

Labor Management Procedure (Draft)  
**Kyiv Urban Mobility Project (P170290)**

Kyiv City State Administration

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## Abbreviations

KUMP	-	Kyiv urban mobility project
LMP	-	Labor management procedure
ESS	-	Environmental and Social Standards
KCSA	-	Kyiv city state administration
IPF	-	Invest project financing
PIU	-	Project implementation unit
OHS	-	Occupational health and safety

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# 1.INTRODUCTION AND BACKGROUND

## 1.1 Project Description

The proposed Kyiv Urban Mobility Project (KUMP) is to support the Government of Ukraine to improve the public transport system in its capital - Kyiv. KUMP will be an investment project financing (IPF) consisting of a loan in the amount of **US\$37.7** million and the Kyiv City State Administration (KCSA) and CE “Kyivpastrans” are the main implementing agencies of the project. The Project includes investment and reform priorities identified by KCSA. The proposed Project would support the implementation of key projects and reforms to improve the urban mobility in Kyiv.

The Project would include:

- (i) the preparation of the feasibility study and detailed design for a Rapid Transit System connecting Troieshchyna to the center of Kyiv;
- (ii) the extension of Borshchahivka tramway from Vokzalna to Palats Sportu and the reconstruction of Vokzalna square; and
- (iii) the institutional support to improve the transport planning practices in Kyiv.

The Project results will be measured as follows:

- Enabling conditions met for the implementation of a potential Rapid Transit system in Troieshchyna, including the preparation of detailed design that includes universal access, bidding documents, and finance / funding strategy;
- Access enhancements to the city centre at Vokzalna from Kyiv’s Borshchahivka district, measured in travel time, travel cost, and accessibility of transport infrastructure for its users, including key elements of the square;
- Stronger planning capacity of KCSA measured by the approval of an updated transport master plan and the creation of an institutional mechanism under the Mayor’s office to coordinate and implement projects involving multiple stakeholders.
- Successful demonstration of pedestrianization and universal access concepts at Vokzalna square.

## 1.2 Project Components/Investments

The KUMP includes following components:

### ***Component 1: Borshchahivka Rapid Tram extension & Vokzalna Square enhancement (US\$ 35.2 million)***

The project will extend the Borshchahivka Rapid Tram and upgrade Vokzalna square. Under Component 1, the project would finance extension of the Borshchahivka Rapid Tram from its current terminus outside of Vokzalna Square with a new station and turning loop within Vokzalna Square and on to a point near Palats Sportu metro station (approximately 3.5 route-km). In parallel, the project will finance an overall masterplan for Vokzalna Square and a first phase of infrastructure upgrades with a focus on segregating pedestrians from vehicular traffic, improving passenger amenity, and eliminating barriers that affect persons with impaired physical mobility. Specific expenditures that would be financed under Component 1 include:

As part of the Borshchahivka Rapid Tram extension:

- i. Field-based utilities validation and a flood risk assessment for Borshchahivka Rapid Tram’s extended alignment;
- ii. Detailed design and tender documentation for Borshchahivka Rapid Tram extension; and
- iii. Civil works for the extension of the Borshchahivka Rapid Tram tracks totaling approximately 8 track-km (3.5 km route-km in addition to a turning loop in Vokzalna Square).

As part of the Vokzalna Square upgrade:

- i. Development of the Vokzalna square master plan and a phasing program for upgrades;
- ii. Vokzalna Square phase 1 engineering design;
- iii. Accessible pavers and vehicle waiting / drop-off areas;
- iv. Passenger coverings at interchange points;
- v. Accessibility upgrades along passenger interchanges; and
- vi. Creation of a passenger amenity area.

Elements common to both the Borshchahivka Rapid Tram extension and Vokzalna Square upgrade:

- i. Accessibility audits to inform planning, design and post-completion assessment activities;
- ii. Supervision of civil works (via a consultancy contract); and
- iii. Civil works contingency, to be deployed as needed for project delivery.

### ***Component 2 - Strengthening Kyiv's transport planning systems (US\$ 1.7 million)***

This component will finance technical assistance activities to support incremental expenses for project delivery and to strengthen KCSA's transport planning systems. Areas of focus include upgrades to the Kyiv Urban Mobility Model (i.e. the city's travel demand model), analytics to inform city-wide public transport fares policy, accessibility standards for common public transport works.

Specific items that Component 2 will finance include:

- i. IT upgrades for KPT, the Urban Development and Architecture Department, and Master Plan Institute;
- ii. Surveys, gender disaggregated data collection, and updates to Kyiv's transport model and master plan;
- iii. Training and skills development for KPT, the Urban Development and Architecture Dept., and Master Plan Institute;
- iv. The development of a revised fares policy for Kyiv Public Transport;
- v. The development of accessibility design guidelines for public transport works that meet "Design for All" principles;
- vi. Consultancy support for KPT and other entities with responsibility for project implementation;
- vii. Mobilization of additional public reporting for transport systems in Kyiv; and
- viii. Procurement and financial management support for KPT.

This LMP is prepared to address ESS 2 related impacts and risks for employers in framework of the activities proposed under the **Component 1** – Construction of the tram line from Starovokzalna street to the "Palats Sportu" Kyiv Metro station with arrival to the Vokzalna square in Shevchenkivskiyi and Pecherskiy Districts of Kyiv and reconstruction of the Vokzalna square – main railway station in the city.

### **1.3 Overview of Labor Use on the Project**

**Number of Project Workers:** At this stage the type of labor requirements and exact number of project workers cannot be determined. The design documents for the construction of tramline extension and Vokzalna square reconstruction are still in the process of preparation. The project activities and supporting agencies will be known after the effectiveness of the project and the draft LMP can be updated accordingly. It is not expected that that for project activities realization more than 100 workers will be engaged for the construction at the time. All workers will be hired locally.

It is expected that Project will engage the following categories of project workers as defined by ESS2:

***Direct workers:***

The executives would likely include project managers and supervisors and administrative staff who will be part of the Project Implementation Unit (PIU) of CE “Kyivpastrans” and will be engaged in the implementation of this project. The number of direct workers would not exceed 25 individuals who will be responsible for project management, technical solutions, environmental and social risk management and compliance aspects of project implementation. During the implementation of this project, the use of child labor and persons under the age of majority is prohibited.

***Contracted workers:***

Contracted workers would be hired under design, construction contractor(s). Two different Contractors likely will be hired for construction of tramline and for Vokzalna square reconstruction. In addition, it is expected that owners of utilities will engage workers for relocation/rehabilitation tasks.

***Migrant workers:***

*International migrants are not expected to be hired under the project.* However, some internal migrants, i.e. workers from other regions of Ukraine may be employed as workers outside their area of residence. The main risks associated with these workers is that they may be employed on part-time /temporary basis without defined benefits/written contracts etc. It might also possible unskilled workers have to work overtime without appropriate pay.

***Timing of Labor Requirements:***

The timing and sequencing of labor on the project is being currently cannot be defined. This section can be filled once the sequencing of the implementation plan and procurement plans are finalized.

## 2. ASSESSMENT OF KEY POTENTIAL LABOR RISKS

### 2.1 Project Activities

As a result of Component 1 implementation approximately 4 km of new tramline will be laid. Construction under this component includes the following activities:

- Dismantling of existing road pavement;
- Earth works (Cut and Fill soil works, soil grading, soil compacting, soil stabilization etc.)
- Relocation of communal utilities;
- Mapping, geodesy and topographical works;
- Laying of new tramlines;
- Laying of electricity network for tram connection;
- Construction of new road pavement and road infrastructure (road signs, road marking, lighters, illumination, etc);
- Construction of tram stops and other street infrastructure;
- Landscaping.

### 2.2 Key Labor Risks

It is assessed that key labor risks would be associated with health and safety risks related to the construction activities of tram lines such as exposure to physical, chemical and biological hazards during construction activities such as: use of heavy equipment, trip and fall hazards, exposure to asphalt fumes and rail lubricants, noise and dust, falling objects, exposure to hazardous materials and exposure to electrical hazards during electrical network construction and from the use of tools and machinery. As the construction activities will involve hazardous work, persons under the age of 18 will not be employed by the Project. Many workers will be exposed to occupational health and safety hazards, primarily including but not limited to:

- Exposure to chemicals (asphalt fumes, pulverized silica, rail lubricants, fuels, solvents, paints);
- Welding hazards (Aluminum Thermite welding fume emissions, burns and radiation);
- Excavations, earth works hazards vibration;
- Vibration of heavy construction equipment;
- Dust, Noise;
- Traffic accidents;
- Lifting of heavy materials (rails, sleepers, etc.);
- Ergonomic hazards during construction;
- Electrical works.

The Project is assessed as Low on gender-based violence (GBV) risk.

### 3. SUMMARY OF UKRAINE'S LABOR LEGISLATION: TERMS AND CONDITIONS

#### 3.1 Types of Employment Contracts

Types of employment contracts are singled out according to different criteria, including duration, the nature and scope of functions performed, the manner in which labor relations are created and so on.

Under the provisions of Article 21 of the Labor Code of Ukraine, an employment contract is an agreement between an employee and the owner of an enterprise, institution, organization, or a body or an individual authorized by said owner, in which the employee undertakes to perform work specified by said agreement, in compliance with internal labor rules, and the owner of the business, institution, organization or the authorized body / individual undertakes to pay to the employee and to provide him/her with the work conditions needed for the performance of the work under the labor legislation, as well as a collective bargaining agreement and an agreement between the parties.

Article 23 of the Labor Code of Ukraine provides that an employment contract may be:

- 1) indefinite, which is signed for an indefinite period;
- 2) for a fixed term that is agreed upon between the parties;
- 3) good for the duration of a particular work.

As for duration, employment contracts fall into fixed-term and indefinite agreements. As for the manner in which labor relations are created, they can be: ordinary, contractual, concluded upon election to a position and appointment to a position. As for the nature and scope of functions performed by the employee, the following employment contracts are recognized: agreements with public servants, home workers, seasonal and temporary workers. The distinction is also made between contracts for holding a second job and contracts for concurrent employment. Contracts signed with foreigners, young professionals, minors, people with disabilities and so on are separated from other types of employment contracts.

Article 43 of the Constitution of Ukraine provides that everyone has the right to labor, including the possibility to earn one's living by labor that he or she freely chooses or to which he or she freely agrees.

According to Article 26 of the Constitution of Ukraine, foreigners and stateless persons who are in Ukraine on legal grounds enjoy the same rights and freedoms and also bear the same duties as citizens of Ukraine, with the exceptions established by the Constitution, laws or international treaties of Ukraine.

When entering into an employment contract, a trial period may be specified in the agreement between the parties in order to test the employee's suitability for the role. The condition of trial shall be reflected in the employment order (directive).

During the trial period, the employees are subject to labor legislation (Article 26 of the Labor Code of Ukraine). Article 27 of the Labor Code of Ukraine establishes a trial period for hiring, unless otherwise specified by the legislation of Ukraine, which may not exceed three months and in some cases, as agreed with the relevant elected body of the primary trade union, six months.

### **3.2 Wages and deductions**

In accordance with the provisions of the Law of Ukraine "On Remuneration" (hereinafter, the Law) employee payment is a remuneration, usually calculated in monetary terms, which the employer pays to the employee for the work they have performed, under the employment contract.

The size of employee payment depends on the complexity and conditions of the work done, the professional and business competences of the employee, his/her performance and the economic activity of the enterprise (Article 1 of the Law).

Basic payment. It is a remuneration for the work performed in accordance with the established labor standards (working time, production, maintenance, job responsibilities). It is set as tariff rates (wages) and piece rates for workers and salaries for employees.

Extra payment. It is a reward for working over established standards as well as for successful performance, resourcefulness, and for special working conditions. It includes surcharges, allowances, securities and compensations under legislation in effect; bonuses related to the performance of production tasks and functions.

Other incentive and compensation payments. These include payments in the form of remuneration for the year's performance, bonuses under special systems and regulations, payments under grants, compensatory and other monetary and material payments that are not provided for by the current law or that exceed the norms specified by the said legislation (Article 2 of the Law)

Minimum payment is the statutory minimum wage for the employee's monthly (hourly) labor standard.

The minimum wage is set at both monthly and hourly rates.

Minimum wage is a state social security, which is mandatory across Ukraine for enterprises of all forms of ownership and economic activities as well as individuals who use labor of employees, under any system of remuneration (Article 3 of the Law).

The minimum wage is set annually by the Law of Ukraine "On the State Budget of Ukraine" (for the respective year). Hence, as of January 1, 2020, the minimum monthly wage is 4723 hryvnias. (191,76 USD).

### **3.3 Working Hours**

Under Article 50 of the Labor Code of Ukraine, the normal work hours by employees may not exceed 40 hours per week. Undertakings and organizations may, when signing a collective agreement, set shorter work hours than provided for in paragraph 1 of this Article. In addition, Article 51 hereof provides for a reduced working time for employees working in adverse working conditions – no more than 36 hours per week. The list of industries, workshops, professions and positions with adverse working conditions, which make employees entitled to a shortened working time, is approved in the manner prescribed by law. Shortened work hours can be set at the expense of own funds at enterprises and organizations for the benefit of women who have children under the age of fourteen or a child with a disability.



### 3.4 Brakes

Employees shall be provided with break for rest and meal lasting not more than two hours. The break shall not be included into working hours. The break for rest and meal shall be usually provided in four hours after start of work. Time of start and end of the break shall be established by internal regulations. Employees shall use the break time at their own discretion. During this time, they may be absent from the workplace. (article 66 of Labor Code).

### 3.5 Days-off

Under the provisions of Article 67 of the Labor Code of Ukraine, employees are given two days off per week for a five-day workweek and one day off for a six-day workweek. The duration of the weekly rest period shall be at least forty-two hours (Article 70 of the Labor Code of Ukraine).

Article 71 of the Labor Code of Ukraine prohibits work on days off. The engagement of individual workers on these days is allowed only with the permission of the elected body of the primary trade union organization (trade union representative) of the enterprise, institution, organization, and only in exceptional cases specified by law and in part two of this Article.

Individual workers may be engaged on days off in the following exceptional cases:

- 1) to prevent or eliminate the effects of natural disasters, epidemics, epizootics, industrial accidents and immediate elimination of their consequences;
- 2) to prevent accidents that endanger or threaten the life or normal living conditions of people, loss of life or damage to property;
- 3) to perform urgent, unforeseen works, the immediate performance of which depends on the normal operation of the enterprise, institution, organization as a whole or their separate units;
- 4) for carrying out urgent loading and unloading operations with the purpose of preventing or eliminating idle rolling stock or the accumulation of cargo in departure and arrival areas.

The engagement of employees on days off is carried out upon a written order (directive) by the owner or his/her authorized body.

Work on days off may be offset, upon agreement between the parties, by providing another day off or by doubled monetary compensation. Payment for work on days off shall be calculated under Article 107 hereof (Article 72 of the Labor Code of Ukraine).

### 3.6 Leaves

Provision of leave is governed by the Law of Ukraine "On Leaves" (hereinafter, the Law) and the Labor Code of Ukraine (hereinafter, the Code). Under Article 2 of the Law, citizens of Ukraine who have a working relationship with enterprises, institutions, or organizations regardless of their ownership, type of activity and sectorial affiliation, and who work under an employment contract for an individual (hereinafter referred to as an enterprise) have the right to leave. The right to leave is secured by: guaranteed granting of a leave of a certain duration, with the preservation of employment (position) and wages (assistance) for its duration in cases provided by this Law.

The following types of leave are established:

- 1) annual vacation:
  - basic annual time off (Article 6 hereof);
  - additional time off for working in adverse and difficult working conditions (Article 7 hereof);
  - additional time off for the specific nature of work (Article 8 hereof);
  - other additional leaves provided for by law;

- 2) additional leave in connection with studying (Articles 13, 14 i 15 hereof);
- 3) sabbatical (creative leave) (Article 16 hereof);
- 3-1) time off for preparation and participation in competitions (Article 16-1 hereof);
- 4) social leaves:
  - maternity leave (Article 17 hereof);
  - leave to care for a child under the age of three (Article 18 hereof);
  - leave in connection with the adoption of a child (Article 18-1 hereof);
  - additional time off for employees who have children or an adult child who has a disability since childhood, with subgroup A of group I (Article 19 hereof);
- 5) unpaid leaves (Article 25, 26 hereof).

Other types of vacations may be established by law, collective agreement, agreement and employment contract.

The total duration of annual basic and additional time off may not exceed 59 calendar days, (Article 10 of the Law of Ukraine "On Leaves").

Under the provisions of Article 75 of the Labor Code of Ukraine, annual basic leave is granted to employees for the duration not less than 24 calendar days subsequent to one year of service, which starts on the day the employment contract was signed. Pregnancy and childbirth leaves are not included in annual vacation (Article 78 of the Labor Code of Ukraine).

Holidays and non-business days (Article 73 hereof) are not taken into account in determining the duration of annual vacation (Article 78<sup>1</sup> hereof).

### **3.7 Overtime Work**

Pursuant to Article 62 of the Code, the owner or the body authorized by him/ her may engage employees overtime only in exceptional cases, such as:

- 1) carrying out the works necessary for the defense of the country, as well as the prevention of civil or natural disasters, industrial accidents and immediate elimination of their consequences;
- 2) carrying out publicly necessary works on water supply, gas supply, heating, lighting, sewerage, transport, communications in order to eliminate accidental or unexpected circumstances that violate their proper functioning;
- 3) if necessary, finishing the work that has been started, which, due to unforeseen circumstances or accidental delay caused by technical conditions of production, could not be completed in due working time, when its termination could lead to damage or loss of public or communal property, as well as in the case of urgent repair of machines, machine tools or other equipment where their malfunctioning ceases work for a large number of workers;
- 4) if necessary, carrying out loading and unloading operations to prevent or eliminate idle rolling stock or the accumulation of goods in departure and arrival areas;
- 5) in order to continue work in the absence of an employee who intercedes when the work does not allow interruptions; in these cases, the owner or the body authorized by him or her is obliged to take immediate steps to replace the shift worker with another employee.

Women with children between the ages of three and fourteen or a disabled child may only engage in overtime work with their consent (Article 177 hereof).

Engagement of persons with disabilities in overtime work is possible only with their consent and provided that it does not contradict any medical recommendations (Article 172 hereof).

Overtime work may be carried out only with the permission of the elected body of the primary trade union organization (trade union representative) of the enterprise, institution, or organization (Article 64 of the Code).

Overtime work shall not exceed four hours for each employee for two consecutive days and a total of 120 hours per year.

The owner or his / her authorized body shall keep records of the overtime work for each employee (Article 65 of the Code)

Under Article 106 of the Code, the hourly wage system will be employed to pay double the hourly rate.

Pursuant to the piece-rate pay system, an overtime surcharge of 100 percent of the tariff rate is paid for all overtime hours served to the employees with the relevant qualifications, whose remuneration is paid on an hourly basis.

In case work hours are averaged, all work hours exceeding the established work time within the accounting period shall be paid as overtime, in the manner provided for in paragraphs 1 and 2 of this Article.

Overtime shall not be compensated by the provision of rest days.

### **3.8 Labor Disputes**

The Labor Code of Ukraine defines the specificities and the manner of resolving labor disputes that arise between the employee and the owner or his / her authorized body.

Article 221 of the Code specifies the authorities that have jurisdiction in labor disputes. In fact, labor disputes are considered by:

- 1) commissions on labor disputes;
- 2) district, urban district, city, or regional town courts.

This procedure for the consideration of labor disputes arising between the employee and the owner or his/her authorized body shall be applied irrespective of the form of the employment contract.

The established procedure for the consideration of labor disputes does not apply to disputes about early dismissal of paid members of public and other associations of citizens from elected offices by the decision of the bodies that had elected them.

### **3.9 Trade Unions**

According to the Constitution of Ukraine and Law of Ukraine “On trade unions, their rights and guarantees of activity”, the citizens of Ukraine have the right, on the basis of free will, without any permission to form trade unions for the purpose of representation, exercise and protection of their labor and socio-economic rights and interests, to enter into and withdraw from them. The State recognizes trade unions as authorized representatives of workers and defenders of their rights in State, local and self-government bodies.

According to the Law “On trade unions, their rights and guarantees of activity” the trade unions has following rights:

- represent and defend interests of their members (Article 19)
- collective negotiations and the conclusion of collective agreements (Article 20);
- executive of public control over compliance with labor law (Article 21);
- ensuring employment of the public (Article 22);
- ensuring social defense and high level of life (Article 23);
- social insurance (Article 24);
- representation of employees in labor disputes (Article 26);

- organization of strikes and other mass events (Article 27);
- creation of educational, cultural and research organizations (Article 29);

#### 4. BRIEF OVERVIEW OF LABOR LEGISLATION: OCCUPATIONAL HEALTH AND SAFETY

The health and safety requirements in Ukraine stipulated by the Law of Ukraine “On Labor protection”. The Law of Ukraine “On Labor Protection” defines basic provisions concerning implementation of the employees' constitutional right to protection of their life, health in the course of labor activity, to the proper, safe and healthy working conditions and regulates relations between the employer and the employee on security, occupational hygiene and working surroundings issues. Besides, the Law sets a unified procedure of labor protection in Ukraine.

This Law shall apply to all legal entities and natural persons who in compliance with the legislation use hired labor, as well as to all employees. The Law sets responsibility of the employer for creation of safe working conditions, for state of collective and individual means of protection from harmful influence of manufacturing mechanisms and equipment, as well as for observation of the norms of labor protection.

An employee is entitled to refuse to carry out the work, if the situation at the workplace is life- or health-threatening to him/her or to other people around or to the production site or the environment. (Article 6). Employees working in adverse or difficult conditions are provided, free of charge, with therapeutic and preventive meals, milk or equivalent foods, or carbonated salt water, and they are entitled to paid breaks for sanitary and recreation purposes, reduced work hours, additional paid annual leave, retirement benefits, increased remuneration and other benefits and compensations provided under law (Article 7).

Compensation for damage affecting the employee's health or resulting in the employee's death is carried out by the Social Insurance Fund of Ukraine pursuant to the Law of Ukraine "On Compulsory State Social Insurance Against Industrial Accidents and Occupational Diseases that Caused Disability".

The employer may, at his/her own expense, make additional payments to the victims and their families in accordance with a collective agreement or employment contract. (Article 9).

The law regulates the occupational safety of certain categories of employees: women, minors and persons with disabilities (Articles 10-12). It is forbidden to use the labor of women in heavy work and in work with adverse or dangerous working conditions, in underground work, except for some underground work (non-physical work or works related to sanitary and domestic services), as well as to involve women in lifting and moving things, if their mass exceeds the limits set for such things, according to the list of hard work and work in adverse and dangerous working conditions, with the limit norms on lifting and moving heavy things, approved by a central authority of the executive power, which is part of shaping the state healthcare policy. A separate section of the Law focuses on the state management and governance of occupational safety and health (section six). Under to Article 31 of the Law of Ukraine "On Occupational Safety and Health", the state management and governance of occupational safety and health is carried out by:

- the Cabinet of Ministers of Ukraine;
- the central body of executive power in charge of implementing the state policy in the area of occupational safety and health;
- ministries and other central executive authorities with the competence of the abovementioned bodies and their authorized officials.

Pursuant to the provisions of Article 43 of the Law, the violation of the legislation on occupational safety and health or failure to comply with the regulations (directions) by officials of executive authorities in charge of occupational safety and health, legal and natural persons who, in accordance with the law, employ hired labor, are fined by executive authorities in charge of occupational safety and health under law. The payment of a fine does not exempt a legal or natural person who, in accordance with the law, employs hired labor from the elimination of detected violations within a given period.

## 5. RESPONSIBLE STAFF

The overall responsibility for the implementation of all aspects of the project lie with the Kyiv City State Administration. CE “Kyivpastrans” as the implementing agency will hire the PIU for project implementation. The PIU will be comprised by Project coordinator, social and environmental issues specialist, procurement specialist, financial management specialist, technical specialists. Each Contractor will have occupational health and safety specialist as required by national legislation (Engineer of labor safety).

The social and environmental issues specialist (a person designated within the PIU which is likely to be the environmental and social officer/ GRM specialist) will be responsible for the following aspects of the labor management procedures:

- Ensure that contractor(s) responsible for the civil works under the project prepare the OHS plan to meet the requirements of national occupational health and safety regulations before the start of the works.
- Monitor regularly that the Contractor(s) are meeting contractual obligations towards contracted and sub-contracted workers as included in the General Conditions of Contract the World Bank Standard Bidding Documents, and in line with ESS2 and the national Labor Code and Laws.
- Monitor that OHS standards are met at work places in line with national occupational health and safety legislation and Occupational Health and Safety Plan.
- Ensure that the workers for all contractors and subcontractors are aware about the grievance redress mechanism.
- Ensure that grievances are registered and addressed properly by the appropriate party.

The Contractor(s) will be responsible for the following:

- Assigning or employing a person responsible for the adaption and implementation of the OHS plan to the requirements of the project.
- Maintaining records of recruitment and employment process of contracted workers
- Communicating clearly job description and employment conditions to contracted workers
- Having a system for regular review and reporting of labor, and occupational safety and health performance on site.
- Developing and implementing a grievance registration mechanism that would record and address the grievances raised by the workers.
- Delivering regular orientation and OHS training to employees.

## 6. POLICIES AND PROCEDURES

This section sets out information on OHS, reporting and monitoring and other general project policies related to the management of project-related labor pool.

All the contractors under the project will have to comply with the Ukrainian legislation requirement of OHS and Labor Code as well as the provisions set under the World Bank’s ESS 2. The contractor(s) will have to prepare or adjust their internal regulations, in case they do not comply with the current legislation. They will also make them known and available to their staff and workers and will cover the following aspects:

- ***Non-discriminatory Nature of Employment***

All the workers hired under the project, whether direct, contracted or sub-contracted, will be employed based on the principles of non-discrimination. Under Article 2 of the Labor Code of Ukraine, any labor discrimination is prohibited, including violation of the principle of equality of rights and opportunities, direct or indirect limitation of the employees' rights based on race, color, political, religious and other beliefs, gender, gender identity, sexual orientation, ethnic, social and foreign background, age, health status, disability,

suspicion of having HIV / AIDS, family and property status, family responsibilities, place of residence , membership in a trade union or any other association of citizens, participation in strikes, appeals or an intention to go to court or other authorities to protect their rights or to support other workers in protecting their rights, reporting possible corruption or corruption-related offenses, other violations of the Law of Ukraine "On Prevention of Corruption", as well as assistance to a person in the implementation of such reporting, on linguistic or other grounds, not related to the nature of the work or conditions of its performance.

- ***Terms of Employment***

All workers will have **written contracts** describing terms and conditions of work. Workers will sign the employment contract in two copies. Terms and conditions of employment will be available at work sites. Each staff or worker will receive a brief orientation covering the contents of the contract; the internal regulations of the institution; the work safety and OHS arrangements in the work place.

The PIU will have to ensure that all part-time and seasonal construction workers all have written contracts as unpaid overtime work and generally failure to pay individuals who do not have signed contracts is one of the main risks of abuse in the Ukraine construction industry.

- ***Employee Rights and Obligations***

The section should specify the employee rights in line with the Ukrainian legislation which include, among others, the right to a safe working environment; lunch breaks and rest days; timely payment of wages and salaries; the right to appeal to employers, trade unions and authorities in case of labor disputes; the right to associate freely.

- ***Occupational Safety and Health***

This section shall cover the employer's obligations to ensure a healthy working environment; the obligation to appoint a person who will be responsible for compliance with the requirements of the Law of Ukraine "On Occupational Safety and Health" and "Model Regulations on Training and Testing Knowledge on Occupational Safety as well as the List of High-Risk Works" (NPAOP 0.00-4.12-05) approved by the order No. 15 of the State Committee for Occupational Safety Oversight on 26.01.2005, registered with the Ministry of Justice on February 15, 2005, No. 231/10511, and other normative acts.

Also it shall include the provision of employees involved in construction with work wear and equipment to reduce existing risks; in the event of an emergency, action protocols and evacuation plans shall be in place.

- ***Useful References***

<b><i>Constitution of Ukraine</i></b>	<a href="https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80">https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80</a>
<b><i>The Labor Code of Ukraine</i></b>	<a href="https://zakon.rada.gov.ua/laws/show/322-08">https://zakon.rada.gov.ua/laws/show/322-08</a>
<b><i>The Law of Ukraine “On Leaves”</i></b>	<a href="https://zakon.rada.gov.ua/laws/main/504/96-%D0%B2%D1%80">https://zakon.rada.gov.ua/laws/main/504/96-%D0%B2%D1%80</a>
<b><i>The Law of Ukraine “On remuneration of labor”</i></b>	<a href="https://zakon.rada.gov.ua/laws/main/108/95-%D0%B2%D1%80">https://zakon.rada.gov.ua/laws/main/108/95-%D0%B2%D1%80</a>
<b><i>The Law of Ukraine “On trade unions, their rights and guarantees of activity”</i></b>	<a href="https://zakon.rada.gov.ua/laws/show/1045-14">https://zakon.rada.gov.ua/laws/show/1045-14</a>
<b><i>The Law of Ukraine “On Labor protection”</i></b>	<a href="https://zakon.rada.gov.ua/laws/main/2694-12">https://zakon.rada.gov.ua/laws/main/2694-12</a>

## 7. AGE OF EMPLOYMENT

Ukrainian law prohibits anyone under 16 from performing arduous or dangerous work. According to local legislation workers from 16 to 18 years old could be hired for works which not included to list of hazardous work which approved by Cabinet of Ministers of Ukraine<sup>1</sup>.

The contractors will be required to verify the identify and age of all workers. This will require workers to provide official documentation, which could include a birth certificate, certificate based on the results of a medical examination, national identification card or passport.

If a child under the minimum age is discovered working on the project, measures will be taken to immediately terminate the employment or engagement of the child in a responsible manner, taking into account the best interest of the child.

## 8. TERMS AND CONDITIONS

The terms and conditions of employment applying to all types of project workers shall be governed by the internal regulations of contractors and suppliers in line with the Ukrainian Labor Code and other labor-related legislation. These terms and conditions will be clearly mentioned in the written contracts for all type of workers, whether full-time or part-time, and be made known to project workers prior to commencement of work.

The work hours are 40 per week for all workers. The number of weekly overtime hours and the payment of overtime shall be governed by the provisions of the Ukrainian Labor Code which is in line with the ESS2.

## 9. GRIEVANCE MECHANISM

CE “Kyivpastrans jointly with PIU will establish a grievance mechanism for project stakeholders, all types of project workers and other interested parties to submit questions, comments, suggestions and/or complaints and provide any form of feedback on all project-funded activities.

The Contractor(s) will have to inform their workers, and sub-contractor(s), and display publicly on work-site the information about the existing project GRM which will include:

- a brief description of the GRM mechanism and what it is used for.
- the process to send grievances such as comments/complaints forms via suggestion boxes, email, a telephone hotline with an indication of the email, telephone number, fax and mailing address.
- the responsible person for reviewing the submitted grievances.
- stipulated timeframes to respond to grievances.

This mechanism will follow next principles:

The channels for filing in grievance form should be disclosed on official sources;

The KCSA will ensure that all PAPs will have equal opportunity to submit their grievance in accessible way.

The KCSA will provide an opportunity to submit a grievance anonymously;

The submitting and readdressing of the grievances will be free of charge for complainants.

Affected persons may raise a complain at any time of the RAP Process or project related activity.

In cases where the aggrieved individuals or group is not satisfied with the outcome of the amicable mechanism, they will always be able to file to the court at any stage in the resolution process;

All grievances will be registered and documented, and each grievance resolution process and communication will be systematically tracked;

The channels for filing complaints will be listed in SEP and RAP and communicated to the public during the consultations.

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<sup>1</sup> <https://zakon.rada.gov.ua/laws/main/z0176-94>

The GRM will be established at 3 levels:

*Level 1. On the site.* The technical supervisor will be responsible for collecting the grievance from local residents and Contractor`s employees. The channels for grievance submission will be disclosed near the construction site in big board format. For Contractor`s employees a special grievance box will be available for submitting grievances (including anonymous). The technical supervisor will responsible for collecting grievances from Contractor`s personnel.

*Level 2. PIU* - the complainant will be able to submit grievance to PIU on address:

04070, Kyiv, Naberezhne Shose, 2

E-mail: [kyivpastrans@kpt.kyiv.ua](mailto:kyivpastrans@kpt.kyiv.ua)

Tel. +38-044-528-30-11

*Kyiv contact center.* All stakeholders may appeal to the Kyiv contact center and leave their grievance regarding the document following the link <https://1551.gov.ua/feedback/> or call on 15-51.

*Level 3. KCSA.* Complainants may fill in online form following the link [https://kyivcity.gov.ua/publiczna\\_informatsiya\\_257928/podati\\_zapit\\_onlayn\\_257949.html](https://kyivcity.gov.ua/publiczna_informatsiya_257928/podati_zapit_onlayn_257949.html) or fill in the template (Annex 2) and send to:

e-mail: [zapyt@kma.gov.ua](mailto:zapyt@kma.gov.ua)

postal address: 01044, Kyiv, Khreshatyk str, 36

The term of response will not exceed 10 working days. The KCSA will be able to extent the term of addressing grievance up to 20 working days (the complainant will be informed about extension).

## 10. CONTRACTOR MANAGEMENT

Whether the KUMP will use the Bank`s 2017 Standard Procurement Documents for solicitations and contracts or National Procurement Guidelines, both will include language referring to labor and occupational, health and safety requirements that must comply with the Ukraine national legislation and ESS2.

A specific assigned person within the PIU, will monitor the performance of Contractor(s) in relation to contracted workers. This may include periodic audits, inspections, and/or spot checks of project locations or work sites and/or of labor management records and reports compiled by contractors. Contractors` labor management records and reports may include: (a) a representative sample of employment contracts or arrangements between third parties and contracted workers; (b) records relating to grievances received and their resolution; (c) reports relating to safety inspections, including fatalities and incidents and implementation of corrective actions; (d) records relating to incidents of non-compliance with national law; and (e) records of training provided for contracted workers to explain labor and working conditions and OHS for the project.

## 11. COMMUNITY WORKERS

No community contribution is expected under the project and no community workers will be involved in the project`s minor works.

**12. PRIMARY SUPPLIERS** In instances where local suppliers would be engaged, contractors shall be required to carry out due diligence procedure to identify if there are significant risks that the suppliers are exploiting child or forced labor or exposing worker to serious safety issues. In instances where foreign suppliers would be contracted, contractors will be required to inquire during their procurement process whether the supplier has been accused or sanctioned for any of these issues and also their corporate requirements related to child labor, forced labor, and safety.