



GOOD PRACTICE NOTE

# Managing Contractors' Environmental and Social Performance

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# List of Acronyms

CMP	Contractor Management Plan
E&S	Environmental and Social
EBRD	European Bank for Reconstruction and Development
EHS	World Bank Group Environmental, Health, and Safety Guidelines
EITI	Extractive Industries Transparency Initiative
EPC	Engineering-Procurement-Construction
EPCM	Engineering-Procurement-Construction-Management
ESAP	Environmental and Social Action Plan
ESHS	Environmental, Social, Health, and Safety
ESIA	Environmental and Social Impact Assessment
ESMS	Environmental and Social Management System
FIDIC	International Federation of Consulting Engineers
GBV	Gender-Based Violence
GIIP	Good International Industry Practice
GPN	Good Practice Note
GRI	Global Reporting Initiative
HR	Human Resources
ICMM	International Council of Mining and Metals
IFC	International Finance Corporation
KPI	Key Performance Indicator
MDGs	Millennium Development Goals
NEC	New Engineering Contract
O&M	Operations and Maintenance
OHS	Occupational Health and Safety
PSs	Performance Standards on Environmental and Social Sustainability (IFC)
RFI	Request for Information
RFP	Request for Proposal
SDGs	Sustainable Development Goals
SEA	Sexual Exploitation and Abuse
WBG	World Bank Group

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# Executive Summary

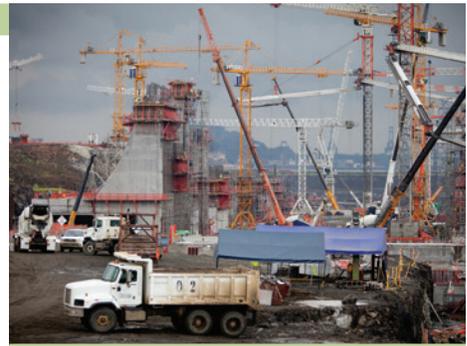
International Finance Corporation (IFC) clients often rely on contractors for the implementation of their financed projects. Many clients, however, find it challenging to ensure their contractors implement the necessary environmental and social (E&S) requirements for their projects.

As established in Performance Standard (PS) 1: Assessment and Management of Environmental and Social Risks and Impacts, paragraphs 2 and 14, IFC clients are responsible for managing their contractors' E&S performance: *“Contractors retained by, or acting on behalf of the client(s), are considered to be under direct control of the client and not considered third parties. . .”* and the E&S management *“ . . . programs may apply broadly across the client’s organization, including contractors and primary suppliers over which the organization has control or influence . . .”*

It is the client’s responsibility to comply with IFC Performance Standards on Environmental and Social Sustainability (PSs); relevant World Bank Group (WBG) Environmental, Health, and Safety (EHS) Guidelines requirements; loan agreement commitments; Environmental and Social Impact Assessment (ESIA) requirements; local laws and regulations; and permits and standards; and to ensure that all contractors providing any type of services to the client duly follow these requirements throughout the duration of the contract.

Clients are aware of this responsibility. However, it can be challenging for them to manage the E&S performance of contractors and subcontractors who are often perceived as “separate entities” or “third parties” not related to the client or to their organization.

This Good Practice Note (GPN) is aimed at helping clients implement sound, consistent, and effective approaches in compliance with IFC requirements, to manage the E&S performance of their contractors, subcontractors, and other third parties working for the project. This GPN provides practical guidance to clients and contractors on the process of prequalification, solicitation, evaluation, contracting, and procurement to ensure adequate E&S management during construction, operation, and demobilization activities. Finally, it provides recommendations



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on how to manage project performance during the different phases of the services being provided by contractors (i.e., from mobilization to construction, operations, and maintenance) and how to monitor and report on contractor performance effectively.

### **A RISK-BASED APPROACH TO CONTRACTOR SELECTION**

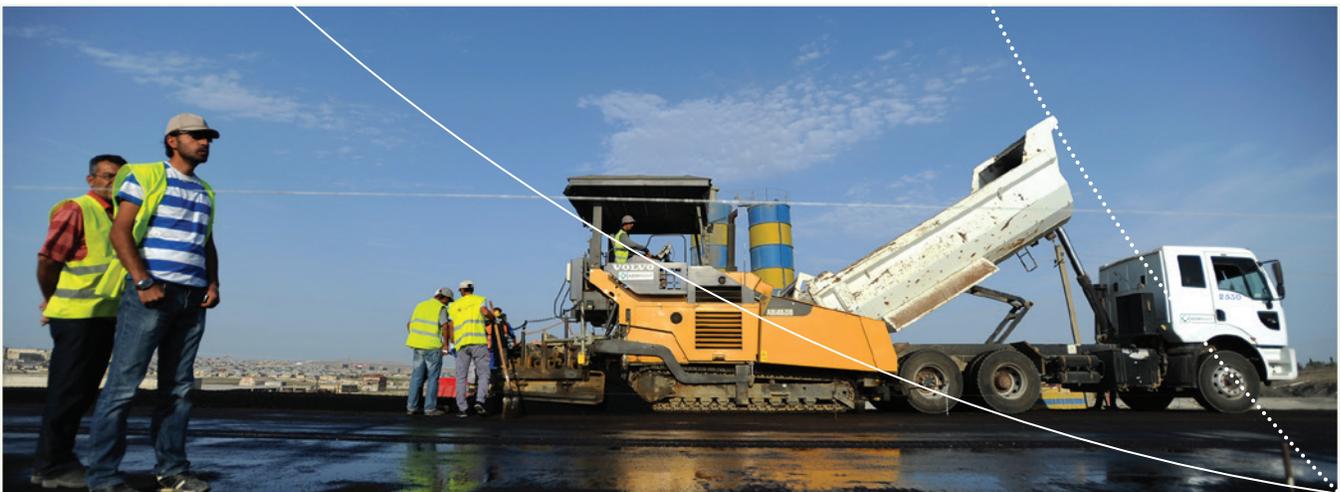
E&S risks in the contracting process are most effectively addressed by integrating the risk management requirements of the contractor into the contract. Following the construction risk assessment process, clients should identify the risk management measures that will be demanded of the contractor, formalize these as “Contractor Management Plans” or “Contractor E&S Requirements” and integrate these plans into the procurement process.

The Contractor Management Plans or Contractor E&S Requirements should describe in a comprehensive and structured manner the various E&S considerations, controls, and commitments related to the main activities that the contractor will be required to implement as part of its scope of work. They should include all relevant E&S requirements, commitments, and provisions derived from the various source documents (e.g., E&S policies, regulatory requirements, E&S commitment registers, ESIA documentation, supplemental assessments, etc.) and it should be an integral part of the contract.

These plans help improve the contractor’s understanding of the E&S requirements and provide an overall framework of the client’s expectations on E&S matters. With a better understanding of these, the contractor can determine from the onset the resources and related associated costs that will be required for executing the work.

As a result, the bidding process, the selection of the contractor, the contract, and the execution of the work itself will include the client’s (and project’s) E&S considerations from the outset. By including all relevant provisions in these documents, and by making the Contractor Management Plans and/or the Contractor E&S Requirements document an integral part of the contract, the client will have better tools to manage the E&S performance of their contractors and will be in a better position to adequately control and mitigate the identified risks and impacts of the project or activity.

The contractor selection process should involve a multidisciplinary team, with one or more qualified E&S professionals responsible for the project’s E&S-related aspects, including E&S performance; worker and community health,



safety, and security; and human resources. This will ensure that E&S matters and variables are considered early in the process of selecting a contractor.

### **MANAGING THE PROJECT PERFORMANCE THROUGH PROACTIVE MONITORING**

The client is responsible for managing E&S risks in the project, and it must, therefore, proactively monitor the E&S performance of their contractors and subcontractors. On a day-to-day basis, contractors should monitor their own E&S performance and that of all its subcontractors throughout mobilization, the main construction phase, operation, and demobilization.

Clear responsibilities and reporting lines are essential to avoid duplication of effort and/or gaps in monitoring. Clients should agree on reporting metrics (which shall include relevant information and data from subcontractors, as applicable) and require contractors to report on E&S performance at an agreed frequency. Timely reporting of E&S performance and results enables the client to identify opportunities for improvement, prevent poor performance issues, and assist contractors if remedial action needs to be taken. Regular meetings between clients and contractors, and contractors with their own subcontractors, are essential to ensure contractor performance is satisfactory and that project specifications are being met. Throughout this process, clients should ensure that contractors employ qualified E&S personnel to oversee E&S performance, and that contractor staffing and resources are commensurate with the magnitude and timing of work and potential E&S risks.

A proactive monitoring of the contractors' E&S performance is key for the success of the work and service being provided, and for the overall E&S performance of the project. A successful contractor will foster good client E&S performance.

This GPN provides recommendations on how to monitor contractor performance from mobilization, to main construction, demobilization and site handover, including guidance on how to conduct site visits, how to perform E&S inductions and trainings, and how to assess E&S conditions and overall performance. This Good Practice Note further provides examples on monitoring and reporting requirements for contractors and suggestions on how the client can perform the E&S review of contractor invoices to ensure the fulfillment of contractual obligations.





# 1. Introduction

1. IFC clients<sup>1</sup> often rely on contractors for the implementation of the financed project. IFC clients are responsible for ensuring that their contractors are aware of and meet IFC's Performance Standards on Environmental and Social Sustainability (PSs) relevant to their activities, as well as the World Bank Group (WBG) Environmental, Health, and Safety (EHS) Guidelines (See Box 1). The contractors also must meet specific project environmental and social (E&S) requirements detailed in the project documentation and in the Environmental and Social Action Plan (ESAP).<sup>2</sup>

2. IFC clients often find it challenging to ensure that their contractors are implementing E&S requirements effectively. As a result, contractors' E&S performance may fail to meet project-specific commitments and fall short of good international industry practice (GIIP), as required by IFC PSs. These performance challenges can occur anywhere, but are particularly acute in countries where construction practices and operating procedures do not typically meet international standards for E&S performance and where local regulatory oversight and enforcement are limited.

3. E&S opportunities and issues of concern include all aspects of IFC PSs, which include, but are not limited to, occupational health and safety (OHS), community health and safety including sexual exploitation and abuse (SEA) and gender-based violence (GBV) prevention, labor conditions, safety and security, resettlement, biodiversity, cultural heritage, stakeholder engagement, procurement, and supply chain management. It should be noted that some of these, such as labor relations, OHS, and management of private or public security forces, may be the responsibility of departments other than E&S within the client's organization, but all aspects must be considered equally throughout the process of selecting, appointing, and managing contractors.



“IFC clients are responsible for ensuring that their contractors are aware of and meet IFC's Performance Standards on Environmental and PSs relevant to their activities, as well as the WBG EHS Guidelines.”

<sup>1</sup> IFC clients include direct investment clients as well as clients of the financial intermediaries IFC lends to.

<sup>2</sup> For purposes of this Good Practice Note, E&S requirements include the applicable requirements of IFC PSs and the WBG EHS Guidelines. These include the management of risks and their impacts, occupational and public health and safety, labor and working conditions, pollution prevention and control, emergency response, use of security forces, land acquisition and resettlement, biodiversity protection and natural resource conservation, cultural heritage protection, protection of indigenous peoples, stakeholder engagement, and grievance management. They also include the requirements of national and local laws and of the ESAP.

Box 1.

### IFC Performance Standards on Environmental and Social Sustainability

- *The PSs provide guidance to clients on how to identify E&S risks and impacts, and are designed to help avoid, mitigate, and manage risks and impacts so as to conduct business in a sustainable way.*

### WBG Environmental, Health, and Safety Guidelines

- *The EHS Guidelines are technical reference documents with general and industry-specific examples of GIIP.*

### IFC Clients are Responsible for their Contractors Associated with the Project

- *“Contractors retained by or acting on behalf of the client(s) are considered to be under direct control of the client and not considered third parties for the purposes of this Performance Standard.” (PS1, paragraph 2).*
- *“The [E&S management] programs may apply broadly across the client’s organization, including contractors and primary suppliers over which the organization has control or influence” (PS1, paragraph 14).*



## 2. Purpose of this Good Practice Note

4. IFC developed this Good Practice Note (GPN) to help clients provide sound, consistent, and effective approaches for managing the E&S performance of contractors to ensure compliance with IFC requirements. The document will also assist contractors in managing their subcontractors.

5. IFC PSs require clients to identify E&S risks and impacts, typically through an Environmental and Social Impact Assessment (ESIA) process, which should ensure that the design and layout of the project are optimized and the mitigation hierarchy is applied to minimize negative impacts.<sup>3</sup> The process typically results in a number of documents, including an impact assessment, a commitment register (including project approval and permit conditions from the authorities), and/or an Environmental and Social Management Plan or similar document containing a series of project-specific management plans and procedures that can be implemented through an Environmental and Social Management System (ESMS).<sup>4</sup> Environmental design criteria and/or engineering design principles may also be developed, either as part of the ESIA process or separately.

6. The ESIA process specifies that construction, operation, and decommissioning activities are managed to avoid, minimize, and offset negative impacts or compensate for them, and that residual impacts are predicted. The management of impacts will be included in the various documents listed in paragraph 5, as well as in lender and equity agreements and conditions attached to project approval at the national level, depending on jurisdiction. The ESMS is comprised of a series of policies, procedures, plans, programs, and standards that enable the client to operate focusing on E&S protection and a safe working environment. It is the vehicle through which the mitigation hierarchy management measures are described and controls are developed to



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<sup>3</sup> As per PS1, *mitigation hierarchy* means to anticipate and avoid, or where avoidance is not possible, minimize, and, where residual impacts remain, compensate/offset for risks and impacts to workers, affected communities, and the environment.

<sup>4</sup> The ESMS can be integrated with the OHS Management System, quality management systems, and a security management plan for the workforce to form an integrated management system.



eliminate or reduce risks and impacts to acceptable levels. While the implementation of an ESMS can provide a good indication that management is on the right track, the existence of an ESMS in itself is not sufficient to ensure compliance with IFC or other E&S requirements.<sup>5</sup>

7. IFC requires clients to adopt and implement an ESMS for “managing environmental and social risks and impacts in a structured way on an ongoing basis” (PS1, paragraph 1) and to ensure that contractors and subcontractors similarly adopt and implement an ESMS. This GPN is intended to support clients in ensuring contractor compliance with this requirement, support alignment of the client’s and contractor’s ESMSs, and ensure that contractors have an ESMS suitable for the business activities being carried out by each contractor.<sup>6</sup>

8. The GPN provides practical information for each step in the contractor management process, from preparing the request for proposal (RFP) to contract termination. For additional good practice materials on addressing and managing E&S risk related to security forces, stakeholder engagement and other themes or issues mentioned in this document, refer to Annex B.

<sup>5</sup> A fully functioning and accredited Environmental Management System (for example, under ISO 14001:2015) does not guarantee environmental performance in compliance with regulatory, IFC, or ESAP requirements, as the accreditation only covers the management system, which can be fully compliant in terms of the content and the procedures in place but does not guarantee that the various elements, programs, and mitigation measures and plans have been implemented effectively on the ground to address environmental performance.

<sup>6</sup> See IFC. 2014. Environmental and Social Management System Implementation Handbook: Construction, rev 2.2. Washington, DC. <https://www.ifc.org/wps/wcm/connect/c03aa6804493c5bba71aafc66d9c728b/ESMS+Handbook+Construction.pdf?MOD=AJPERES>.

### 3. Intended Audience

9. This GPN is intended primarily for companies that hire contractors that take part in construction, and operations and maintenance (O&M) activities in projects that are financed by IFC, and for financial institutions that receive IFC financing. Contractors are often hired for specific activities, such as design and construction as engineering-procurement-construction (EPC), engineering-procurement-construction-management (EPCM), or design-build contractors. Contractors may also be hired for operations, including as design-build-operate, O&M, or operator contractors. Separate contractors or subcontractors may also be hired for security, transport, or other specialty services.

10. The document is also intended for (i) personnel involved in and responsible for procurement, contracts, legalities, engineering and design, and management as well as contractor and subcontractor E&S staff; (ii) contractors themselves, including when they engage subcontractors; (iii) clients' engineers and other parties involved in supervising contractors and approving contractor invoices; and (iv) staff of IFC and other lenders involved in reviewing and monitoring the E&S performance of projects involving contractors.



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## 4. Contractor Selection



11. The contractor selection process should involve a multidisciplinary team, with one or more qualified E&S professionals with primary responsibility for the project’s E&S matters, including E&S performance, worker and community health, safety and security, and human resources (HR). The participation and engagement of the E&S professional in the contractor selection process is aimed at providing an early consideration of E&S matters and variables when selecting a contractor.

12. The first step in the contractor procurement process is the preparation of a RFP preparation. This RFP is typically prepared by procurement staff with input from the project manager, technical specialists (for example, engineers and E&S specialists), and lawyers.

13. A good international industry practice for EPC contracts is for the client to prepare Contractor Management Plans (CMPs), which describe in a comprehensive and structured manner the various E&S considerations, controls, and commitments related to the main activities that the EPC contractor will be required to implement as part of its scope of work. These management plans spell out E&S requirements to proactively manage risks and impacts in their activities including clear definitions of responsibilities, training needs, performance measurement tools, and reporting requirements. In sum, the CMPs describe the mitigation and performance improvement measures and actions that address the identified E&S risks and impacts of the project.<sup>7</sup>

14. Having a set of CMPs addressing all relevant E&S matters improves the understanding by the contractor of the E&S requirements, and provides an overall framework of the client’s expectations on E&S matters. With a better understanding of these, the contractor can determine the resources required for executing the work with due consideration of the client’s E&S requirements. As a result, the bidding process, the selection of the contractor, the contract, and the execution of the work itself includes the client’s (and project’s) E&S considerations from the outset.

15. For other types of contracts (i.e., contracts different in scope to EPC and EPCM contracts), clients may choose to develop a consolidated “Contractor E&S Requirements” document summarizing the general expectations in terms of occupational health and safety, and E&S for all of their contractors and subcontractors. This is a common industry practice that helps clarify the client’s main Environmental, Social, Health, and Safety (ESHS) requirements, conditions, and provisions that every contractor or subcontractor must follow when entering into an agreement with the client. A high-level definition of ESHS expectations allows the contractor to better understand the minimum requirements that must be met. It also helps the client to set basic expectations of the ESHS framework that will govern the client–contractor relationship from the outset. A Contractor E&S Requirements document fosters a better

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<sup>7</sup> Examples of Contractor Management Plans include those for footprint management, erosion control and reinstatement, restoration, transportation, community health and safety, environmental monitoring, pollution prevention, stakeholder engagement, and local hiring and purchasing, among others.

understanding of expectations and helps the contractor to know from the beginning what is required and deemed necessary to match the requirements and associated costs. This can be particularly helpful during the bidding and procurement process.

16. These documents (the CMPs and the Contractor E&S Requirements) must include all relevant E&S requirements, commitments, and provisions derived from a number of source documents, including as applicable:

- IFC Performance Standards;
- WBG General and relevant industry-specific EHS Guidelines;
- Commitments included in the ESIA's, and E&S related permits;
- ESHS Commitment Registers;
- Legal obligations and applicable codes and standards; and
- Company policies and internal procedures.

17. By including all relevant provisions in these documents, and by making the CMPs and/or the Contractor E&S Requirements document an integral part of the contract, the client will have better tools to manage the E&S performance of their contractors, ensuring compliance with E&S requirements and being in a better position to adequately control the identified risks and impacts of a project or activity.

18. Sometimes a request for information (RFI), "expression of interest," and/or a qualification questionnaire is issued prior to an RFP. RFIs are typically brief and include limited information. They are used to determine market interest and solicit preliminary information on potential vendors or contractors, and potentially to create a short list of contractors from whom to issue RFPs, and potentially to create a shortlist of contractors from whom to issue RFPs.



"...by making the CMPs and/or the Contractor E&S Requirements document an integral part of the contract, the client will have better tools to manage the E&S performance of their contractors, ensuring compliance with E&S requirements and being in a better position to adequately control the identified risks and impacts of a project or activity."

#### 4.1 PREQUALIFICATION

19. The contractors should be asked to provide details including (but not limited to) past EHS performance; status of ESMS; number and qualifications of ESHS personnel; occupational health and safety procedures and controls; HR policies, codes of conduct, and grievance mechanism controls, including means to address harassment and other forms of GBV; and supply chain management as criteria for inclusion on such lists. The number of documents and level of information and detail that are requested to contractors shall be commensurate to the scope of work and other specific features that the contractor is being prequalified against.

20. Prequalification may be established by several means, including a simple questionnaire based on a selection of relevant PS criteria such as those presented in Annex A. This generic questionnaire can be adapted to a specific project and context. Responses to the questionnaire should include information not typically presented by contractors, which may be useful indicators of the contractors' understanding of ESHS management in general and their capacity to manage E&S matters, including existing and potential issues specific to a project. Contractors may also be encouraged to present details of their community engagement and grievance mechanism programs and to note their willingness to contribute to the client's E&S policies and programs at the construction site.

#### 4.2 SOLICITATION

21. In the interest of sharing of project-specific E&S requirements, clients are encouraged to include the following in their RFPs or other solicitations to prospective contractors:

- i. Documentation showing compliance with in-country ESHS legal requirements.
- ii. The client's corporate E&S policy and other relevant policies, such as those for human resources, anticorruption and bribery, procurement, and stakeholder engagement.
- iii. The client's Contractor E&S Requirements that define the main expectations in terms of occupational health, safety, E&S, and community aspects.
- iv. Other governance frameworks or industry standards the client has publicly committed to comply with are also helpful information



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for contractors. These could include, for example, the Equator Principles, Global Reporting Initiative (GRI) standards, Millennium Development Goals (MDGs), Sustainable Development Goals (SDGs), Extractive Industries Transparency Initiative (EITI), International Council of Mining and Metals (ICMM) 10 Principles.<sup>8</sup>

- v. Where there is not an ESIA prepared or permitting requirement in place for the project, the following documents may be used as sources of information about E&S concerns and sensitivities: (a) IFC's Environmental and Social Review Summary, available on IFC's website in the event that IFC is involved in the project and has concluded its appraisal process; (b) due diligence and independent engineer/E&S specialist reports; (c) gap analyses; (d) an assessment of security risks; (e) general E&S risk context of the project location(s); and (f) country legislation.
- vi. Project-specific E&S requirements that are part of an ESIA or included in permits and approvals, and that will be included in the contract are also helpful. These may include environmental design criteria (the environmental parameters for aspects such as water quality, air quality, and noise) to which the project must adhere; specific social and labor issues that must be addressed (for example, protection for migrant workers); and relevant management plans. Where appropriate, the sustainability and/or certification of materials to be used should be included as a requirement.<sup>9</sup> A commitment register, or extracts from it, may also be useful. The project's ESAP, if available, should also be provided, the information should be tailored to the contract activities as closely as possible.
- vii. Relevant requirements of the client's ESMS, including any project-specific E&S management plans that have been prepared, are also helpful to potential contractors.



<sup>8</sup> For more on these initiatives, see the respective websites. Equator Principles, <http://www.equator-principles.com/>; GRI, <https://www.globalreporting.org/Pages/default.aspx>; MDGs, <http://www.unmillenniumproject.org/goals/>; SDGs, <https://sustainabledevelopment.un.org/sdgs>; EITI, <https://eiti.org/>; ICMM, <https://www.icmm.com/en-gb/about-us/member-commitments/icmm-10-principles>.

<sup>9</sup> For example, as in the GreenGuard, Forest Stewardship Council, and BRE GreenBook Live listings.

22. If a site visit is planned during the bidding phase (as should always be the case for significant construction contracts, or if the features, location, or specific characteristics of the service in the bidding process may require so), the solicitation should include a site visit. All information shared on the site visit should be made available to all the bidders. A client's E&S representative should always be present during the site visit(s) to present the E&S framework within which the project is operating, answer questions, and provide clarification to bidders. Whether a contractor's E&S representative attends the site inspection will depend on the significance and complexity of the E&S issues.

23. Gender should be addressed in the contracting process. Proactive promotion of gender equality and diversity can enhance the economic output, performance, development, and reputation of a project or business. Socially inclusive workplaces can increase productivity yields, flow and transparency of information, and quality of service; encourage adherence to rules and policies; and attract diverse points of view and opinions. It is important, therefore, that contractors' internally facing human resource policies and procedures actively seek to address all forms of deliberate or unintentional discrimination against women in the workplace.

24. It is often found in large-scale construction projects that contract and subcontract employees are predominantly male, well paid in the local context, and often from outside the host community and project area. These circumstances elevate the risk of SEA and GBV by contract workers. Such SEA and GBV can range in severity from sexual harassment to exploitation and abuse of women and children. Contractors should put in place measures, including codes of conduct, to address such risks. Different codes of conduct will be relevant for contracting companies, contracting company managers, and individual workers.



25. Contractors benefit from identifying areas and procedures where a more equal and diverse workplace can be developed. Contracts can include specific language, targets, and objectives around recruitment, hiring, training, management, and promotion of a diverse and competent workforce. Inclusiveness helps to ensure that all activities associated with a project respect and meet the needs of the workforce in a dignified manner, while ensuring equal pay for equal competencies and work. This includes ensuring all planning and implementation processes consider, for example, differences in training, communication, housing, personal hygiene and use of lavatories, personal protective equipment, and adherence to codes of conduct.

26. Contracts should explicitly integrate language, terms, and conditions for enabling equal opportunity and diversity in the workforce in each phase of the contracting and procurement process. Recruitment and hiring policies should strictly prohibit and discourage discrimination or exclusion based on gender or diversity. Finally, for the client to assess performance, contracts and contractors will need to include a means for reporting and measuring results and outcomes of having a socially inclusive workforce, considering both the formal and informal sectors, which are often important components of socially inclusive and diverse construction environments.

27. Concerning E&S Requirements, RFPs, and other solicitations when involving IFC finance prospective contractors should be required to do the following:

- i. Submit information on their ESMSs, if any, including any certifications and recent modifications.
- ii. Identify one or more E&S staff members, including personnel who will be responsible for E&S performance, HR, and/or safety, as key personnel, and define minimum qualifications and experience. (Qualifications and experience should be determined by the client's evaluation panel to be appropriate to the nature and scale of the work to be contracted.) In projects deemed at a high risk of SEA or GBV, the prospective contractor should demonstrate capacity to identify and manage these types of risk.
- iii. Provide information on past E&S performance. Such information could include but not be limited to past violations of E&S regulations; worker accident and injury rates; reports of sexual harassment or discrimination and how those reports were addressed; lists of accidents and incidents involving workers; awards for safe working conditions or environmental performance; environmental incidents in previous projects or services; E&S training records, including training on anti-sexual harassment; labor inspection reports; summaries of material incidents involving worker-management relations (i.e., strikes, demonstrations, security incidents); any SEA or GBV-driven contract cancellations, suspensions, or calling of bid bonds; and material sanctions or fines from labor, health, safety, and/or environmental authorities.
- iv. Provide information on existing E&S policies and capacities. This may include any policies related to sustainability, biodiversity, water management, stakeholder engagement, HR (including workplace antisexual harassment policies), codes of conduct which should include specific provisions against SEA and GBV for the contracting company and the contractor's managers and direct and subcontract employees,<sup>10</sup> grievance processes, and so forth.
- v. Provide summary descriptions of past projects and/or references, highlighting E&S performance.

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<sup>10</sup> Examples of such codes of conduct may be found in Annex 5 of the July 2017 report "Working Together to Prevent Sexual Exploitation and Abuse: Recommendations for World Bank Investment Projects" which may be accessed at <http://documents.worldbank.org/curated/en/482251502095751999/Working-together-to-prevent-sexual-exploitation-and-abuse-recommendations-for-World-Bank-investment-projects>.



vi. Provide client references, which should be checked to validate claims regarding E&S performance.

28. Many or most of the contract conditions listed in the preceding paragraphs and paragraph 50 may be defined in more detail in the solicitation, and/or the solicitation may require prospective contractors to provide more detailed information on how they intend to meet these E&S requirements. In those cases, this information would inform the development of specific contract conditions, including details of the elements listed in paragraph 50.

29. Solicitations should request an affirmative statement or other commitment by prospective contractors that they will be responsible for E&S performance of their subcontractors and suppliers.

30. Solicitations should ask for information in a consistent format, so that all contractors can be evaluated on the same basis.

31. The client's E&S representative should provide the materials listed in paragraph 21 to procurement personnel who are responsible for issuing the solicitation. In addition, if they have not participated in developing the solicitation, one or more of the client's E&S professionals should review the solicitation prior to issuance to prospective contractors and determine if requirements consistent with paragraphs 21 to 27 have been included. If changes are needed, the E&S professional(s) should work with the procurement department as necessary to ensure that appropriate E&S materials are solicited from prospective contractors. Prior to the solicitation package being issued to prospective contractors, it is recommended that the solicitation package also be cleared by the client's E&S representative.

32. If the solicitation defines line items to be used by the contractor in estimating costs and for payment, the costs and timelines must be adequate to allow the contractor to effectively implement the various E&S commitments related to E&S performance. Payment for the completion or partial completion of work milestones shall be based in part on satisfactory performance of related E&S requirements.<sup>11</sup>

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<sup>11</sup> Other aspects might be meeting technical specifications, safety performance targets, and time schedules.

### 4.3 PROPOSAL EVALUATION AND CONTRACTOR SELECTION

33. It is recommended that the evaluation criteria be established alongside the bid packages and that these are included with the package so that prospective bidders can see early on the relative weightings of the environmental, social, and health and safety aspects of their proposal.

34. Evaluation methodology, criteria, key performance indicators (KPIs), and weightings need to be established in discussion with the rest of the project team. The following questions should be asked when developing the weightings: What answers are we looking for? And what KPI scores are acceptable? Significant E&S records and safety metrics are important, and poor records related to these matters should preclude the contractor from qualifying, regardless of technical aspects or price.

35. The contractor's existing systems, its capacity to implement E&S requirements, and the contractor-supplied information on past E&S performance should be among the key criteria used to evaluate contractors. Capacity may be judged by past performance, existing or projected management, technical ability, and resources. The latter can include solutions or options proposed by the contractor to implement the mitigations described in the E&S documentation, such as management plans that are contained in the bid package. A lack of capacity to establish an ESMS (if one does not exist), implement E&S requirements, and meet applicable standards should disqualify a contractor from further consideration. Referees should be asked to validate claims regarding E&S performance.

36. As the client evaluates proposals, past E&S performance and key personnel can be evaluated either on a pass-fail basis or on a numerical basis, which can then be included in overall comparisons (including technical and financial). If a numerical basis is selected, weightings should be carefully considered, with significant E&S sensitivities and safety being the highest priorities and the basis for passing or failing.

37. While the evaluation methodology will vary according to the project, scope of work of the activity, and any project-specific feature, it will need to be agreed on by the project team. It is recommended that the following be considered grounds for disqualification:<sup>12</sup>

- i. Failure to provide information on past E&S performance, including health and safety records;
- ii. Reports of past performance deemed unacceptable for the current project;
- iii. Notices of material labor issues between workers and management;
- iv. Fines and sanctions imposed by E&S and labor regulators and authorities;
- v. Poor security management records from previous projects; and
- vi. Material community grievances and high profile adverse press reports on E&S matters.

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<sup>12</sup> Failure to respond to questions or requests for information usually is not a cause or condition for a bidder's disqualification, but increases the likelihood of a low score in its overall qualification (i.e., if the bidder does not provide information pertaining to a specific E&S requirement, then the score obtained for that selection criteria will be "zero").

38. It is strongly recommended that the team evaluating proposals includes at least one qualified and experienced E&S professional who has been involved in the development of solicitations and the establishment of the criteria that should be used to evaluate bidders' E&S qualifications.
39. Should interviews with key personnel be part of the evaluation of prospective contractors, clients are encouraged to require that prospective contractor E&S personnel be interviewed by client E&S personnel. As this will be a contractor expense, it should be made clear early on that this is a requirement.
40. Should a prospective contractor propose to substitute personnel for any proposed key E&S position(s) at any stage of the selection and or contract negotiation process, clients should require that the replacement(s) have at least equivalent qualifications and experience of the previous professional and that they be approved by the client, or the entire proposal may be reevaluated using the substitute personnel.
41. At the end of the evaluation and selection process, clients should issue a letter of intention to place a contract subject to certain conditions, including E&S requirements and conditions, which should be listed. These could be over and above those in the solicitation, but they must have been discussed with the contractor during the selection process.

**4.4 CONTRACTING**

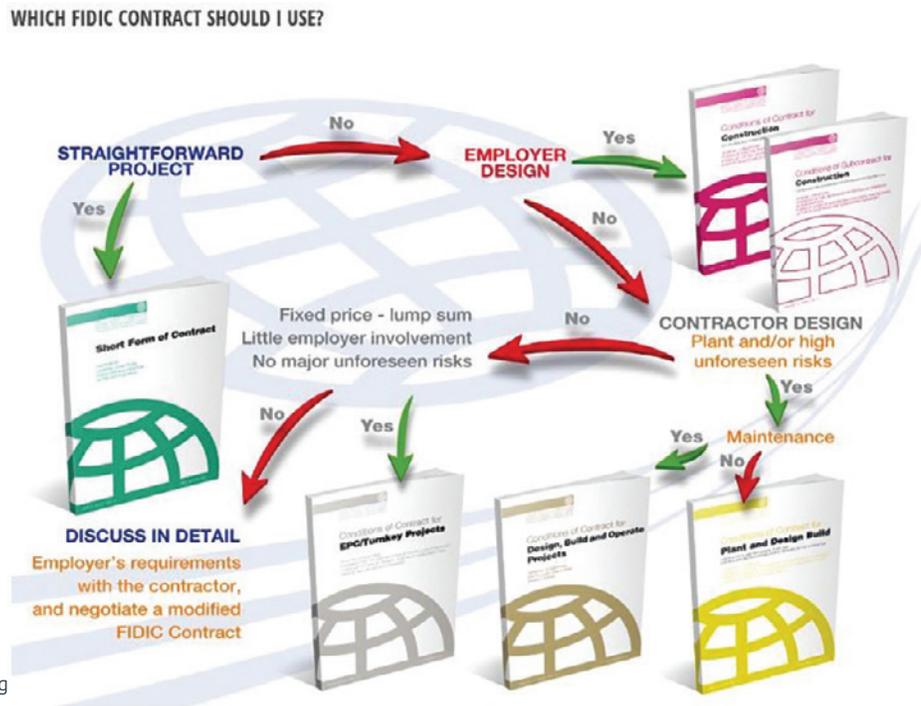
42. *Types of contract.* Clients may use any of a variety of contracts to procure various types of engineering and construction services. Widely used international contract templates and model contracts include those from the International Federation of Consulting Engineers (FIDIC), various forms of which are color coded (Table 1 and Figure 1); the New Engineering Contract (NEC) or NEC Engineering and Construction Contract (NEC3) contract suite; and the International Chamber of Commerce. Many companies, especially those with international experience, also have contract templates that are used on individual projects by their project companies and other subsidiaries.

TABLE 1. FIDIC CONTRACTS

Type of Contract Template	Description
<i>FIDIC Red Book, 1999</i>	Recommended for building or engineering/construction works (i.e., SMP, piping, E&I installation, civils, earthworks, etc.), design provided by the client or others (not the contractor).
<i>FIDIC Yellow Book, 1999</i>	Recommended for the provision of electrical/mechanical equipment and for design and execution of building/engineering works (i.e., mills, crusher, fuel farms, flotation cells, thickeners, etc.), design by the contractor. Generally, also used where the contractor is to provide process performance guarantees.
<i>FIDIC Green Book, 1999</i>	Recommended for building/engineering works of relatively small capital value and/or relatively simple/repetitive type of works. Generally, design provided by the client.
<i>FIDIC White Book, 2006</i>	Recommended for the appointment of consultants to provide services such as feasibility studies, design, contract administration, and project management.

Source: [www.fidic.org](http://www.fidic.org)

FIGURE 1. CHOOSING AN FIDIC CONTRACT



43. *Standard E&S clauses.* Model international contracts and many companies' model contracts have conditions relevant to E&S performance, but these are general in nature and vary between the various types of contracts.<sup>13</sup> These contracts also allow for inclusion of project-specific special conditions, although in the past most special conditions have been related to engineering and payment for work completion. Requirements in the model contracts may require international good practice or a variant for some E&S requirements, such as on footprint management, erosion control, hazardous materials and hazardous waste management, site restoration, general pollution prevention, biodiversity management, and other general controls. They also may include requirements for worker safety and worker accommodation. Only rarely do these include requirements for stakeholder communication or community protection, and they do not include project-specific requirements needed to control site-specific impacts as described in the preceding paragraphs.

44. *Contract template review and revision.* Regardless of whether a contract is based on an international model, the client's E&S manager or other qualified person should review the contract to assess any general E&S requirements present and determine how such requirements need to be modified to fit the client's needs.

45. *E&S organization chart.* An organization chart illustrating reporting lines on E&S to the client and subcontractors is a key aspect of the contract negotiations and may be included with the contract documentation.

<sup>13</sup> There are a number of elements related to labor and working practices that are not covered by the FIDIC Red and Yellow Books. Elements not explicitly covered include: HR policy, child labor, forced labor, nondiscrimination and equal opportunity, migrant workers, workers' organizations, grievance mechanisms, and nonemployee workers.

46. *Inclusion of project-specific E&S requirements.* To require contractors to implement E&S commitments specified in project-specific ESIA and E&S management plans, clients should include and directly reference these requirements (as annexes or appendixes), regardless of contract type.

47. *Identification of E&S plans to be developed by contractor.* Clients should list in the E&S conditions of the contract all E&S management plans and associated documentation that must be prepared or refined and implemented by the contractor, and require that these documents be submitted for client review and approval within an agreed timeline relative to the project schedule, contractor mobilization, and commencement of work. The level of required documentation and E&S plans may depend on the scope of work of the activities and services being provided. At all times, the E&S Plans to be developed by the contractor shall be proportionate to the E&S risks involved in the execution of the work. If it is an EPC or O&M contract, then certainly the contractor will have to develop a number of E&S “implementation” plans detailing the controls that will be applied to ensure compliance with E&S requirements. In the case of small contractors or tasks and services that do not pose significant E&S risks, a general E&S plan describing controls and monitoring mechanisms, or the adherence to a pertinent client’s procedures, may be sufficient.

48. *Provision of E&S personnel and resources allocated to the contract or service.* Clients should include the requirement that appropriate resources and key E&S personnel be appointed as part of the contract, throughout project implementation, or during the period in which their services are needed to manage and implement E&S requirements. It is recommended that conditions for replacement of key personnel should be acceptable to the client’s E&S representatives.

49. *Selection and alteration of E&S contract requirements.* Specific provisions should be included in the contract only after they are deemed to be acceptable by the evaluation panel, including the E&S representative(s), and approved by client management. If certain conditions are to be agreed on later, the contract should include requirements to reach such an agreement.

“At all times, the E&S Plans to be developed by the contractor shall be proportionate to the E&S risks involved in the execution of the work.”



50. *General or specific requirements.* Clients should ensure their contracts include general and/or project-specific requirements for the following:

- i. Development and adoption of an E&S management program or system or commitment to adhere to, adopt, and implement the client's ESMS framework, as necessary for the contractor involvement in the project. (See Footnote 6.)
- ii. Number and qualifications of E&S personnel required to be on staff and on-site—including those responsible for HR; worker health and safety; worker grievances; environmental management; community health; safety and security; worker accommodation; site security; and emergency response.
- iii. The nature, risks, and complexity of the project; the scope of work of the service being contracted; the development and implementation of specific client-approved E&S management plans; and associated documentation as required by the ESIA/Environmental and Social Management Plan, will include, at a minimum, implementation plans for occupational health and safety, emergency response, hazardous materials management, and site restoration, among others. The contract should list the plans the contractor is to develop for client approval and the plans that may have been prepared by the client for contractor implementation.
- iv. Explicit commitment to compliance with the project commitments as captured in the commitment register; conditions of approval; environmental design criteria; management plans; ESAP and national law; and acquisition of all required permits, licenses, consents, and approvals prior to undertaking the activities being permitted or otherwise approved.
- v. Specific reference to IFC PSs, EHS Guidelines (general and relevant sector specific), and other guidance as appropriate (for example, IFC and European Bank for Reconstruction and Development (EBRD) Guidance on Worker Accommodation).
- vi. Adherence to the project code of conduct.
- vii. Adherence to the project security forces management plan, if applicable.
- viii. Induction and training programs for E&S and other personnel, including training on applicable HR policy provisions, grievance mechanisms, health and safety, code of conduct including training on the provisions intended to combat GBV and SEA, materials management, and environmental protection.
- ix. Monitoring of E&S performance by contractor workers and subcontractors and client's role in this.
- x. Any monitoring of environmental parameters (such as noise, air emissions and air quality, water flows and quality, waste generation and management) that contractors may be required to carry out.<sup>14</sup>

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<sup>14</sup> Monitoring of environmental media often remains the responsibility of the client or owner's team to ensure consistency of methodology and analyses, for comparison with baselines and predictions. However, in some cases the contractors are required to monitor their own performance. Some specialist monitoring may be more appropriately carried out by the contractor, such as blast vibration monitoring or monitoring required only during the construction phase and related to particular activities. Client monitoring is preferred, and strict controls on sampling methods and equipment, labs, lab methods used, quality assurance/quality control, and chain of custody procedures should be in place.

- xi. Implementation of a grievance mechanism for workers (including subcontract workers) either through a grievance mechanism implemented and managed by the contractors or through extending the grievance mechanism of the client to the workforce of the contractor. In both cases, clear reporting on grievances and how they are addressed between contractor and client is required. The grievance mechanism should ensure proper handling of GBV-related grievances, including but not limited to sexual harassment.
- xii. Assurance that the client's grievance mechanism for external stakeholders<sup>15</sup> is either adopted by all contractors or there is clear communication to stakeholders on how to address grievances related to the activities of the contractors, including both works on the project site(s) and in any ancillary facilities and infrastructure. The community-level grievance mechanism should ensure proper handling of grievances arising from GBV or SEA.
- xiii. Other requirements of the client's stakeholder engagement program that are to be supported by the contractor. This should be integrated with the client stakeholder engagement program to ensure consistency.
- xiv. Creation and maintenance of records on E&S performance.
- xv. The environmental conditions under which the contractor will be allowed to demobilize and leave the site, including conditions of site restoration and requirements for handling personnel retrenchment, particularly those involving local workers.
- xvi. Penalties and/or incentives for E&S performance of contractors and subcontractors.
- xvii. Reporting requirements, including reporting on E&S performance.
- xviii. Clear contract statement that the contractor is responsible for the E&S performance of subcontractors and suppliers.
- xix. Contract statement that on the contractor's failure to meet the E&S requirements in such a way as to prevent significant impacts to workers, local communities and/or individuals, and/or environmental resources, and on the contractor's failure to correct such deficiencies upon receiving proper notice, the client has the right to appoint and pay another party to repair damages or otherwise remedy the impacts and reduce payment to the contractor in the amount paid to the third party.
- xx. As noted previously, mitigation measures to control E&S impacts during construction work to be considered as part of the works themselves, not measures that are needed in addition to the main works. The bill of quantities shall include adequate costs and timelines for expenditure to effectively implement the commitments related to E&S performance. The bill of quantities should define milestone and final payments for completion or partial completion of work, to include satisfactory performance of related E&S requirements. If a contract includes incentives for timely completion of work, it should also include corresponding penalties for failure to implement required mitigation measures.

51. *Implementing GIIP.* Because the full spectrum of E&S requirements may not be known at the time of the contract, IFC recommends that clients include general requirements in all contracts that GIIP must implement to mitigate E&S impacts.

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<sup>15</sup> Stakeholder may need to be defined for the project as part of the discussions with the contractor(s).

52. *Review of bill of quantities.* The bill of quantities for payments should be reviewed and accepted by the client's contract administrator who has to ensure that the technical and overall quality of the service and work being conducted by the contractors follows the agreed terms and conditions. Depending on the sensitivity and complexity of the E&S matters of the contract, the client's contractor administrator may require that one or more senior client E&S professionals is involved in the review of invoices and bill of quantities since they will need to ascertain the implementation of E&S control and mitigation measures included in the contractor's work when requests for payment are received at milestones. If necessary, they may require the bill of quantities to be more explicit on specific mitigations that are required for specific works, or otherwise advise the contractor of such mitigations.

53. *Reviewing requirements.* IFC and/or its financial intermediaries or another party to which it delegates authority (for example, a technical advisor or independent engineer) may, at their discretion, review contracts to verify the inclusion of appropriate project-specific E&S requirements and E&S-related costs.

54. *Incentivizing good E&S performance.* Clients are encouraged to include incentive mechanisms in the bill of quantities for satisfactory E&S performance and control of potential impacts as part of their completion of major works. Such mechanisms may include: a better score in the contractors' overall qualification and clients' contractor performance database (which is helpful for any future bidding process or service); expedited processing of invoices or bill payments; recognition of good E&S practices; and an additional bonus for completion of the work package with overall good E&S performance.



#### 4.5 SUBCONTRACTING AND PROCUREMENT

55. It is the client’s responsibility to comply with IFC PSs, ESHS Guidelines, loan agreement commitments, ESIA, local laws and regulations, and permits and standards, ensuring that any contractor providing services of any kind to the client duly follows these requirements throughout the duration of the contract, including any activity or services performed by subcontractors or third parties undertaking a contract from the contractor.

56. Clients generally do not have direct control over subcontractor performance, although they may have some influence over selection and may (indirectly) supervise their E&S performance. Therefore, clients must use their direct control over their contractors to ensure that E&S requirements are being met by subcontractors. To achieve the commitment of paragraph 50 (xviii), clients should require contractors to include in subcontracts the requirement to comply with IFC PSs and all E&S requirements that are appropriate for the works being subcontracted and consistent with the client’s and the contractor’s E&S management programs. In general, clients should require that contractors apply the guidance described in sections 4.1 through 4.4 in prequalifying, soliciting, selecting, and entering into subcontracts.<sup>16</sup>

#### 4.6 EXISTING CLIENT-MANAGED CONTRACTS

57. *Amending existing contracts.* For large development projects, there may be existing, smaller contracts managed by the client (for example for track maintenance and drill pad construction) that will continue into the construction phase alongside major contracts. For consistency, these contracts and the performance requirements associated with them should be reviewed and, if necessary, brought in line with the other contracts to properly incorporate all applicable E&S requirements. This is particularly the case where the ESIA process had not been completed when the contract was awarded. This might mean developing a contract amendment to ensure all the necessary E&S provisions are included and ensuring that contractor staff undergo the same training as other contractors new to the site.

“Clients generally do not have direct control over subcontractor performance, although they may have some influence over selection and may (indirectly) supervise their E&S performance. Therefore, clients must use their direct control over their contractors to ensure that E&S requirements are being met by subcontractors.”



<sup>16</sup> An early “skill versus needs” assessment should be conducted when needed to identify challenges and opportunities to increase the local content in subcontractor hires and add needed measures (for example, capacity building and other training) to make sure local workers abide by project E&S standards.

## 5. Project Performance



58. *Understanding implementation responsibilities.* The roles of clients and contractors in meeting E&S requirements are usually intertwined and must be worked out at the project level. Some actions described below as being the responsibility of the client or the contractor may be reversed or shared on some projects. In some cases, such as stakeholder engagement, both clients and contractors will have certain obligations and limits and will need to coordinate their efforts. In others, such as monitoring, each party will monitor E&S performance, but at different frequencies and levels of detail. In all cases, the client remains ultimately responsible to lenders for ensuring E&S requirements are met, with the responsibilities of the contractor defined in the contract. For design-build (or design-build-operate) contractors, the design standards and requirements (and operation standards) will also be set out in the terms of reference to the contract. For public-private partnership (PPP) projects the administration may also have roles and responsibilities (to the Bank) which may be additional to their usual regulatory functions.

59. *Contractor oversight.* The client will monitor contractor and subcontractor E&S performance and ensure the contractor monitors its own and all subcontractors' E&S performance throughout construction, including mobilization, the main construction phase, and demobilization. Clear responsibilities and reporting lines are essential to avoid duplication of effort or, conversely, gaps in monitoring. If operations are carried out under contract, or some work is performed by contractors, the client and contractor will monitor E&S performance during operations as well.

60. Clients should require contractors to report on an agreed frequency their E&S performance and metrics (which shall include relevant information and data from subcontractors, as applicable). Timely reporting of E&S performance and results enables the client to identify opportunities for improvement, prevent poor performance issues, and assist contractors if remedial action is to be taken.

### Box 2. Driving Performance through Competition

Experience has shown that some clients share performance-monitoring results at weekly meetings with all contractors to effectively drive improved performance by introducing a competitive element, sometimes with small incentives.

61. *E&S performance meetings.* Regular meetings are essential to ensure contractor performance is satisfactory and that project specifications are being met. (For an added benefit of meetings, see Box 2.) The authority of monitoring staff who control contractor performance also needs to be clarified and understood by contractors (for example, who gives instructions to stop work or proceed but with modifying the approach, scope, equipment, and so forth).

62. Clients should ensure that contractors employ qualified E&S personnel to oversee E&S performance, and that contractor staffing and resources are commensurate with the magnitude and timing of work and potential E&S risks. Clients should also approve documentation, including for training programs, to ensure all staff are aware of E&S commitments and their part in meeting them.

## 5.1 CONSTRUCTION

### 5.1.1 Mobilization

63. *Review and approval of contractor E&S plans.* As IFC clients are responsible for their contractors meeting all of the project's E&S requirements, it is essential for them to review and approve project E&S management plans and procedures at this stage. These might include such plans as working within boundaries (footprint management), protection of biodiversity, land clearing and erosion control, traffic management, labor sources and methods of recruitment of workers, worker accommodation, noise and dust control, and possibly others (See Box 3).

64. *Kickoff meeting.* Prior to early work activities, the client should hold a kickoff meeting with each of the contractors prior to arriving at the site. Timing of mobilization based on logistical issues, resources, customs delays, and so forth should be considered in the planning. Client and contractor project managers and major subcontractors should participate in these meetings. The purpose is to review planned activities and schedules, review E&S requirements (among others), review the roles of the various parties in implementing and monitoring mitigation measures, and agree on project-specific induction and training content. These meetings should include a discussion about control of access to the site, use of security forces if applicable, and how to best coordinate the client's security management system and E&S activities at both the base camp (accommodation site) and any remote construction sites. Both client and contractor E&S representatives should be present to reiterate all E&S commitments and establish initial compliance points and coordination requirements during site establishment.

65. *E&S induction and training.* A general E&S site induction should be mandatory for all workers, with specialized technical E&S training delivered to staff. The degree of training should be based on the project's E&S risks, on the tasks that will be performed, the code of conduct, including stakeholder engagement rules, and security management, and on the general E&S provisions that are applicable for all personnel, including contractors and subcontractors. All workers should be made aware of the worker and public grievance mechanisms and how to access them. In particular, security contractors should be given detailed training on community engagement and the grievance mechanism, as complaints may be brought to their attention in the first instance, and as contractors are not often included in employee training. In projects at high risk of SEA or GBV, contractors should develop and implement SEA and GBV awareness training for staff at all levels,

### Box 3. Mobilization

The initial phase of construction usually begins with a mobilization or preconstruction phase during which the site is prepared for construction. This phase can include major works such as land clearing and excavation, building and office construction, access road construction or improvement, construction of worker accommodations (and use of temporary accommodations), arranging for adequate security systems and technical measures at the accommodation and construction sites, and other activities. Collectively these are usually known as "early works."

This is often the period of the greatest E&S impact. It is critical that the correct documents, training, procedures, and systems are in place to ensure the impacts are managed properly.

Clients are cautioned against authorizing contractors to begin work in advance of an effective ESMS, approved E&S management plans, and associated documentation being in place.



from contract management to day laborers. Additional training may be needed for staff that will be responsible for implementing, monitoring, and reporting E&S performance. Once the general E&S induction is defined, a series of specific trainings may be required in order to ensure that the requirements, controls, and mitigation measures are well communicated and understood.

66. *Client site visits and oversight.* At project sites where there could be significant and/or permanent impacts due to preconstruction activities, including sites where there is a substantial amount of land clearing, the client, representative engineer, or E&S lead should visit daily during the first weeks to help guide the contractor's E&S managers and staff in overseeing activities and ensuring that there are common expectations on E&S performance. This might continue for the duration of the activity with a periodicity properly assessed to ensure adequate supervision, proactive monitoring, and sound E&S performance.

67. Clients should monitor contractor E&S performance during this phase, as described in section 5.1.4. Clients should require contractors to monitor their own and their subcontractors' E&S performance and report to the client no less than weekly as described in section 5.1.5. In the case of certain environmental and safety incidents, the client should be informed immediately; these instances should be agreed and understood by all parties. Clients should consider E&S performance in the payment of invoices, as described in section 5.1.6.

## 5.1.2 Main Construction

68. *Client E&S capacity.* Clients and/or their representatives (for example, owner's engineers) must assign E&S personnel with appropriate qualifications and seniority to oversee and supervise the E&S performance of contractors, including their subcontractors. The number of personnel and their disciplines should be commensurate with the size of the project and the potential E&S risk.

69. Prior to construction activities that could cause E&S impacts, the client should hold a kickoff meeting with the contractors. Client and contractor project managers and E&S personnel should participate, as should E&S supervisors and personnel of major subcontractors. The purpose is to review planned activities and schedules, review E&S requirements and expectations, review the roles of the various parties in implementing and monitoring mitigation measures and E&S management plans, and agree on an induction and training program on project-specific E&S aspects, including site security arrangements. A general site induction to E&S, including OHS and code of conduct training, should be mandatory for all workers, with specialized training for key staff responsible for implementing, monitoring, and reporting E&S performance.



70. Clients will monitor contractor E&S performance during this phase as described in section 5.1.4. Clients will require contractors to monitor their own and their subcontractors' E&S performance and report to the client in a timely manner, as described in section 5.1.5. In the case of environmental, safety, or social incidents, the client should be informed immediately. The applicable instances should be agreed to and understood by all parties. Clients will consider E&S performance in the payment of invoices, as described in section 5.1.6.

### 5.1.3 Demobilization and Site Handover

71. Upon meeting the conditions established in the contract (see paragraphs 49 and 50) determining that construction is complete, the contractor can demobilize equipment and personnel and turn over the site or, if more than one, all work sites to the client. To ensure that all the necessary E&S provisions have been duly met and that the appropriate controls and requirements were implemented, the client could typically develop a checklist or punch list including all relevant E&S aspects that need to be verified upon completion of work. If there are pending topics or requirements, these shall be communicated to the contractor, who should address them on an agreed schedule.

72. Client E&S personnel should inspect all work sites and other areas affected by the contractor, when notified that construction is complete, to determine if the requirements established in the contract have been met. Clients will allow contractors to demobilize equipment and E&S personnel only after client E&S personnel determine that E&S requirements have been fully met. Handovers may be phased on complex sites and when work is completed early. Issues that have arisen during the contract should be reviewed carefully during the handover review and acceptance by the client, including the possibility of the issues arising in the future.



#### 5.1.4 Client Monitoring of Activities

73. Client monitoring of contractor E&S performance must continue throughout construction, from mobilization through demobilization. This should involve both visits to work locations and reviews of records kept by the contractor and of reports submitted by the contractor. The frequency of site visits should be commensurate with the magnitude of the E&S risks of the activities being carried out and permanence of potential impacts that could result from ongoing activities. For highly sensitive projects (Category A<sup>17</sup>), consideration should be given to having the client or engineer's representative on-site on a permanent basis. Monitoring may be conducted by client E&S personnel and/or E&S personnel of an owner's team.

74. Client E&S personnel should review one or more recent inspection reports and the contractor's previous month's E&S progress report prior to visiting the site to monitor the contractor's E&S performance. They should do the same before participating in meetings where the contractor's E&S performance is to be discussed.

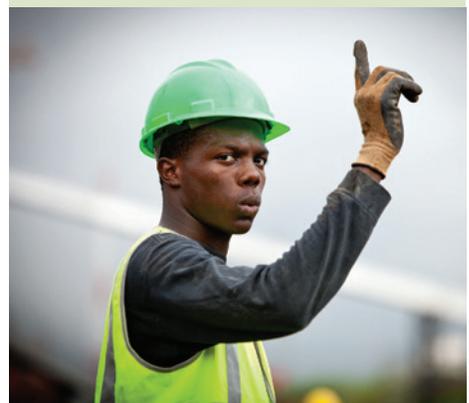
75. Client E&S personnel will review contractor reports and follow up as needed to ensure timely resolution of issues of noncompliance with E&S requirements. This may include additional visits to the contractor's site or offices, further communications with contractor E&S personnel, issuance of notices of deficiency or warnings to the contractor, and other actions as needed, including those in paragraphs 76 and 80.

76. At any stage of construction or other work, if the contractor has not taken appropriate action to achieve compliance with E&S requirements after repeated notices of violation and warnings of noncompliance, and significant E&S impacts are occurring or imminent, the client should order the contractor to stop work until E&S performance is brought under control and up to acceptable standards. See also Box 4 and paragraph 81.

#### 5.1.5 Contractor Monitoring and Reporting

77. Clients should require contractors to monitor and keep records on E&S performance in accordance with the ESMS and E&S management plans. This may include monitoring of E&S matters, scheduled and unscheduled inspections to work locations, observations made during routine activities, desk reviews, drills, and any other monitoring protocols implemented by the contractor to ensure E&S compliance. The client E&S personnel must be

“At any stage of construction or other work, if the contractor has not taken appropriate action to achieve compliance with E&S requirements after repeated notices of violation and warnings of noncompliance, and significant E&S impacts are occurring or imminent, the client should order the contractor to stop work until E&S performance is brought under control and up to acceptable standards.”



<sup>17</sup> A Category A project is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented. A Category B project has potential adverse environmental impacts on human populations or environmentally important areas—including wetlands, forests, grasslands, and other natural habitats—which are less adverse than those of Category A projects. A Category C project is likely to have minimal or no adverse environmental impacts.

“Clients should require contractors to report on E&S performance on at least a monthly basis throughout the construction phase, including mobilization, construction, and demobilization.”



familiar with the contractor’s monitoring and record keeping system so this aspect of the contractor’s performance can itself be monitored.

78. Responsibilities for monitoring need to be clear between the client and contractor, and results (if client and contractor are both collecting data) must be comparable, for example, collected using the same methodologies, analyzed at the same labs, and using similar equipment, and so forth.<sup>18</sup>

79. Clients should require contractors to report on E&S performance on at least a monthly basis throughout the construction phase, including mobilization, construction, and demobilization. This could be more frequent for more sensitive E&S projects. It can be part of the overall engineering progress report or a stand-alone E&S report. Reported E&S information should include the following:

- i. *Safety*: hours worked, recordable incidents and corresponding Root Cause Analysis (lost time incidents, medical treatment cases), first aid cases, high potential near misses, and remedial and preventive activities required (for example, revised job safety analysis, new or different equipment, skills training, and so forth).
- ii. *Environmental incidents and near misses*: environmental incidents and high potential near misses and how they have been addressed, what is outstanding, and lessons learned.
- iii. *Major works*: those undertaken and completed, progress against project schedule, and key work fronts (work areas).
- iv. *E&S staffing*: new hires and departures, and listing of current staff and titles.
- v. *E&S requirements*: noncompliance incidents with permits and national law (legal noncompliance), project commitments, or other E&S requirements.
- vi. *E&S inspections and audits*: by contractor, engineer, or others, including authorities—to include date, inspector or auditor name, sites visited and records reviewed, major findings, and actions taken.

<sup>18</sup> To improve efficiency, responsibilities should be defined early regarding who collects what data. In relation to the data collected by the contractor, the owner should be comfortable with what is being collected and how it is being collected, analyzed, reported, and so forth. This is usually done through the sign-off by the owner on the proposed monitoring plan of the contractor.

- vii. *Workers*: number of workers, indication of origin (expatriate, local, nonlocal nationals), gender, and skill level (unskilled, skilled, supervisory, professional, management).
- viii. *Training on E&S issues*: including dates, number of trainees, and topics.
- ix. *Footprint management*: details of any work outside boundaries or major off-site impacts caused by ongoing construction—to include date, location, impacts, and actions taken.
- x. *External stakeholder engagement*: highlights, including formal and informal meetings, and information disclosure and dissemination—to include a breakdown of women and men consulted and themes coming from various stakeholder groups, including vulnerable groups (e.g., disabled, elderly, children, etc.).
- xi. *Details of any security risks*: details of risks the contractor may be exposed to while performing its work—the threats may come from third parties external to the project or from inappropriate conduct from security forces employed either by the client or public security forces.
- xii. *Worker grievances*: details including occurrence date, grievance, and date submitted; actions taken and dates; resolution (if any) and date; and follow-up yet to be taken—grievances listed should include those received since the preceding report and those that were unresolved at the time of that report.
- xiii. *External stakeholder grievances*: grievance and date submitted, action(s) taken and date(s), resolution (if any) and date, and follow-up yet to be taken—grievances listed should include those received since the preceding report and those that were unresolved at the time of that report. Grievance data should be gender-disaggregated. Particular sensitivity may be needed around SEA or GBV issues raised.
- xiv. *Major E&S changes*: to ESMS, E&S management, or E&S practices.<sup>19</sup>
- xv. *Deficiency and performance management*: actions taken in response to previous notices of deficiency or observations regarding E&S performance and/or plans for actions to be taken—these should continue to be reported until the client determines the issue is resolved satisfactorily.<sup>20</sup>



<sup>19</sup> This is more often a requirement for the client. Of course, contractors should also report on changes, but they are usually limited in their ability to make significant E&S changes.

<sup>20</sup> As this could represent a significant undertaking for large projects, contractors usually will need a permanent staff member—usually a good clerk or junior or trainee engineer—who collects and helps organize the information.

## 5.1.6 Approving Invoices for Payment

80. *E&S review of contractor invoices*: The client's E&S manager or representative should be part of the process for signing off on all payments to contractors, even if the payment is not for work that is explicitly related to E&S mitigation and performance. E&S staff shall work closely with the project manager (client or engineer's project manager, depending on who employs the E&S personnel) to determine if there are any outstanding E&S items and whether including that full or partial payment under specific line items of the bill of quantities should be withheld, either temporarily or permanently, or that there should be some combination of temporary and permanent withholding (Box 4).

81. If the contractor does not take timely action to reach compliance with E&S requirements, client E&S personnel and the project manager should continue to take appropriate action to encourage compliance, which could include orders to stop work, withholding of further payments, and/or escalation of the issue to higher management. If significant impacts are occurring or imminent, the client may notify the contractor that another party will be brought in to deal with the issue and the payment to the contractor will be reduced by the amount paid to the other party, as would be specified in the contract. See paragraph 53.

### Box 4. E&S Review of Contractor Invoices

- Temporary withholdings should be recommended in case of repeated minor violations of E&S requirements that are not leading to significant impacts on workers, external parties, or environmental resources; minor violations that are not corrected after repeated warnings; or first-time major violations that can be corrected easily and that have not led to permanent E&S impacts. The withheld amounts should be paid upon contractor correction of the deficiency to the client's satisfaction.
- Permanent withholdings should be recommended for minor violations that are not corrected after repeated warnings and that could result in significant impacts; or for any violations that have resulted in significant impacts, including permanent impacts. Some portion of such withholdings may be released upon satisfactory resolution of the issue, but some significant portion must be permanently withheld as a penalty to discourage repeated incidents.
- As noted in paragraphs 32 and 50 (xx), payments that are withheld either temporarily or permanently will be all or part of the payment specified for a line item in the bill of quantities, which in turn will be the payment due for a discrete portion of the total works. Client E&S personnel should work with the project manager and others as needed to arrive at the amount to be withheld. This amount should not be based directly on the cost of compliance but rather should be somewhat higher than this amount, and based on a specific percentage of the line item in question.
- The contractor should be notified of the specific actions that must be taken in order to receive further payments for the works in question, or to receive payment that has been temporarily withheld.

## 5.2 OPERATIONS AND MAINTENANCE

82. Clients who hire contractors to operate projects, or to undertake activities under contract during the operations period, should use the guidance in sections 4 and 5 to solicit, select, and supervise contractors, as is appropriate for this phase and the contractors' activities. Required policies, procedures, and guidelines for operations should include lessons learned from construction and any planning conditions, as well as ESIA commitments.

83. Prior to defining the full E&S requirements and approving the contractor's ESMS for the operations phase, the client should review the section of the ESIA relating to operations and its associated commitments, including mitigations and management plans and any conditions imposed by regulatory authorities. The client should make such modifications as are appropriately needed given changes to or knowledge of the site and its environment, including potentially affected people due to construction activities and the project itself.





# Annex A. Sample Questionnaire to Include in Requests for Expression of Interest or Prescreening of Contractors

Note that any questionnaire should be tailored to the sector and risk level of the project.

Relevant PS	Issue	Requested information
PS1	Assessment and management of environmental and social risks and impacts	
		Please provide a copy of the company's environmental, social, and health and safety policies.
		Please provide information on both: <ol style="list-style-type: none"> <li>1. The company's corporate ESMS</li> <li>2. The project ESMS that the company would typically implement at the site</li> </ol>
		Please provide details of any accreditations such as ISO 14001/OSHAS 18001, held by the company, and/or alignment with ISO 26000, GRI, United Nations Global Compact, World Business Council for Sustainable Development, and/or other social responsibility standards/guidelines/ formal initiatives.
		Please provide a typical organization chart that shows how safety and health, environmental, social (including stakeholder engagement and grievances), and labor issues are managed at the site level, including management and monitoring of subcontractors and their performance.
		Please provide appropriate E&S metrics for the past three calendar years, including spills, releases to the environment, number of environmental fines or regulatory administrative processes, number of registered stakeholder grievances (disaggregated by gender), and number of registered labor grievances (disaggregated by gender).
	Subcontractors	Please provide detailed information on how the company selects and manages its subcontractors (local or other), particularly in determining whether they have systems in place to follow the necessary environmental, social, and health and safety requirements of the project.
	Subcontractors	Please provide information on how the company monitors subcontractors' environmental, social, and health and safety compliance and performance.
		Please confirm that the company has read and understood the ESIA, with particular attention to the commitments register and the ESHS management plans for the project.

	Supply chain	The client requires that goods and services are procured locally, as far as possible, when available at equivalent quality and price. Please demonstrate how the company might achieve this, illustrating with examples from other projects if appropriate.
PS2	Labor and working conditions	
		Please provide a copy of the company's safety policy.
		Please provide a representative copy of a Health and Safety Site Management Plan.
		Please provide appropriate health and safety metrics for the past three calendar years, including (i) worked hours for the period, (ii) total recordable fatalities, (iii) total recordable injury frequency rate, and (iv) total recordable disease frequency rate (based, for example, on ICMM definitions).
		Please describe in detail how the company trains for and implements safe working practices among its workforce.
		Please describe how the company plans to safeguard the health and safety of its workers while on site. What are the anticipated OHS risks and how will they be addressed?
		Please provide a copy of the company's HR policies and grievance mechanism, and describe how these will be communicated to all workers on-site.
		Please provide details on how the company will comply with national labor and employment law.
		Please provide details how the company will manage equal opportunities and nondiscrimination, sexual harassment issues, migrant labor, and retrenchment among its workforce.
		Please describe how the above issues will be managed by the company at the subcontractor level, including monitoring and reporting systems.
		The client requires that as much local labor as possible be used during the construction phase. Please describe how the company would approach this to avoid importing third country nationals or expatriate labor, as far as possible, and to leave a useful legacy of skills in the area. (It is acknowledged that a proportion of skilled labor will have to be brought in to fulfill project needs.)
		The client requires that contractors have cognizance of the minimum standards for worker facilities at the site, including sanitation, access to drinking water, and accommodation set out in the IFC and EBRD Guidance Note, Workers Accommodation, Processes and Standards, and International Labour Organization requirements. Please describe how the company will incorporate these requirements into the project.

PS3	Resource efficiency and pollution prevention	
		Please describe how the company typically manages solid waste, both hazardous and nonhazardous, generated by its activities at a construction site, including reduce, reuse, and recycle initiatives.
		Please describe how the company typically manages wastewater (for example, in camps, process) generated by its activities at a construction site, including reduce, reuse, and recycle initiatives.
		Please describe how the company typically manages storm water flow generated by its activities at a construction site.
		Please describe how the company typically manages the transportation and storage of hazardous substances and materials at the company's sites.
		Please describe how the company typically manages soil removal and storage (for later reuse).
		Please describe how the company typically manages the control of erosion and sedimentation at the company's sites.
		Please describe how the company typically manages air quality at its sites.
		Please describe how the company typically manages nuisance noise at its sites.
		Please provide examples of environmental monitoring programs that the company has carried out on other jobs.
		Please describe how the company typically manages and uses fresh water at the company's sites.
		Please describe how energy efficiency is typically built into the company's activities.
		Please describe how greenhouse gas emissions will be accounted for and reported.
		Please describe other resource efficiency practices at the company's sites.
PS4	Community health, safety, and security	
		Please describe how the company prepares for emergencies at its sites, including those that may affect nearby communities, such as an explosion or accident or a spill or release into a local water course.
		Please describe how the company trains for and implements good driving practices among its workforce to avoid or minimize impacts to the communities.

		Please provide a code of conduct describing expectations for the behaviour of direct and subcontract employees when outside the work site and in the host community. The code of conduct should include specific provisions to prevent SEA and GBV.
		Please provide details of how the company typically manages community engagement and community relations to respect the client's existing relationship with communities and contributes to this.
		Please provide details of the company's physical and personnel security measures and how security is typically implemented at its sites.
		Please provide details of the company's policy for the adequate management of security measures and protection of human rights of local communities.
PS6	Biodiversity conservation and sustainable management of living natural resources	
		The client has several requirements relating to the conservation of biological diversity (biodiversity) including terrestrial and aquatic ecosystems. Please describe any previous projects that the company has undertaken where this was also a significant issue and how the company contributed to this effort.
		If the company has not been involved in projects where biodiversity has been a significant issue, please describe how the company would plan to address and support the client regarding the conservation of biodiversity for this project.
PS8	Cultural heritage	
		Please describe how the company typically addresses the finding of archaeological or cultural heritage items during execution of its work.
NA	Corporate social responsibility	
		The client has requirements relating to social responsibility for this project. Please provide examples of social responsibility initiatives that the company has contributed to at other sites or projects, and suggest ways that the company might contribute to this project, in discussion and coordination with the client.

## Annex B. Further Resources

Below is a sampling of resources to help address risks mentioned throughout this document. For more good practice publications, visit <http://ifc.org/sustainabilitypublications>. Sign up for our mailing list at [www.ifc.org/sustainabilitylist](http://www.ifc.org/sustainabilitylist).

### SECURITY FORCES

International Finance Corporation (IFC). February 2017. Good Practice Handbook: Use of Security Forces: Assessing and Managing Risks and Impacts. [www.ifc.org/securityforces](http://www.ifc.org/securityforces).

### INFLUX, IN-MIGRATION, INCLUDING GENDER AND RISK OF GENDER-BASED VIOLENCE

World Bank. December 2016. Managing the Risks of Adverse Impacts on Communities from Temporary Project Induced Labor Influx. <http://pubdocs.worldbank.org/en/497851495202591233/Managing-Risk-of-Adverse-impact-from-project-labor-influx.pdf>.

IFC. September 2009. Good Practice Handbook Projects and People: A Handbook for Addressing Project-Induced In-Migration. <http://www.ifc.org/HB-Inmigration>.

### STAKEHOLDER ENGAGEMENT

IFC. May 2007. Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Market. <http://www.ifc.org/HB-StakeholderEngagement>.

### GRIEVANCE MECHANISMS

IFC. September 2009. Addressing Grievances from Project-Affected Communities. <http://www.ifc.org/GPN-Grievance>.

Compliance Advisor Ombudsman. Grievance Mechanism Toolkit. <https://www.cao-grm.org/>.

### WORKER ACCOMMODATION

IFC and EBRD. September 2009. Workers' Accommodation: Processes and Standards. <http://www.ifc.org/GPN-WorkersAccommodation>.

### ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEMS

IFC. October 2015. Environmental and Social Management System (ESMS) Implementation Handbook—GENERAL. <http://www.ifc.org/esms>.



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