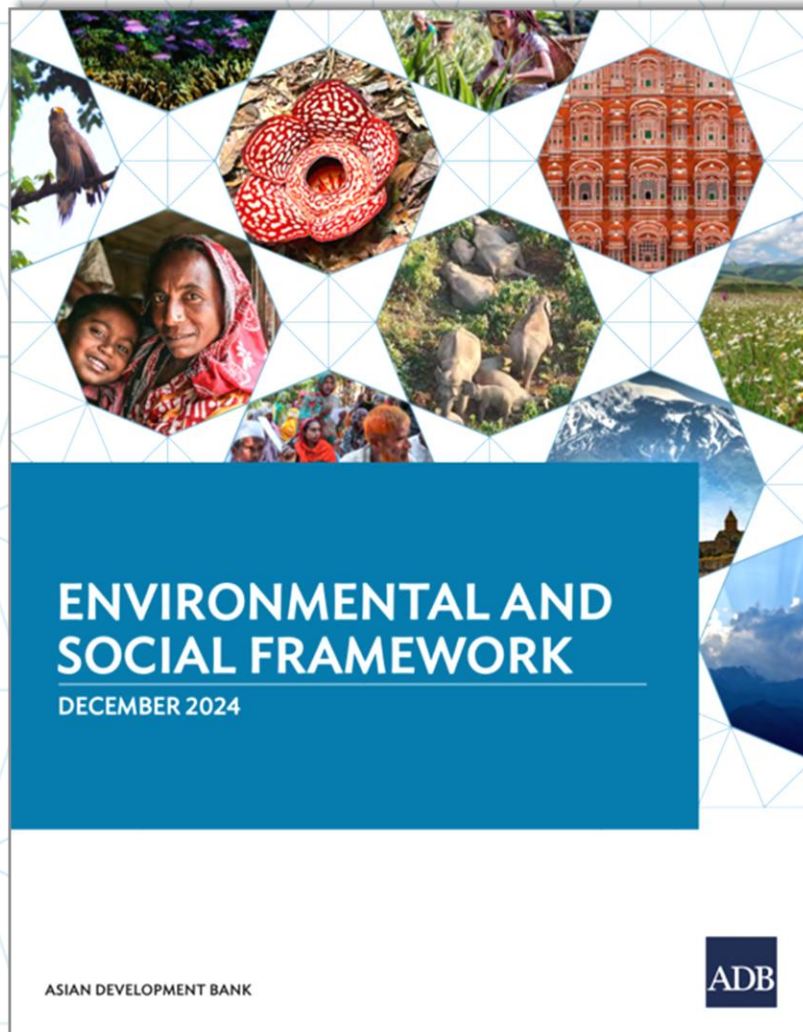




Embedding Health and Safety Requirements in Procurement, Contracts and Contractor Systems

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THE MAP

Where E&S (including H&S) enters the procurement cycle

1

Pre-procurement

Risk screening, SPP report, defining E&S requirements and budget

2

Tendering

Embedding E&S in specifications, qualification and evaluation criteria

3

Evaluation

Assessing bidders' E&S capacity and their proposed management approach

4

Contracting

Incorporating E&S clauses, plans, KPIs and the code of conduct

5

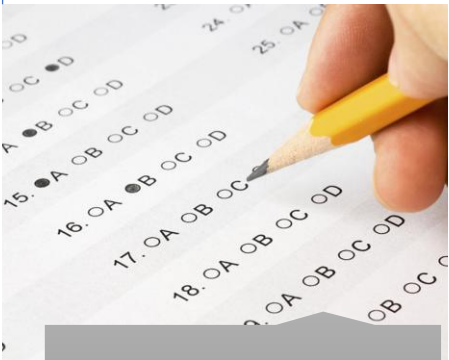
Implementation/Completion

Monitoring compliance, monthly reporting, corrective actions

Timing is the most common failure. If E&S inputs are not ready when the SPP and bidding documents are prepared, they cannot be scored, priced or enforced later. Retrofitting after bid submission usually means a variation and a cost claim.

Contract Execution

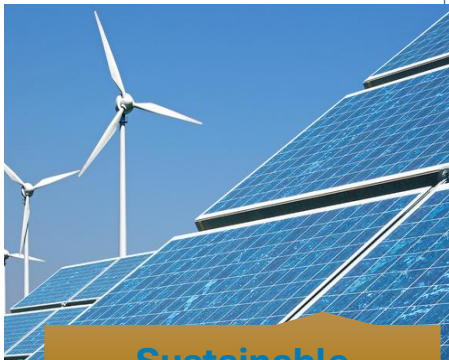
SPP/BD Preparation, Bid Evaluation



Merit point criteria



Local participation



Sustainable
procurement

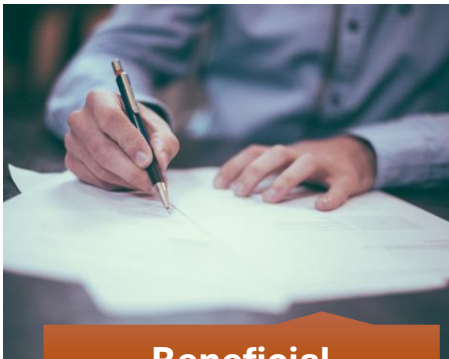


Contract
management

4 Major
Areas
requiring
E&S Inputs



Early market
engagement



Beneficial
ownership



Collaborative
contracting



Financial
intermediation

Spot the Sustainable Choice



Plastic
Bottle



Reusable
Glass
Bottle



Aluminum
Can

E&S implications of each choice:

- **Plastic bottle:** low cost, high waste, poor environmental outcome.
- **Glass bottle:** sustainable, reusable, but higher procurement cost.
- **Aluminum can:** recyclable but energy-intensive production.

Which item would you choose for a project supply order?

BORROWER OBLIGATIONS

What the ESF requires of you as Executing Agency (EA) / Implementing Agency (IA)

ESS₁

paragraph 64

The borrower/client will require that all contractors and subcontractors engaged on a project operate in a manner consistent with the requirements of the ESSs, including the specific requirements set out in the ESCP/ESAP, such as preparation of additional plans or assessments as required by the ESSs and as relevant to the financing modality or product.

The borrower/client will manage all contractors in an effective manner, including:

- Assess contract-related E&S risks and impacts
- Ensure contractors have the necessary E&S experience and skills
- Include E&S requirements in bidding documents and in contracts
- Require contractors to implement corrective actions as needed
- Monitor contractor compliance throughout implementation
- Require equivalent arrangements between contractors and subcontractors

Typical parts of procurement strategy which may require E&S's inputs

Section 4: Sustainable Procurement

Table A7: Sustainable Procurement Considerations

Legal/Policy Requirements	<i>A statement of any legal or policy requirements covering Sustainable or Green Procurement requirements.</i>
Procurement items potentially having sustainability targets, and nature of those targets	<i>For example:</i> <i>Package item 1 - Sustainable procurement aspects, such as minimization of embodied energy, consideration of end-of-life disposal or recycling;</i> <i>Package item 2 - social impacts such as promotion of involvement by local SMEs.</i>
Procurement or contracting approach to apply	<i>Record the designer's advice on whether or not sustainability requirements can be achieved through conformance or performance specifications in the bid documents and evaluation on a least cost basis, or if additional measures are recommended for example through qualification criteria for key experience, or use of merit points in evaluation etc.</i>
Implementation and support requirements	<i>Identify the stakeholder that will act as project champion, and identify potential support requirements necessary to ensure preparation of appropriate designs and specifications, to carry out bid evaluations, and to supervise implementation.</i>

(The Guidance Note on Sustainable Public Procurement has more details).

Section 5: Risk Management

A. Project Procurement Risk Assessment Risk Register

Risk Description	Risk Impact	Likelihood ("L") (1-5)	Impact ("I") (1-5)	Risk Score (L x I) and rating	Proposed Mitigation	Risk Owner
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Section 7: Procurement Strategy Summary

F. Sustainability Requirements

A1.22 [State whether or not there are particular sustainability considerations, identify those considerations, and describe the designer's advice on whether or not sustainability requirements can be achieved through conformance or performance specifications in the bid documents and evaluation on a least cost basis, or if additional measures are recommended for example through qualification criteria for key experience, or use of merit points in evaluation etc.]

N. Suggestions on Qualification Criteria or other content of Bidding Documents

O. Value for Money Statement

P. Project Risk and Mitigation Measures Statement

Review/approval of bid document and bid evaluation report may require E&S's inputs

Table 3 Project Implementation: Procurement subject to Prior Review ⁴				
No.	Matter for Decision and Process	ADM Roles	Service Level Standard	Other Requirements
1	Clearance of EA's <u>draft, or amended bidding document</u>⁵ - EA submits draft, or amended, bidding document. - Bidding document is distributed by SD for review of PTL, Procurement Staff and other departments, if relevant. - Procurement Staff consolidates any comments received on the bidding document, which are transmitted by SD to EA. - EA submits clarifications and/or revised bidding document, which is distributed by	- Revision of standard contract clauses, OGC advises, Procurement Staff decides. - Modification or exclusion of an anticorruption or integrity related clause, OAI decides. - All other matters: PTL clears, while for Deciders, refer to Appendix 1.	From date of receipt of document to sending comments, or, if no comments are required, ADB's decision to the EA: 7 WDs. From date of receipt of EA's clarifications and revised document to sending ADB's decision to the EA: 3 WDs.	PTL may review any aspect of the bidding document but is responsible for (i) reviewing technical aspects, and (ii) consulting with other relevant SD, OGC, OAI, OSFG staff, etc. Procurement Staff is responsible for ensuring that consultations and clearances from appropriate departments within ADB have been undertaken, if required.
3	Clearance of EA's <u>recommendation on an evaluation report</u>⁶ - EA submits evaluation report. - Evaluation report is distributed by SD for review of PTL and Procurement Staff. - PTL provides comments to Procurement Staff, who consolidates any comments on matters requiring clarification and/or revision of the evaluation report, which are transmitted by SD to EA. - EA submits clarifications and/or revised	For Deciders, refer to Appendix 1.	From date of receipt of evaluation report to sending any comments or, if no comments are required, ADB's decision to the EA: 7 WDs. From date of receipt of EA's clarifications and/or revised evaluation report to sending ADB's decision to the EA: 5	PTL may review any aspect of the evaluation report but is responsible for (i) reviewing technical aspects, and (ii) consulting with other relevant SD, OGC, OAI, OSFG staff, etc. Procurement Staff is responsible for ensuring that consultations and clearances from appropriate departments within ADB have been undertaken, if required.

Required for internationally advertised goods*, works and non-consulting services to advance quality, sustainability and value for money



**Excludes pharmaceuticals, vaccines, commodities, and low-value off-the-shelf goods.*

Assessing bids based on merit point evaluation

- Focuses on value for money and fit for purpose procurement by evaluating bids on technical merit as well as cost.
- Rewards quality and innovation, encouraging stronger, more competitive bids.
- Establishes well-defined and consistent quality standards that level the playing field.

Technical Proposal

NOTE

The Employer may substitute, delete, or add other information specifying the activities that the Bidders shall describe in their Bid. For each of the forms hereinafter, the Employer may consider specifying a maximum page limit.

The technical proposal is expected to include as a minimum information described in the following forms:

- (i) Construction Management Strategy;
- (ii) Construction Methods for Key Component;
- (iii) Construction Schedule;
- (iv) Quality Assurance and Quality Control;
- (v) Bidder's Environmental and Social Management Plan;
- (vi) Anticipated Risks Evaluation;
- (vii) Personnel and Organizational Chart;
- (viii) Personnel;
- (ix) Equipment;
- (x) List of Subcontractors; and
- (xi) Local Participation Plan

(i) Construction Management Strategy

The Bidder shall submit a construction management strategy that addresses as a minimum:

- (f) ensuring that geotechnical investigations or other advance works meet the environmental and social requirements; and
- (g) sustainability aspects demonstrating the bidder's approach and commitment to sustainable construction practices (e.g., energy efficiency, reduction of wastage, material reduction, sources of materials, and others).

(iii) Construction Schedule

Bidders shall set out a work program for construction of the Works to be undertaken, including the mobilization phase, showing identification of major milestones, and critical path. Detailed timetables may be submitted (as appropriate) for the following aspects:

- (d) SEAH orientation conference

(v) Bidder's Environmental and Social Management Plan and other E&S management documents, as may be relevant ³²

The Bidder shall submit a bidder's Environmental and Social Management Plan (Bidder's ESMP) and other E&S management documents, such as SEAH management plan, H&S management plan, as may be relevant, commensurate with the risks and impacts of the proposed works and activities as described in the project ESIA, ESMP, LMP, Land Acquisition Plan (LAP) and other E&S assessment and management documents. These strategies and plans shall describe in detail the actions, materials, equipment, management processes, and others that will be implemented by the Contractor, and its subcontractors to avoid, minimize, and/or mitigate environmental and social risks associated with implementing the projects activities throughout the project cycle.

In developing these strategies and plans, the Bidder shall have regard to the E&S provisions of the contract and E&S risks, including those as may be more fully described in Section 6 (Works' Requirements).

NOTE

The Employer shall assess whether the proposed site organization, method statement, mobilization schedule, construction Schedule, bidder's Environmental and Social Management Plan and other E&S management documents described in Section 4 (Bidding Forms) are presented in a consistent manner and comply with requirements stipulated in Section 6 (Works' Requirements) without material deviation, reservation, or omission.

(vi) Anticipated Risks Evaluation

The Bidder should submit a risk register identifying the hazards anticipated during the implementation of the contract (e.g., geotechnical and subsurface risks).

For the key hazards ranked by impact, the risk register shall include a description of the hazard, an assessment of the potential impact on E&S, cost, program, or other, and the proposed mitigation strategy for each hazard.

Section 6: Works' Requirements (related to ESF)

Environmental and Social Management Requirements³³

NOTES

The Employer's team preparing the Environmental and Social (E&S) requirements should include a suitably qualified E&S specialist/s as determined by the E&S risk assessment.

Based on the E&S risk assessment undertaken for the project³⁴ and this specific contract, the Employer shall provide key E&S risks and impacts and expectations on contractors to manage the E&S risk prevention, mitigation and effective reporting.

The Employer should attach or refer to the Employer's Environmental and Social policies that will apply to the project, if available.

This may include, as appropriate, but not be limited to develop and implement a E&S management plan with specific timeline for their implementation. A contractor should commit to establishing a system with effective risk management framework, including a central register for E&S for prevention, mitigation and response to E&S incidents perpetrated by contractors or sub-contractors' personnel. This should include systems for reporting and handling of E&S complaints with established internal standard operational procedures and referral protocols for E&S incidents, promotion of code of conduct and regular training for all contractor's employees, having in-house or identify external investigators for E&S cases, promote reporting channels to community members and workers; and ensure that sub-contractors adhere to contractor's Code of Conduct.

Minimum Content of Requirements

In preparing detailed specifications for E&S requirements, the specialists should refer to and consider:

- E&S assessment and management documents e.g. ESIA/ESMP/LMP/LAP/other E&S assessment and management documents³⁵;
- consent or permit conditions;
- required standards including World Bank Group EHS Guidelines;
- relevant international conventions or treaties, and others, national legal and/or regulatory requirements and standards (where these represent higher standards than the WBG EHS Guidelines);
- relevant international standards, e.g., World Health Organization (WHO) Guidelines for Safe Use of Pesticides;
- relevant sector standards, e.g., European Union (EU) Council Directive 91/271/EEC Concerning Urban Waste Water Treatment;
- grievance mechanism, including types of grievances to be recorded and how to protect confidentiality and non-retaliation e.g. of those reporting allegations of SEAH; and SEAH prevention and management

Any summary (key) information provided here shall not be inconsistent with the more detailed requirements in the Bidding Document.

The detailed specification for E&S should, to the extent possible, describe the intended outcome rather than the method of working.

The E&S requirements should be prepared in a manner that does not conflict with the relevant General Conditions of Contract (and the corresponding Particular Conditions, if any) and other parts of the specifications.

Key Personnel Requirements

The Bidder must demonstrate that it has E&S personnel who meet the following requirements: Key Personnel as Determined by the Environmental and Social Management Plan and Other E&S Assessment and Management Documents

No.	Position/ Specialization	Relevant Academic Qualifications	Minimum Years of Relevant Work Experience	Minimum Time On-Site (% FTE)
1	Environmental specialist	[e.g., degree in relevant environmental subject]	[e.g., years working on road contracts in similar work environments]	
2	Social specialist	[e.g., degree in relevant social subject]	[e.g., years working on road contracts in similar work environments]	
3	H&S officer	[e.g., degree with acceptable health and safety accreditation (IOSH/ NEBOSH certified or GIP equivalent)]	[e.g., years working on road contracts in similar work environments]	
4	Labor/HR specialist	[e.g., degree in relevant social subject]		
5	SEAH focal point	[e.g., degree in relevant social subject]	Minimum 5 years of monitoring and managing risks related to gender-based violence, out of which 3 years of relevant experience in addressing issues related to sexual exploitation, sexual abuse and sexual harassment	

Contract Management Plan

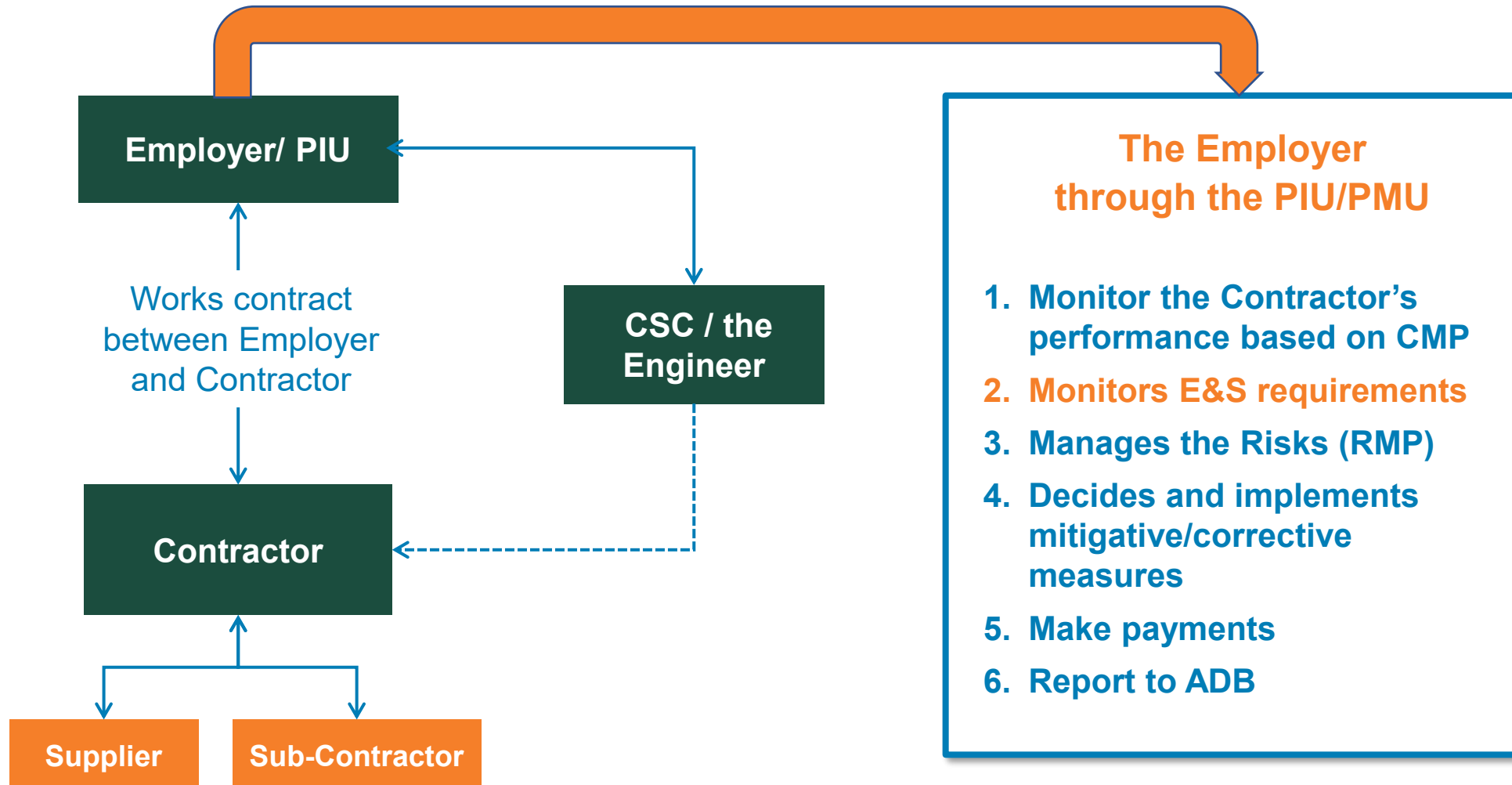
NOTE

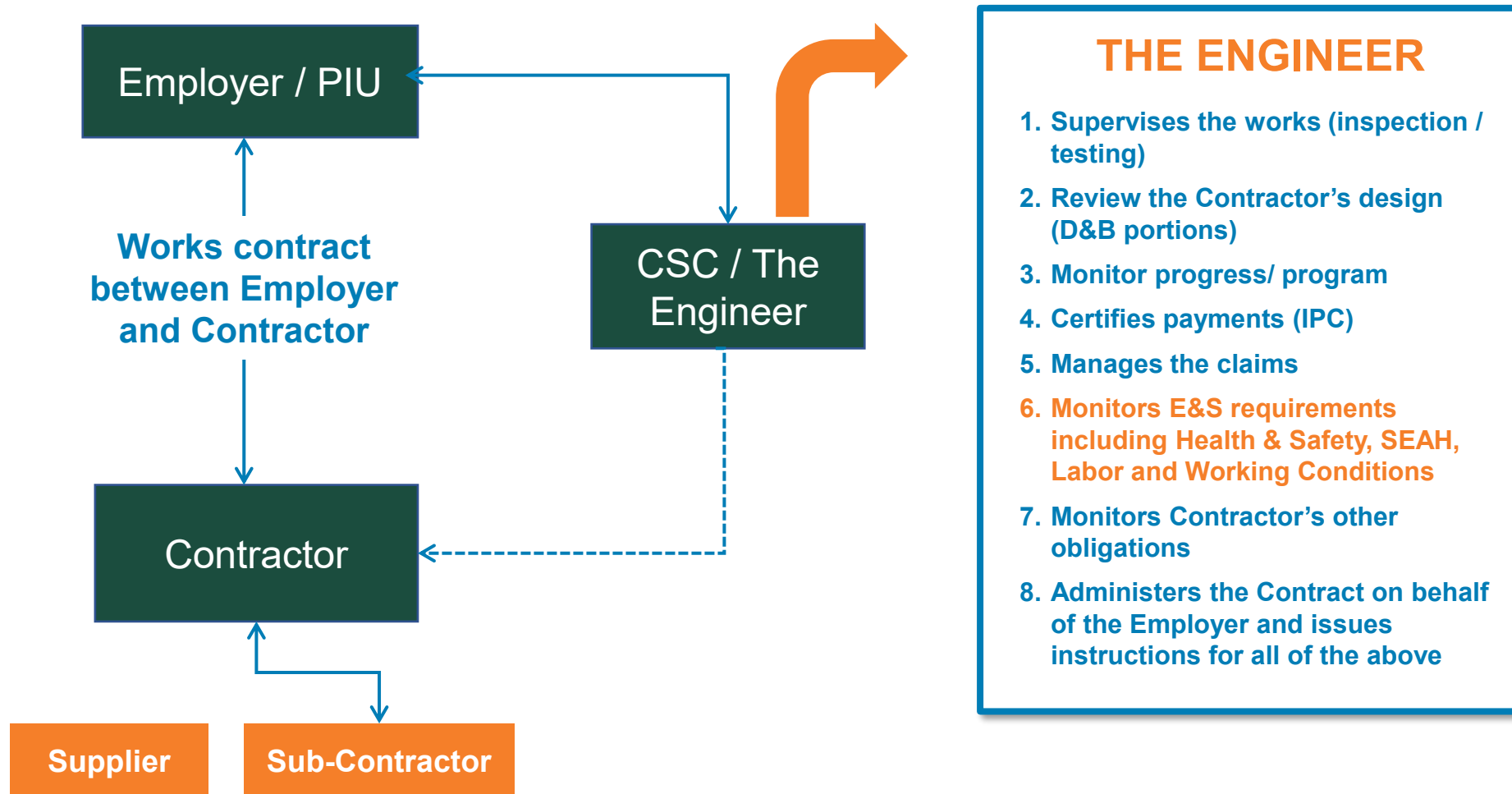
The Employer shall prepare a suitable template for the Contractor's monthly progress report, also referred to as the Contract Management Plan, in line with the items listed in Sub-Clause 4.20 [Progress Reports] and in Part D of the Particular Conditions [Metrics for Progress Reports on Environmental and Social (E&S)]. The template may be created using the Project Management Dashboard (PMD) platform (www.pmdportal.com) and attached to the Bidding Document.

The Contractor shall prepare the monthly progress report as per the format defined hereinafter, also referred to as the Contract Management Plan, in line with the requirements stipulated in Sub-Clause 4.20 [Progress Reports] and in Part D of the Particular Conditions [Environmental and Social (E&S), Metrics for Progress Reports].

and Staff. It may be shared outside ADB with appropriate permission.

Role of Employer





TAKE THESE FOUR THINGS BACK TO YOUR PROJECT

Start early

E&S inputs must exist when the SPP and bidding documents are drafted, not after bids are opened.

Write it down

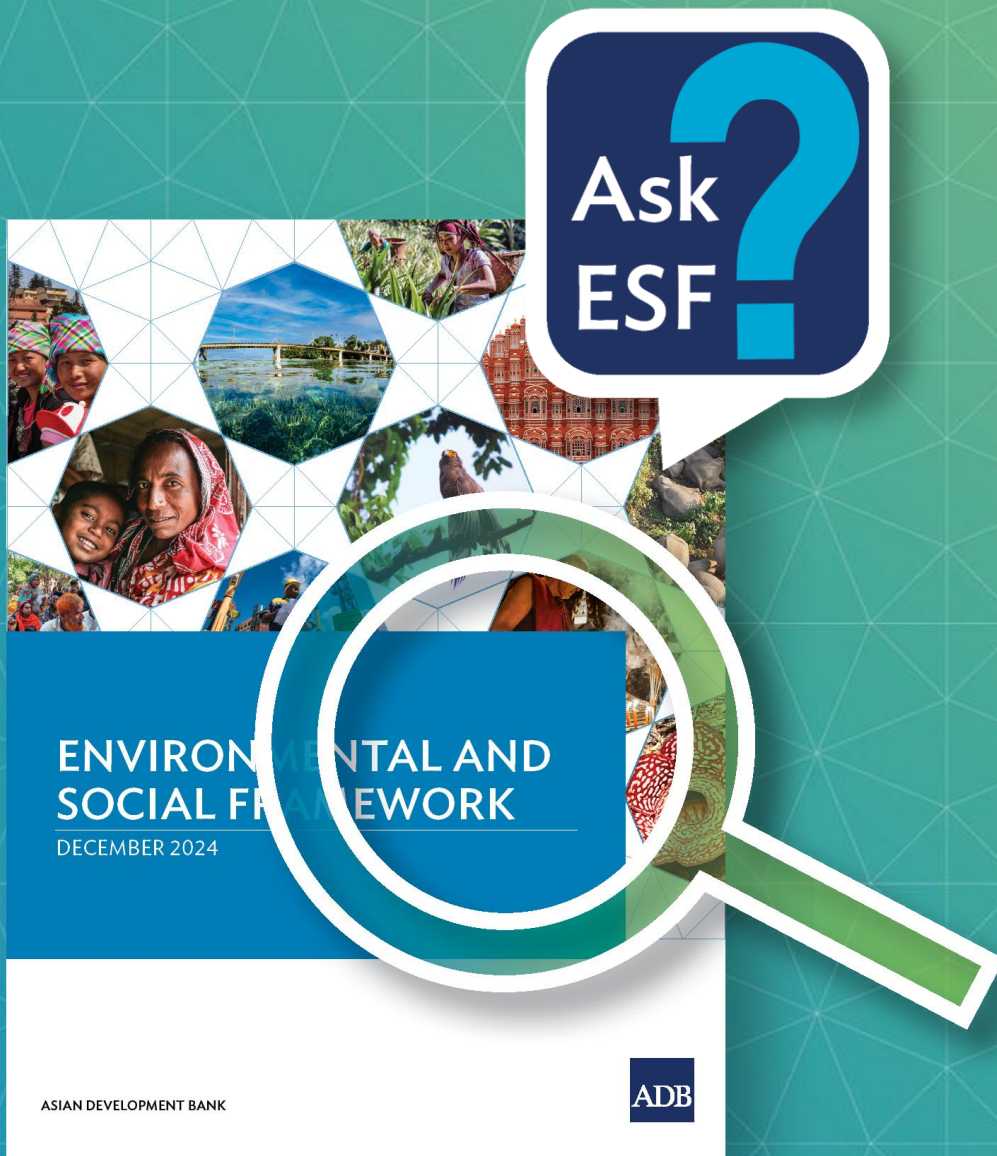
A requirement that is not in Section 3, 4, 6 or the contract conditions is not a requirement.

Price it

Budget E&S measures in the contract and resource your own supervision.

Follow through

Score it, contract it, monitor it, and act on non-compliance in that order.



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