulnerable workers such as migrant workers or low-wage workers who may face discrimination including on the basis of gender or disability are expected to be hired; and no physical works will be financed under the project. The low labor risks will be addressed through the MEMR's commitment to comply with the requirements of the ESS2 (including with regard to child/ forced labor, Occupational Health and Safety (OHS) issues, fair and equal opportunity for hiring process and pay, and workers grievance mechanisms). Community Workers or Primary Supply Workers are not considered relevant.

Potential health risks to project workers due to exposure to COVID-19 will be mitigated through employing virtual meeting formats to the extent possible. Relevant precautionary health measures when commuting to and working in office will include the provisions and use of Personal Protective Equipment (PPE), where necessary, consistent with WHO guidelines as well as official directives from national authorities and health facilities.

2. Management Processes and Procedures in Hiring Project Workers

The steps required in the LMP include procedures for employment provisions, code of ethics, management of workplace-related complaints, management of Occupational Safety, Health and Safety, including the protocol during the COVID 19 period.

2.1 Responsible Staff

Based on the Ministerial Regulation of Energy and Mineral Resources No. 15 of 2021 on the Organization and Work Procedures of the Ministry of Energy and Mineral Resources (*Berita Negara Tahun 2021 Number 733*), in general the implementation of labor management procedures related to the Transitional Support Program activities and Mainstreaming of the Extractive Industries Transparency Initiative (EITI) Indonesia is under the Coordinator of the General Section in Pusdatin MEMR and in its implementation will be assisted by project managers who will be recruited in the Indonesia EITI Transition and Mainstreaming Support Project - No. TF0B6149.

2.2 Overview of general workers involved in the project

All project workers involved in project activities will be employed by MEMR. The project workers will be most likely office-based, with potential travels to the field subject to lifting of COVID-19 travel restrictions. There will be direct workers and contracted workers in this project. It is envisaged that approximately 55 persons will be engaged in the project and all of them are required to be over the age of 18.

- Direct workers: people employed or engaged directly by MEMR to perform project management, both civil servants and consultants. That total estimated number for direct workers are 25 MEMR's staff and 3 individual consultants. MEMR's staff structure will consist of chief director (*pengarah*), coordinators (*koordinator*), and implementing team who will perform overall project management in PIU. Chief coordinator will also take role as E&S focal point in this project. All MEMR's staff will remain subject to terms and conditions of their public sector employment agreement. Individual consultants will be recruited including project manager, project assistants, and administrative team. The direct workers will generally be required full time and engaged two years throughout project duration.
- Contracted workers: people employed through firm/ third party to perform work related to IT, event, and communication management. The estimated number for contracted workers is 27 workers. The contracted workers will include those workers from IT and communication firms. The contracted workers will be engaged around two years throughout project duration, except for contracted workers from IT firm that will only be engaged 1,5 years.

2.3 Brief Overview of Labor Legislation

The Government of Indonesia has ratified all fundamentals ILO conventions¹ and mainstreamed it in national labor legislations and other derivative regulations. The

¹ Ratified ILO fundamental conventions are: Forced Labor Convention, Freedom of Association and Protection of the Rights to Organize Convention, Right to Organize and Collective Bargaining, Equal

primary reference regulation related to labor is Law No 13/ 2003 on Manpower, Law No. 40/2004 on the National Social Security System, Law No. 24/2011 on the National Social Security (BPJS), with the latest amendments in the Omnibus Law No 11/ 2020. The labor legislation also links to Law No. 5/ 2014 on Civil Servants for government employees. The laws set out rules for the employment terms and conditions, including employment relationship, work placement, recruitment of foreign workers, employment protection and welfare, and employment termination. An employer with ten or more workers is required to establish an institution regulation.

Based on the National Law, employers must have consensual work agreements with their workers in the form of a written contract signed by both parties. A work agreement ends if the worker dies, the expiration of the working agreement period, completion of a certain job, there is a court decision, or there are certain circumstances that are stated in the work agreement. On the provisions of workers' rights to organize, including rights to collective bargaining, workers have the freedom to choose how they are represented, and employers must not interfere in the process as mandated in Law No. 21/2000 on Labor Unions.

The labor laws also protect workers from discrimination in the workplace and every worker has a right to receive Occupational, Health, and Safety (OHS). The laws acknowledge workers' rights to earn the same wages for work of the same value. Employers are required to pay wages in accordance with the work agreement, which should not be lower than the minimum wage. Regular working hours are 40 working hours per week, which can be arranged into five or six working days as regulated in a work agreement. Employers must pay overtime compensation and provide rest time and paid leave. Employers are required to register their employees/staff and participate in social security programs, which include healthcare, pension, work accidents, old age, and death insurance. For government employees, articles about social security and OHS for civil servants are specified in Law No. 5/ 2014 on Civil Servants.

2.4 Terms and conditions

In this project, requirements in ESS2 have been addressed in the national labor legislations. All project workers involved in this project are prohibited from engaging in forced labor and child labor in accordance to the national laws. Project workers will be provided with clear information and documentation pertaining to their terms and conditions of employment that will set out their rights under national labor laws and this LMP. All direct workers will have individual contracts and/or appointment letters with fixed monthly wages and allowance according to the Indonesian labor legislation. For consultants, the recruitment process will follow the procurement system that has been agreed upon between MEMR and the World Bank and follow national procurement of government good and services. The specific wages and allowance for consultants will follow provincial minimum wages and adjusted based on MEMR's policies corresponding to qualification as set out in the ToR.

Remuneration Convention, Discrimination (Employment and Occupation) Conventions, Minimum Age Convention, Worst Forms of Child Labor Convention.

On working hours, civil servants in this project are required to follow working hours based on the MEMR's Ministerial Regulation 44/ 2018 with maximum working hours 37 hours 30 minutes. Meanwhile, individual consultants and contracted workers are expected to follow national labor law with a maximum of 40 working hours per week. Requirements and conditions of overtime and leave durations will follow national regulations and be agreed as part of individual contracts.

2.5 Age of Employment

The project establishes the working age based on national labor regulations. Given the nature of the work and the scope of the project, only workers over the age of 18 will be employed. The MEMR will verify the identity and age of all workers through personal identity documents, such as ID cards, etc.

2.6 Additional policies and procedures

In addition to employment terms and conditions as established in the LMP, the following additional provisions includes as additional policies and procedures:

- Non-discrimination and equal opportunity

The employment of project workers will be based on the principle of equal opportunity and fair treatment and there will be no discrimination with respect to any aspects of the employment relationship, such as recruitment and hiring, compensation, working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement or disciplinary practices. The project will identify and provide measures that support equal opportunities for women and men, including measures to prevent harassment of project workers as well as relevant measures that address working conditions to ensure accessibility and equality of opportunities for all project workers.

- Occupational Health and Safety

In line with national labor legislation, the employer and all project workers must follow OHS standards, including putting a serious concern on COVID-19 protocols by following WHO guidance as well as the official direction from the national authorities and health facilities. Related to that, the project is committed to:

- Complying with applicable laws and regulations related to potential occupational health and safety risks and impacts, including potential public health risks associated with COVID-19 for project workers.
- Maintaining healthy and safe working conditions. This also includes ensuring safety of project travels (by air, land and/or water related travels) and protection of Gender Based Violence (GBV)/ Sexual Exploitation Abuse (SEA) – Sexual Harrasment (SH)/ Violence Against Children (VAC).
- Implementing general travel safety measures, as follows:
 - Share travel itinerary with other project personnel
 - Keep log book of daily activities
 - Carry with you, your personal emergency contact numbers
 - Identify and take note the local emergency medical services and contact numbers at site

- Pack a basic first aid kit, including any personal prescribed and/or non-prescribed medications
- Avoid traveling at night unless there is no other feasible option
- Prioritize traveling on more reliable airlines acknowledged for their safety standards and performance
- Adequately assess and select options for air versus land travel.
- Identify and engage trusted third-party sources for vehicle rentals and/or boat rentals
- Avoid traveling on motorbikes whenever possible (most road accidents are related to motorbikes)
- Ensure to wear a lifevest whenever travelling on water
- Ensuring all workers are competent to do their tasks and giving them adequate training.
- Continually improving the OHS management system and performance.
- Implementing health and safety protocols related to preventing the transmission of COVID-19 and Implementing a Work System based on the Letter of the Minister of Energy and Mineral Resources No 9.E/KP.06/SJN.P/2021 concerning Adjustment of the Work System of State Employees during the Enforcement of Restrictions on Community Activities during the COVID 19 Pandemic in the MEMR Environment.

- Code of Ethics and Behaviour

All government employees, both permanent civil servants (ASN) and government employees with a work agreement (PPPK) are bound by the national civil servant code of ethic and behaviour as stipulated in Law No. 5/2014 on Civil Servants. The same code of ethics and behaviour shall be applied to contracted workers in this project where relevant and can be attached in the work agreement.

- Carry out duties honestly, responsibly, and with high integrity
- Carry out duties with care and discipline
- Serve with respect, courtesy, and without pressure
- Carry out duties in accordance with the provisions of laws and regulations
- Carry out duties in accordance with orders from supervisors as long as they do not conflict with the provisions of laws and regulations and government ethics
- Maintain confidentiality concerning state policies
- Use state property and assets responsibly, effectively, and efficiently
- To prevent conflicts of interest in carrying out their duties
- Provide true and not misleading information to other parties who need information related to official interest
- Not misuse internal state information, duties, status, power and position to obtain or seek self profit or benefit or for others
- Uphold the basic values of civil servant and always maintain the reputation and integrity of civil servant
- Implement the provisions of laws and regulations regarding the discipline of government employees

3. Contractor Management

This project involves the services of a national firm to support PIU in implementing the project in accordance with the targeted results. The firms will be asked to follow the

national legislation's requirements and measures in accordance with the procedures of the Procurement Plan and the LMP, including contract procedures, selection criteria, OHS, terms and conditions and run them in accordance with the COVID 19 protocol. MEMR will manage, monitor, and evaluate contractor performance in accordance with the implementation schedule and output in accordance with the agreement in the contract periodically (quarterly or when needed).

4. Grievance Mechanism for Project Workers

All employees, including direct workers, consultants/experts, and other contract workers as stipulated in this LMP are encouraged to use the existing institutional complaint mechanism channel as grievance mechanism for project workers. Handling complaints related to employment in Indonesia's Extractive Industries Transparency Initiative (EITI) Transition Support and Mainstreaming Program will be managed by the Secretary General of MEMR (cq. General Section, Pusdatin ESDM via email: tu@esdm.go.id ; pusdatin@esdm.go.id) . Official letters can be sent to the ESDM Data and Information Technology Center EBTKE Building Lt. 8 Jalan Pegangsaan Timur No.1 Menteng, Central Jakarta.

Other available channels for information services and public grievances include the LAPOR (lapor.go.id), PPID (<https://ppid.esdm.go.id>) or Contact Centre 136. The Whistleblowing system (<https://wbs.esdm.go.id/>) is the MEMR application for workers who have information and wish to report an act indicated by a violation that occurred within the MEMR work/office environment. The Whistleblower system is run and monitored by the Inspectorate General at MEMR and records feedback, complaints, and public complaints. The identity of the Whistleblower is confidential and protected by the Witness and Victim Protection Agency. The procedure of complain handlings through WISE can be seen through link Annex no 7.

Annex:

Link to related rules and regulation:

1. MEMR Ministerial Regulation No. 40/2015 on Guidelines for the Management of Public Complaints within the MEMR (<https://jdih.esdm.go.id/index.php/web/result/1455/detail>)
2. MEMR Ministerial Regulation No. 15/2021 on the Organization and Work Procedure of MEMR (<https://jdih.esdm.go.id/index.php/web/result/2159/detail?q=>)
3. MEMR Ministerial Decision No. 129.K/HK.02/MEM.S/2021 on the Management of Information Services and Public Complaints within the MEMR (<https://jdih.esdm.go.id/index.php/web/result/2163/detail>)
4. Ministry of Health, Ministerial Decision No. 01.07/Menkes/328/2020 on Guidelines for Preventing and Controlling COVID-19 in Offices and Industry (http://hukor.kemkes.go.id/uploads/produk_hukum/KMK_No_HK_01_07-MENKES-328-2020_ttg_Panduan_Pencegahan_Pengendalian_COVID-19_di_Perkantoran_dan_Industri.pdf)
5. Minister of Energy and Mineral Resources Circular Letter No. 9.E/KP.06/SJN.P/2021 concerning Adjustment of the Work System of State Civil Apparatus Employees during the Enforcement of Restrictions on Community Activities during the COVID 19 Pandemic in the MEMR Environment (<https://bit.ly/2XLj8t4>)

6. Covid-19 Protocol, <https://covid19.go.id/p/protokol/protokol-tatalaksana-covid-19-di-indonesia>
7. Decree of the Inspector General of the Ministry of Energy and Mineral Resources number 877.K/07.01/IJN/2015 on technical guidelines for managing the whistleblowing system within the MEMR. <https://tinyurl.com/wb9kfyfb>