

**Asian Development Bank Accountability Mechanism
Compliance Review Panel**

REPORT ON ELIGIBILITY

**To the Board of Directors
on
Compliance Review Panel Request No. 2019/1
on the
Loan No. 3048: Accelerating Infrastructure Investment Facility in India - Tranche 1
(Asian Development Bank Loan 3048)**

23 September 2019

ABBREVIATIONS

ADB	– Asian Development Bank
AHPWDIPHWCWU	– All Himachal PWD-IPH & Contractual Workers Union
AIIF	– Accelerating Infrastructure Investment Facility in India
AMP	– Accountability Mechanism Policy
BWI	– Building and Wood Workers' International
CRO	– Complaint Receiving Officer
CRP	– Compliance Review Panel
IIFCL	– India Infrastructure Finance Company Limited
IL&FS	– Infrastructure Leasing & Financial Services
KNCEL	– Kiratpur Ner Chowk Expressway Limited
OM	– Operations Manual

NOTE

In this report, “\$” refers to United States dollars. INR refers to Indian Rupees.

In preparing any country program or strategy, financing any project, or by making any designation of or reference to a particular territory or geographic area in this document, the Asian Development Bank does not intend to make any judgments as to the legal or other status of any territory or area.

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I. BACKGROUND

1. A request for compliance review (complaint) was forwarded by the Complaint Receiving Officer (CRO) of the Asian Development Bank (ADB) Accountability Mechanism to the Compliance Review Panel (CRP) in respect of ADB Loan No. 3048: Accelerating Infrastructure Investment Facility in India - Tranche 1 (the Project) in India on 24 July 2019.¹
2. In accordance with paragraph 178 of the 2012 Accountability Mechanism Policy (AMP) and section L1 of the Operations Manual,² the CRP carried out an initial assessment and concluded that the complaint falls within the mandate of the compliance review function.³
3. A finding that a complaint falls within the mandate of the compliance review function is not a finding of its eligibility for compliance review. Accordingly, following its initial assessment, the CRP proceeded to assess the eligibility of the complaint.
4. This report summarizes the analysis and findings of the CRP on the eligibility of the complaint for compliance review in accordance with the AMP.
5. As discussed in this eligibility report, the CRP has determined that the complaint is not eligible for compliance review. The complaint was filed with the Complaint Receiving Officer and submitted to the CRP more than 2 years from the relevant loan closing date of 25 January 2017. Therefore, the exclusion criterion specified in paragraph 142 (iv) of the AMP applies.

II. THE PROJECT

6. The complaint relates to ADB part-finance for the four-laning of the Kiratpur to Ner Chowk Expressway in India. ADB's finance was provided by means of a financial intermediation loan facility⁴ to the India Infrastructure Finance Company Limited (IIFCL). ADB's contribution to the four-laning of the Kiratpur to Ner Chowk Expressway constituted one of 19 sub-projects under Tranche 1 of a multitranche financing facility, the Accelerating Infrastructure Investment Facility in India (AIIF), which was approved by ADB in October 2013. Tranche 1 consisted of a \$400 million loan which was approved on 21 October 2013. The loan agreement in respect of Tranche 1 loan provided for a loan closing date of 31 December 2016. The loan eventually closed on 25 January 2017. The publicly available webpage for Tranche 1, <https://www.adb.org/projects/47083-002/main#project-pds>, was updated following the eventual loan closing date of 25 January 2017 and Tranche 1 was marked as 'Closed' on 29 March 2017.
7. ADB's part-finance for the Kiratpur to Ner Chowk four-laning project is referred to as 'the sub-project' in this report. ADB's borrower, IIFCL, committed a subloan of INR2,799 million to the concession-holder for the sub-project, Kiratpur Ner Chowk Expressway Limited (KNCEL). The subloan was provided through Tranche 1 of the AIIF.

¹ Basic project details are at <https://www.adb.org/projects/47083-002/main#project-pds>.

² Asian Development Bank (ADB). 2012. *Accountability Mechanism Policy*. Manila and ADB. 2012. *Operations Manual Section on Accountability Mechanism* (OM section L1), issued on 24 May 2012. Manila.

³ The eligibility determination was led by Compliance Review Panel (CRP) Part-time Member Halina Ward, with support from CRP Chair Dingding Tang. CRP Part-time Member Ajay Deshpande, who is an Indian national, observed the process and offered technical contributions. However, in accordance with internal CRP protocol, all members of the CRP agreed that the CRP's eligibility determination would be made only by Dingding Tang and Halina Ward.

⁴ Operational procedures for ADB's implementation of financial intermediation loans are set out in OM section D6, which is available at <https://www.adb.org/sites/default/files/institutional-document/31483/om-d6.pdf>.

8. According to ADB Management's response (included in this report as Appendix 2), KNCEL's parent company, IL&FS Transportation Networks Limited (IL&FS refers to Infrastructure Leasing & Financial Services), was awarded the role of engineering, procurement and construction contractor. KNCEL additionally entered into subcontracts with a number of other firms to provide services to the project. Construction commenced in November 2013, but completion was delayed. In 2018, insolvency proceedings were commenced in respect of KNCEL, IL&FS Transportation Networks Limited and its parent company, IL&FS Limited. Construction was suspended around July 2018.

III. THE COMPLAINT

9. The complaint was submitted by the following persons:

- i) Apolinar Tolentino
Regional Representative
Building and Wood Workers' International (BWI) Asia and Pacific (based in Malaysia)
- ii) Rayyan Hassan
Executive Director
NGO Forum on ADB (based in the Philippines)

10. In later correspondence, the CRP clarified that the above persons submitted the complaint as representatives of the complainants. The complaint appended information connected with the claims of a total of 116 named persons who were former workers of contractors or subcontractors tasked with implementing elements of the Kiratpur to Ner Chowk Expressway project. The CRP has treated these named persons as the complainants. The complaint states that complainants wish their identities to be kept confidential.

11. Following CRP's initial assessment, the complainants' representatives at BWI and NGO Forum on ADB provided confirmation of their authority to represent a group of former workers. The confirmation took the form of an undated letter of authority signed by officials of BWI affiliate the All Himachal PWD-IPH & Contractual Workers Union (AHPWDIPHCWU) and included names of five of the former workers whose names were among those provided with the complaint.

12. As indicated above, both the larger and the smaller group of complainants are former workers of three companies that were subcontracted to implement the four-laning of the Kiratpur to Ner Chowk Expressway. At least one of the three companies is now insolvent and an insolvency process has begun in India. It has not been necessary for the eligibility assessment to verify the trading status of the remaining two companies, and the CRP has not done so.

13. The complaint form sets out the direct and material harm alleged to have been caused by the ADB project to the complainants, alleging in effect that some or all of complainants were directly harmed through: the non-payment of wages; absence of employment appointment letters; lack of social security coverage; lack of specific facilities for women workers; overtime violations and forced weekend work; and sub-standard occupational health and safety measures and poor onsite first aid facilities.

14. The complaint alleges violations of ADB's Social Protection Strategy, which the complaint states "guarantees the core labor standards and minimum legal protections". The complaint additionally cites provisions of the Social Protection Strategy 2001, the Social Protection Operational Plan, and Section C3/BP of the ADB Operations Manual.

15. During discussion with the CRP, representatives of the former workers explained that in their view, ADB's response to the matters raised by them during their prior engagement with ADB had not been adequate, leading them to bring the matters complained of to the CRP.

16. The complainants seek i) the payment by ADB of unpaid wages and claims amounting to INR17,450,741 in respect of the larger group of former workers, and ii) the establishment by ADB of a strong safeguard mechanism or special fund to cover the failure in payment to workers or any such payment violations in case of bankruptcy, as in the case of IL&FS in this instance. The complainants also ask that CRP investigate the issue of debt allegedly incurred by workers as a result of unpaid wages and claims. Through their representatives, the complainants confirmed that in addition, they would like the CRP to consider the other harms alleged in the complaint, with a view to improving ADB's practices in the future.

17. The AMP provides expressly, in paragraph 138, that complaints may be filed by (i) any group of two or more people in a borrowing country where the ADB-assisted project is located or in a member country adjacent to the borrowing country who are directly, materially, and adversely affected; (ii) a local representative of such affected persons; or (iii) a nonlocal representative of such affected persons, in exceptional cases where local representation cannot be found.

18. Upon initial inquiry, the CRP heard from BWI that it, rather than the AHPWDIPHWCWU, was mandated under its constitution to represent relevant workers before international financial institutions. During an initial discussion with the complainants' representatives, the CRP requested and received additional information from BWI concerning the respective mandates of the AHPWDIPHWCWU and BWI in relation to representation of workers before international bodies such as the ADB. The CRP notes that BWI's statutes provide for it to pursue its aims and objectives by representing its affiliates in regional and international economic groupings and in the work of the United Nations, the International Labour Office and other specialized agencies and institutions whose activities affect the social, economic and cultural conditions of affiliates and their members.⁵

19. For purposes of this specific eligibility determination, the CRP has been content to seek and receive information on the complaint from representatives of BWI and NGO Forum on ADB. The CRP wishes also to record its thanks to the former workers who engaged in the CRP's initial teleconference call with BWI and NGO Forum on ADB.

20. For the avoidance of doubt, the CRP wishes to make clear that in the specific circumstances of the present eligibility assessment, it has not found it necessary to seek further evidence or to offer conclusions on:

- whether BWI has authority to represent all 116 former workers referred to in the original complaint form filed with the CRP or only those who signed the letter of authority to BWI and NGO Forum on ADB;

⁵ BWI statutes, approved 2017, Article 3 j)-k), available at https://www.bwint.org/web/content/cms.media/1812/datas/EN_BWI_Statutes_FINAL.pdf

- the relevance to paragraph 138 of the AMP of BWI's mandate to represent workers before international bodies, and the absence of such a mandate on the part of AHPWDIPHCWU; and
- whether the involvement of NGO Forum on ADB as a joint representative of either the smaller or the larger group of former workers falls within the scope of, or satisfies, paragraph 138 of the AMP.

IV. ADB MANAGEMENT'S RESPONSE

21. In accordance with paragraph 178 of the AMP, ADB Management submitted a response to the CRP on 27 August 2019. The response provided information on the background to the complaint from the perspective of South Asia Department (SARD). It also explained the legal and contractual relationships between the various entities involved in the financial intermediation loan; provided arguments on why, in the view of ADB Management, the complaint should be deemed ineligible for compliance review by the CRP; and made the case that, in the view of ADB Management, ADB had complied with relevant ADB operational policies and procedures and made good faith efforts to engage with the complainants' representatives.

V. ELIGIBILITY

22. The CRP has reached its determination of eligibility in accordance with provisions of paragraphs 179 and 180 of the AMP. These state:

"179. Within 21 days of receiving the ADB Management's response, the CRP will determine the eligibility of the complaint. The CRP will review the complaint, ADB Management's response, and other relevant documents. To find a complaint eligible, the CRP must be satisfied that the complaint meets all the eligibility criteria, satisfies the scope, and does not fall within the exclusions (para. 142 and paras. 145-149). The CRP must be satisfied that (i) there is evidence of noncompliance; (iii) there is evidence that the noncompliance has caused, or is likely to cause, direct and material harm to project-affected people; and (iii) noncompliance is serious enough to warrant a compliance review.

180. As part of the eligibility determination, the CRP will review and determine whether the complainants made prior good faith efforts to resolve issues with the operations department concerned. The CRP will forward the complaint to the operations department concerned if the complainants did not make such efforts."

23. The CRP's eligibility determination process in respect of the present complaint has involved the following steps:

- i. review of the complaint, together with other documents provided to the CRP subsequently by the complainants' representatives;
- ii. review of the response of ADB Management, including related project documents and correspondence subsequently requested by the CRP and provided by ADB Management;
- iii. a teleconference discussion between the CRP and representatives of the complainants, together with a number of affected workers; and
- iv. discussions with the ADB project team at the ADB Headquarters.

24. In order to hold a complaint eligible for compliance review, the CRP must establish both that none of the grounds for exclusion specified in the AMP are applicable, and also that a number of positive eligibility criteria specified in the AMP are satisfied.

25. In the present case, the response of ADB Management to the complaint highlights three potential grounds on which, it argues, the complaint should be excluded from compliance review; namely:

- that the complaint was submitted to the CRP more than 2 years after the loan closing date (triggering the exclusion specified in paragraph 142 (iv) of the AMP);
- that the complaint is about an action that is not related to ADB's action or omission in the course of formulating, processing, or implementing an ADB-assisted project (triggering the ground for exclusion specified in paragraph 142 (i) of the AMP); and
- that the complaint relates to actions that are the responsibility of other parties and "such conduct is not directly relevant to an assessment of ADB's compliance with its operational policies and procedures" (triggering the ground for exclusion set out in paragraph 148 (i) of the AMP).

26. As indicated in ADB Management's response, if the factual circumstances associated with a complaint are such that they trigger any of the grounds for exclusion specified under the AMP, the CRP must hold the complaint to be ineligible.

27. In the first instance, the CRP has considered whether the complaint was filed with the CRO and/or submitted to the CRP within the time limit specified in the AMP. The CRP notes that the complaint was received by the CRO on 28 June 2019, and thereafter submitted to the CRP on 24 July 2019 after receiving the information necessary for the CRO to forward the complaint to the function chosen by the complainants.

28. The relevant time limit is set out in the AMP as a ground for exclusion. Paragraph 142 (iv) of the AMP provides that complaints will be excluded if they are "about an ADB-assisted project for which 2 or more years have passed since the loan or grant closing date;⁴¹". A footnote to this sub-paragraph (footnote 41) is also relevant. It adds that "*For programmatic operations, such as multitranche financing facilities, additional financing, and policy-based lending, the cutoff will be tranche- (or its equivalent) based...*" The CRP has confirmed that the loan closing date for Tranche 1 of the AIIF was 25 January 2017. The CRP is satisfied that with effect from 29 March 2017 the Tranche 1 website page indicated that Tranche 1 was 'fully disbursed' and 'closed'. Moreover, it is clear that the time limit reflected in the exclusion in paragraph 142 (iv) of the AMP has been exceeded.

29. The CRP recognizes that the complainants' representatives have been engaging in dialogue with ADB on issues raised in the complaint since August 2018. However, the CRP has no discretion to apply any time limit other than that specified in the AMP.

30. In light of its conclusion on the relevance of paragraph 142 (iv) of the AMP to the present complaint, the CRP has not found it necessary to consider the second and third grounds for exclusion argued in ADB Management's response. Nor has it been necessary to address the additional arguments concerning eligibility that are set out in the response matrix appended at Appendix 2 of the ADB Management's response.

31. The CRP notes that both the complaint itself and the response of ADB Management raise a number of other significant questions. Some of these are issues that have not previously been raised before the CRP. The CRP has concluded on balance in the present case that the eligibility assessment report in respect of a complaint that is unambiguously ineligible on grounds of late filing is not an appropriate place to reflect on and analyze further the multiple issues raised.

VI. CONCLUSION

32. Pursuant to paragraph 180 of the AMP, the CRP determines that the complaint is ineligible for compliance review. The CRP has based this conclusion on paragraph 142 (iv) of the AMP.

33. The CRP appreciates that former workers and their representatives will likely be disappointed that the CRP is not mandated to investigate further the issues raised in their complaint. The CRP strongly encourages ADB Management, together with the representatives of the former workers, to continue constructive and consultative engagement and to endeavor to find a satisfactory resolution to the issues raised.

34. The CRP suggests that ADB Management update the CRP regularly.

/S/Dingding Tang

Chair, Compliance Review Panel

/S/Halina Ward

Part-time Member, Compliance Review Panel

Request for Compliance Review



Office of the Special Project Facilitator



Office of the Compliance Review Panel

Asian Development Bank (ADB), Accountability Mechanism Complaint Form

A. Choice of function - Problem Solving or Compliance Review (Choose one below)

☐ **Special Project Facilitator for problem solving** (Assists people who are directly and materially harmed by specific problems caused, or is likely to be caused, by ADB-assisted projects through informal, flexible, and consensus-based methods with the consent and participation of all parties concerned)

☒ **Compliance Review Panel for compliance review** (Investigates alleged noncompliance by ADB with its operational policies and procedures in any ADB-assisted project in the course of the formulation, processing, or implementation of the project that directly, materially, and adversely affected or is likely to affect, local people, as well as monitors the implementation of remedial action relates to the harm or likely harm caused by non-compliance)

B. Confidentiality

Do you want your identities to be kept confidential? ***Yes (Yes)**

C. Complainants (Anonymous complaints will not be accepted. There must be at least two project-affected complainants.)

Name and designation (Mr., Ms., Mrs.)	Signature	Position/Organization (if any)	Mailing Address	Telephone numbers (landline/mobile)	E-mail addresses
Information redacted- complainants request that their identities be kept confidential.					

Authorized Representative or Assistant (If any). (Information regarding the representatives, or persons assisting complainants in filing the complaint, will be disclosed, except when they are also complainants and they request confidentiality.)

Complaint Represented	Name and designation (Mr., Ms., Mrs.)	Signature	Position/Organization (If any)	Mailing Address	Telephone numbers (landline/mobile)	E-mail addresses
ADB- Funded Kiratpur- Nerchowk Four Lane Road Project Himachal Pradesh- India	Mr. Apolinar Tolentino- Regional Representative		Building and Wood Workers' International (BWI) Asia and Pacific	I. N°24 - 03, Third Floor, Jalan USJ 9/5T Subang Business Center, Subang Jaya - II. Selangor DarulEhsan SGR 47620, Malaysia	III. Phone +603802 21089 Mobile +60123734743:	info@bwint.org apolinar.tolentino@bwint.org
	Mr. Rayyan Hassan- Executive Director		NGO Forum on ADB	85-A Masikap Extension, Diliman, Quezon City, Philippines	Phone +632 436-1858 Mobile: +63 9175117002	rayyan@forum-adb.org secretariat@forum-adb.org

D. Project

Project name	Accelerating Infrastructure Investment Facility in India - Tranche 1: Kiratpur NerChowk Expressway Ltd
Project location	Himachal Pradesh, India

Brief description of the project	<p>The project comprises of the four-laning of Kiratpur to Ner-Chowk Section of NH-21 from the existing 73.200 Km to 186.500 Km (approximate design length 84.38 Km) on Design, Build, Finance, Operate and Transfer (DBFOT) basis in the States of Punjab & Himachal Pradesh as BOT (Toll) under NHDP phase-III. The work includes construction of 5 tunnels, 15 major bridges and 30 minor bridges.</p> <p>International Funding Institution: Asian Development Project (ADB)</p> <p>Total Work: 84 Km</p> <p>Contractor: Kiratpur Ner Chowk Expressway Limited (KNCEL), a wholly-owned subsidiary of the Infrastructure Leasing & Financial Services Transportation Network Limited (IL&FS), India Infrastructure Finance Company Limited (IIFCL), New Delhi</p> <p>Implementing Authority: National Highways Authority of India</p> <p>Total Loan from IIFCL/DFI: 29.03 USD Million</p> <p>Project Completion: Initially slated for completion by 2016 end, the project is delayed and is expected to be completed in December 2018. The concession is for 28 years, including the construction period. As per the latest news reports, there is no clarity on expected completion date and there are reports that work is proceeding at a much slower rate - in the recent Government meeting concluded on <u>14 May 2019</u> - concerns have been raised about the Kiratpur-Nerchowk project abandoned by the concessionaire and urging the National Highway Authority of India to speed up work on this highway (https://www.tribuneindia.com/news/himachal/secy-apprised-of-condition-of-highways/772957.html)</p>
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E. Complaint

What direct and material harm has the ADB-assisted project caused to, or will likely cause to, the complainants?

Direct and Material Harm (Non payment of Workers' wages)

We are filing to you this complaint regarding the Kiratpur - Nerchowk Four Lane Road project in Himachal Pradesh, India, partially financed by the ADB's Accelerating Infrastructure Investment Facility in India. The BWI affiliate **All Himachal PWD-IPH & Contractual Workers Union Himachal Pradesh (AHPWDIPHCWU)** is a registered trade union with construction worker members. Similarly, Himachal Pradesh Building and Road Construction Workers Union (affiliated with CITU) has been actively pursuing justice for the workers on the site who are owed several months in back wages by the sub-contracted company – Infrastructure Leasing & Financial Services (IL&FS) – that has now been declared financially insolvent and bankrupt. Direct social harm as described by the workers are-

1. Unpaid back wages – Attached (Annexure – 1)
2. Receiving no formal appointment letters thereby having no legal privileges and/or contractual protections, - Attached Affidavits/ Legal Undertakings of Workers (Annexure – 2,3 & 4)
3. Widespread overtime violations and forced weekend work – Attached (Annexure – 1)

4. No social security coverage (This was at the sub-contractor level, however some details are annexed – Annexure 1)
5. No specific facilities for women workers (Only material evidence available is Charter of Demands submitted by the union to the company – Annexure 5)
6. Sub-standard Occupational Health and Safety measures and poor on site first-aid facilities. (Detailed Article from Sub-Divisional Magistrate clearly exhibits negligence on behalf of the company and the NHAI attached – Annexure 6)

Working with the BWI, the union has consistently worked to exhaust all domestic remedies in addressing the above-mentioned issues. They began organizing workers along the Kiratpur road project since 2014, conducting worksite-level meetings and raising key issues with contractors and sub-contractors. They received no response to their legitimate attempts in early 2018 to initiate collective bargaining by submitting a Charter of Demands (File attached – Annexure 5) to IL&FS and three major sub-contractors, re-submitting the charter on 2nd August 2018. There were more than 116 workers reached to the union and cases filed with the Labour Department in District Bilaspur (15 cases) and Court of LD Civil Sundar Nagar, District Mandi, Himachal Pradesh (67 Workers' cases) of workers on unpaid wages and, benefits. Out of these, only 8 cases have been disposed off by the Labour Office District Bilaspur. The Union has informed us that these claims amount to millions of rupees (More than 17.4 Million Indian Rupees). *(See the Annexes for details of unpaid wages & labour complaints)*

In August 2018, Brother Saini and the BWI met with ADB officials, outlining the steps they had taken to address issues and demanding ADB to take action. A joint mission with the ADB India Resident Mission was planned to Himachal Pradesh during November 2018, however Government approval was not granted for the visit. In the meantime however, the financial crisis at IL&FS had become clear; defaulting on billions on loans, Government obtained approval from a Mumbai Insolvency & Bankruptcy Court to take over the ailing company. The Union again raised these issues in an October 2018 ADB workshop in Delhi. The Union has reported that the work on the site had now come to a complete standstill by July-August 2018. Few sub-contractors had continued to work in the hope that they will get paid from the company. However, slowly it started emerging that the IL&FS is in financial crisis and facing bankruptcy - then the work stopped completely.

It is our opinion that the conduct of IL&FS has been in violation of the rules laid out in the ADB Social Protection Strategy, which guarantees the core labor standards and minimum legal protections. That same strategy requires that all ADB-funded projects have a ground-level grievance mechanism, however there was no such facility at the Nerchowk-Kiratpur road project.

Non-compliance with ADB Operational Policies and Procedures

Operations Manual Bank Policies OM Section C3/BP

The said OM pertains to the incorporation of social dimensions into the ADB operations. Accordingly, an initial poverty and social analysis (IPSA) is required for all loan and grant-based investment projects and programs to identify social issues. The IPSA should (i) identify expected poverty and social impacts of the intervention as a contribution to results at the sector and country levels; (ii) identify

key social issues (such as participation, gender, involuntary resettlement, indigenous peoples, **labor**, affordability, and other risks and/or vulnerabilities) that need to be addressed during implementation of the project preparatory technical assistance (PPTA) and the ensuing project; (iii) identify plans and terms of reference to assist in project preparation; and (iv) identify and allocate resources for conducting social analysis during the feasibility study or due diligence (para. 6).

i. Social Protection Policy of 2001

- ii. (iii) **Passive labor market policies** include (a) unemployment insurance, (b) income support, and (c) an appropriate legislative framework that strikes a balance between economic efficiency and labor protection. An appropriate legislative framework will include provisions on issues such as minimum age, maximum hours and overtime, labor contracts, industrial relations, special protection appropriate for new mothers, and anti-discrimination provisions to protect women and minorities. Internationally recognized labor standards, when ratified, are also part of the legislative framework of a DMC. With regard to the Core Labor Standards, no explicit ratification is needed for them to be part of the legislative framework of a country. The Core Labor Standards consist of (a) freedom of association and the effective recognition of the right to collective bargaining, (b) the abolition of all forms of forced or compulsory labor, (c) the elimination of discrimination in respect of employment and occupation, and (d) the elimination of child labor. All Asian and Pacific DMCs, by virtue of being member of the International Labour Organization (ILO), are held to respect, promote, and realize the fundamental Core Labor Standards (para 15).

iii. Social Protection Operational Plan 2014–2020,

- iv. ADB's Social Protection Strategy (2001) defines social protection as the set of policies and programs designed to reduce poverty and vulnerability by promoting labor markets functioning, diminishing people's exposure to risks, and enhancing their capacity to protect themselves against hazards and the interruption or loss of income. Social protection promotes inclusive growth by ensuring access to essential services by disadvantaged population groups, including widows, jobless workers, children in poor households, and persons with disabilities. It also helps to cushion the impact and social costs of natural disasters and economic crises. Social protection is generally understood to comprise three categories: social assistance, social insurance, and labor market programs. ADB's Social Protection Strategy also states that ADB will comply with the internationally recognized core labor standards (CLS) in its lending (Executive Summary, p.5).

Have the complainants made prior efforts to solve the problem(s) and issue(s) with the ADB operations department including Resident Mission concerned?

☒ **Yes, If YES, please provide the following: when, how, by whom, and with whom the efforts were made. Please describe any response the complainants may have received from or any actions taken by ADB.**

The Union and BWI have been engaging in the National Level legal framework as well as ADB officials, the details regarding the communication efforts are as follows:

- On 14th August 2018, Brother Saini and the BWI met with ADB officials at Manila and discussed about the issues and its solution at the Global Union Meeting with the ADB. Selected ADB representatives – Haidy S. Ear-Dupuy, Senior Social Development Specialist and Warren Evans, Special Project Facilitator were present.
- Number of Zoom meetings were organized with ADB officials on these issues alongwith email exchanges . Meetings were held on 4th February and 6th March with Dingding Tang and BWI officials including BWI AP Regional Representative (Annexure 10 and 11)
- *BWI-SA participated in the Regional Workshop on “Enhancing the Capacity of Financial Intermediaries (FIs) in the Management of Environmental and Social Risks as well as the Compliance Supervision and the Accountability” in New Delhi, India, on 31 October to 1 November 2018 and also raised the issue of Kiratpur Four Lane Project, Himachal Pradesh.*
- ADB South Asia Department proposed field audit of ADB-funded project in Himachal Pradesh on 11-15 November 2018, however permission was not granted by the Indian Government.
- On 28 Feb 2019, we have submitted letter to draw the attention Mr. Kenichi Yokoyama Country Director, the Indian Resident Mission on "Undermining Workers' Rights at the ADB-funded NHAI Kiratpur - Nerchowk Road Project" (*Attached copy of letter & response received Annexure 7 & 8*)

☐ **No**

F. Optional Information (The following information is not mandatory, but would be helpful in processing your complaint.)

ADB

1. What is the complainant's desired outcome or remedy for the complaint?

Immediate remedies be followed to pay the workers' unpaid/owed wages and claims to the tune of INR 17,450,741. In this process, it has been reported that some workers have run into debts and the compliance panel should investigate the issue as well. Additionally, strong safeguard mechanism or special fund be put in place by the ADB for covering failure in payment to workers or any such payment violations in case of bankruptcy as in the case of IL&FS in Kiratpur-Nerchowk Project in India.

2. Anything else you would like to Add?

Following documents are attached for your review as evidences:

- Workers' owed wages claim sheet (116 Workers - 34+67+15 workers) Annexure – 1
- Workers' Affidavits – Annexure 2,3 and 4
- Copy of Charter of Demands – Annexure 5
- Rescue and Emergency Management of a Man Made Disaster: Lesson Learnt from Cavedin Tihra Tunnel, Himachal Pradesh – Annexure 6
- Copy of the Letter sent to the ADB Resident Mission (28 Feb 2019 and response received – Annexure 7 and 8
- All IL&FS Staff Protest Letter to the Government – Annexure 9
- Zoom Meeting & Email Exchanges between ADB and BWI – Annexure 10, 11 and 12

Name of the person who completed this form: Apolinar Z. Tolentino

Signature:



Date: 26 June 2019

Please send the complaint by mail, fax, E-mail, or hand delivery, or through any ADB resident mission to the following:

Complaint Receiving Officer (CRO), Accountability Mechanism
 ADB Headquarters, 6 ADB Avenue, Mandaluyong City 1550, Philippines
 Telephone number: +63-2-6324444 local 70309 Fax: +63-2-6362086
 E-mail: amcro@adb.org

ADB Management's Response



Asian Development Bank



Memorandum
South Asia Department

23 August 2019

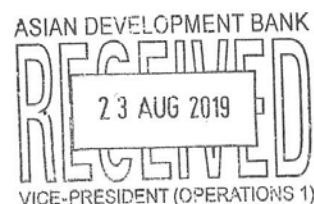
To: Dingding Tang
Chair, Compliance Review Panel and concurrently Head, Office of the Compliance Review Panel

Through: Shixin Chen
Vice President (Operations 1)

Hun Kim
Director General, SARD

From: Takeo Konishi
Director, SAPF

Subject: **Loan 3048-IND: Accelerating India Infrastructure Financing Facility – Tranche 1 — Management's Response**



I. Introduction

1. The Compliance Review Panel (CRP) requested Management's response regarding the request for compliance review forwarded by the Complaint Receiving Officer (CRO) to the CRP on 24 July 2019 on the above subject. The named complainant on the Accountability Mechanism Complaint Form is Building and Wood Workers' International Asia & Pacific (BWI), which purports to represent certain subcontract workers carrying out services under an ADB-financed project (the "Complainant").
2. In October 2013, ADB approved a \$700 million multitranche financing facility ("MFF") to India Infrastructure Finance Company Limited ("Borrower" or "IIFCL") for Accelerating Infrastructure Investment Facility in India. The MFF was processed as a financial intermediation loan (FI loan) facility. On 21 October 2013, ADB approved a \$400 million FI loan under tranche 1 of the MFF ("Tranche 1") and entered into a loan agreement with IIFCL dated 22 January 2014 ("Loan Agreement") which was guaranteed by India. The proceeds of the loan were to be used by IIFCL to provide subloans to qualified enterprises to finance eligible subprojects meeting the requisite criteria. By the time of the Tranche 1 loan closing date of 25 January 2017 ("Loan Closing Date"), the full \$400 million had been fully disbursed to IIFCL to finance 12 subprojects.
3. The complaint relates to the Kiratpur to Ner Chowk Expressway project (the "Subproject"), one of the eligible subprojects financed under Tranche 1. Section II of this memorandum provides background information on the Subproject. The Complainant alleges that the Subproject caused direct and material harm to workers on the project site comprising: unpaid back wages, lack of formal appointment letters, overtime violations, lack of social security cover at the sub-contractor level, lack of specific facilities for women workers, and substandard health and safety measures. The Complainant is seeking payment of INR 17,450,741 (\$243,521) and the establishment of a

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special fund or other mechanism to cover any failure of payment to workers under this Subproject as a result of the bankruptcy of Infrastructure Leasing & Financial Services ("IL&FS").

4. We believe that the complaint should be excluded from compliance review by the CRP as per the Accountability Mechanism (2012) ("AM Policy") on the grounds that:

- (a) the complaint was submitted to the CRP on 24 July 2019, which is more than 2 years after the loan closing date of 25 January 2017 (para. 142(iv) of AM Policy);
- (b) the complaint concerns the failure of the employer to pay wages and provide entitlements to the workers, and therefore relates to actions that are the responsibility of other parties that is not directly relevant to an assessment of ADB's compliance with its operational policies and procedures (para. 148(i) of AM Policy); and
- (c) the complaint is not related to ADB's action or omission in the course of formulating, processing, or implementing ADB-assisted projects given this is the direct result of a payment and entitlements dispute between the employer and employees (para. 142(i) of AM Policy).

5. More detailed explanations and justifications on the ineligibility of the claim are provided in Section III.

II. Background

6. On 16 March 2012, the National Highways Authority of India awarded the concession to Kiratpur Ner Chowk Expressway Limited ("KNCEL" or the "Project Company") and entered into a concession agreement with KNCEL under a develop, build, finance, operate and transfer model (the "Concession Agreement"). On 29 March 2012, IIFCL committed a subloan of Rs2,799 million (\$45 million) to KNCEL pursuant to a common loan agreement to finance part of the cost of the four laning of the Kiratpur to Ner Chowk section of NH-21 in the states of Punjab and Himachal Pradesh (the "Common Loan Agreement"). By the Loan Closing Date, Rs1,856 million (\$29 million) of the subloan had been disbursed to the Project Company, comprising 13% of the total debt financing for the Subproject and 8% of the total Subproject cost.

7. IL&FS Transportation Networks Limited, the parent company of KNCEL, was awarded the role of EPC contractor ("IL&FS TNL" or the "EPC Contractor"). KNCEL entered into subcontracts with several firms to undertake civil works and provide other services on the Subproject. Construction on the Subproject commenced in November 2013. Although Subproject was originally expected to be completed by November 2016, construction was delayed. An insolvency resolution process was commenced in 2018 for the IL&FS group, including IL&FS Limited (the parent company of IL&FS TNL), IL&FS TNL and KNCEL (together the "IL&FS Group Companies"), and construction was suspended around July 2018. The IL&FS insolvency proceedings are now before the National Company Law Appellate Tribunal of India ("NCLAT") and is subject to the insolvency resolution framework submitted to NCLAT¹. A diagrammatic presentation of the contractual relationship between the parties is set out in Appendix 1.

¹ <https://www.ilfsindia.com/media/2276/nclat-intimation.pdf>

III. Eligibility of the Complaint

8. There are several grounds to exclude the complaint from compliance review pursuant to paragraphs 142 and 148 of the AM Policy. Each ground is specified below, and any one of these grounds alone would be sufficient to exclude the complaint:

(a) **Outside the 2-year period:** The complaint is about an ADB-assisted project for which 2 or more years have passed since the loan closing date (para. 142(iv) of AM Policy). Footnote 41 of the AM Policy clarifies that in the context of programmatic operations such as multitranchise financing facilities, the cutoff date (i.e., the loan closing date) will be tranche-based. The Loan Closing Date for Tranche 1 was 25 January 2017. The complaint was submitted to the CRP on 24 July 2019. This is more than 2 years after the Loan Closing Date and presents a clear and unambiguous ground for exclusion of the complaint from compliance review.

(b) **Responsibility of Other Parties:** The complaint relates to actions that are the responsibility of other parties and such conduct is not directly relevant to an assessment of ADB's compliance with its operational policies and procedures (para. 148(i) of AM Policy). ADB's contractual relationship is exclusively with IIFCL, the Borrower under the Loan Agreement. In Section E of the Complaint Form, the Complainant alleges that the back wages are owed by IL&FS. This raises a number of issues:

(i) If IL&FS was the employer of the workers, the legal obligation to pay wages and other entitlements would be determined based on the terms of the employment agreement between the workers and IL&FS. The contractual obligation and responsibility to pay wages and entitlements rests with IL&FS alone, and not with any other party (including ADB). Furthermore, the claim is the direct result of a payment dispute between the employer and its employees, and not the result of a failure to comply with ADB policies and procedures. This presents another clear ground for exclusion of the complaint under para. 148(i) of the AM Policy.

(ii) The Common Loan Agreement and the Concession Agreement contained covenants requiring KNCCEL to maintain harmony and good industrial relations among personnel employed by it or its contractors, and to ensure that its contractors comply with all applicable permits and applicable laws of India or the States of Punjab and Himachal Pradesh in the performance of obligations under the Concession Agreement. Only the contractual counterparties to these agreements (being IIFCL and the National Highways Authority of India, respectively) have the right to enforce these provisions against KNCCEL (and its contractors), including any alleged violation of national or state employment and labor laws.

(iii) Arbitration or the court process present established avenues for resolution of an employment dispute concerning non-payment of wages under an employment agreement. In this process, the workers would set out their case, and provide evidence to substantiate their claim for back wages and other entitlements. The arbitrator/courts would examine the merits of the case and determine whether there was in fact a violation of the employment agreement, and with applicable national and state employment and labor laws. ADB would refrain from the pre-determination of any claims being examined or to be examined by local courts seeking to resolve employment disputes in accordance with applicable national or state employment and labor laws.

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(iv) In the present case, the IL&FS Group Companies are currently the subject of an insolvency resolution process. Under this process, creditors, including workers and employees, who have legitimate claims from any of the IL&FS Group Companies, have been invited to submit those claims and proof to Grant Thornton India LLP (the claims management advisor) using the prescribed claim forms posted on the IL&FS website.² Such claims would be reviewed and following the insolvency resolution process, paid out in accordance with the priority of payments set out in the Insolvency and Bankruptcy Code of India (2016).³ Typically, bankruptcy laws would place unpaid employee claims high in the priority of payments, thereby increasing the chance of satisfaction of those claims from a sale or liquidation of the company's assets, in priority to other creditors.⁴ Submitting a claim in a company's insolvency would be the standard avenue of recourse for creditors, including employees and workers, who are seeking to have outstanding claims satisfied. We are not aware whether the Complainant or the workers have pursued this avenue.

(v) Notwithstanding that Section E of the Complaint Form refers to IL&FS as the entity who owes back wages to the workers, we have been made to understand that the information in Annexures 1 to 6 and 9 of the Complaint Form reveal that four companies were the employers of the workers, namely Bharat Construction Engineering & Co., Sammon Construction Pvt. Ltd., IL&FS, and IL&FS TNL (the "Companies"). We were not provided with a copy of these Annexures on the basis that the Complainant wished to keep their identities confidential.⁵ That being the case, it has been difficult to verify whether these Companies were engaged on the Subproject, whether the workers were employees of these Companies and were working exclusively on the Subproject, or whether these workers were employed by the Companies to work on other projects unrelated to the Subproject and correspondingly whether any claim for unpaid back wages relates to work done on other projects. We have not been able to obtain independent verification of these matters from IL&FS and IL&FS TNL, due to the difficulties in eliciting information from these insolvent entities.

(vi) Furthermore, while the insolvency of IL&FS is referred to in the Complaint Form as one of the complicating factors in pursuing unpaid back wages, it does not appear that Bharat Construction Engineering & Co. and Sammon Construction Pvt. Ltd. are part of the IL&FS group currently undergoing an insolvency process.⁶ Assuming that these companies are not part of the insolvency process, there would be no reason why the Complainant or workers could not continue to pursue unpaid back wages and entitlements

² The IL&FS website provides instructions on how employees/workers should submit a claim in the insolvency of the IL&FS Group Companies under Regulation 9 of the Indian Insolvency Resolution Process for Corporate Persons Regulations (2016), along with a copy of the claim form to be completed (Form D or Form E): <https://www.ilfsindia.com/claim-management/offline-filing-of-claims-forms-available-for-download-not-applicable-for-financial-creditors/>. In addition, a public announcement was made inviting creditors of the IL&FS Group Companies (amongst others) to submit their claim with proof to Grant Thornton India LLP (the claims management advisor): https://www.ilfsindia.com/media/2411/all_ads.pdf

³ Insolvency and Bankruptcy Code of India (2016): <http://www.mca.gov.in/Ministry/pdf/TheInsolvencyandBankruptcyofIndia.pdf>.

⁴ See footnote 2 above, section 53 of The Insolvency and Bankruptcy Code of India (2016).

⁵ In response to our request to CRP to obtain a copy of the Annexures to the Complaint Form, and to obtain the names of the employers, on 14 August 2019 we were provided with a copy of Annexures 7 and 8, 10 to 12, and on 15 August 2019, we were informed that the names of the companies/contractors/subcontractors who employed the workers were Bharat Construction Engineering & Co., Sammon Construction Pvt. Ltd., IL&FS, and IL&FS Transportation Networks Ltd.

⁶ See footnote 1 above. These companies are not listed as part of the 302 IL&FS group companies set out in Annexure B.

from these companies in the normal course, pursuant to the terms of their employment agreements and established avenues for resolution of employment disputes.

- (c) **Complaint Unrelated to ADB's Actions.** The complaint is about an action that is not related to ADB's action or omission in the course of formulating, processing, or implementing ADB-assisted projects (para. 142(i) of AM Policy). The claim is the direct result of a payment and entitlements dispute between the employer and its employees (as already discussed in sub-para. (b) above), and not the result of a failure to comply with ADB policies and procedures.

IV. Compliance with all the relevant ADB's policies and procedures and good faith effort

9. Notwithstanding ADB's concerns regarding the eligibility of the complaint, ADB nevertheless responds that processing and implementation of Tranche 1 was undertaken in accordance with all applicable ADB's policies and procedures including those applicable to financial intermediation loans (Operations Manual Section D6), Operations Manual Section C3 (OMC3), ADB's Safeguards Policy Statement (SPS), and the Social Protection Policy (2001). Appendix 2 (**Response Matrix**) sets out evidence of compliance with these policies and procedures, and a detailed response to the matters raised by the Complainant.

10. In terms of the ADB's safeguards oversight, the Loan Agreement contained covenants requiring IIFCL to undertake screening of proposed qualified subprojects to review and report on compliance with the Environmental and Social Safeguards Framework ("ESSF") prepared in accordance with the SPS, and to ensure that such subprojects are undertaken in compliance with the SPS and the ESSF. ADB reviewed periodic reports and conducted review missions to monitor the implementation status of the ESSF. None of the regular Environmental and Social Due Diligence Reports submitted by the Borrower for the Subproject contained any information indicating any employment disputes with workers or allegations of unpaid wages and entitlements. ADB was only alerted to such allegations after the Loan Closing Date.

11. ADB nonetheless made good faith efforts to address these issues with the Complainant. (see **Appendix 3** Chronology of communication with the Complainant). Furthermore, ADB worked with IIFCL to update and strengthen the ESSF in subsequent loan tranches.

V. Further Information

12. Notwithstanding ADB's view that the complaint is ineligible for compliance review, ADB will continue dialogue and open consultations with the Complainant. Management stands ready to provide further clarification and materials to CRP upon request.

Attachments:

Appendix 1	Contractual Relationship of the Concerned Subproject
Appendix 2	Response Matrix
Appendix 3	Chronology of Communication with the Complainant

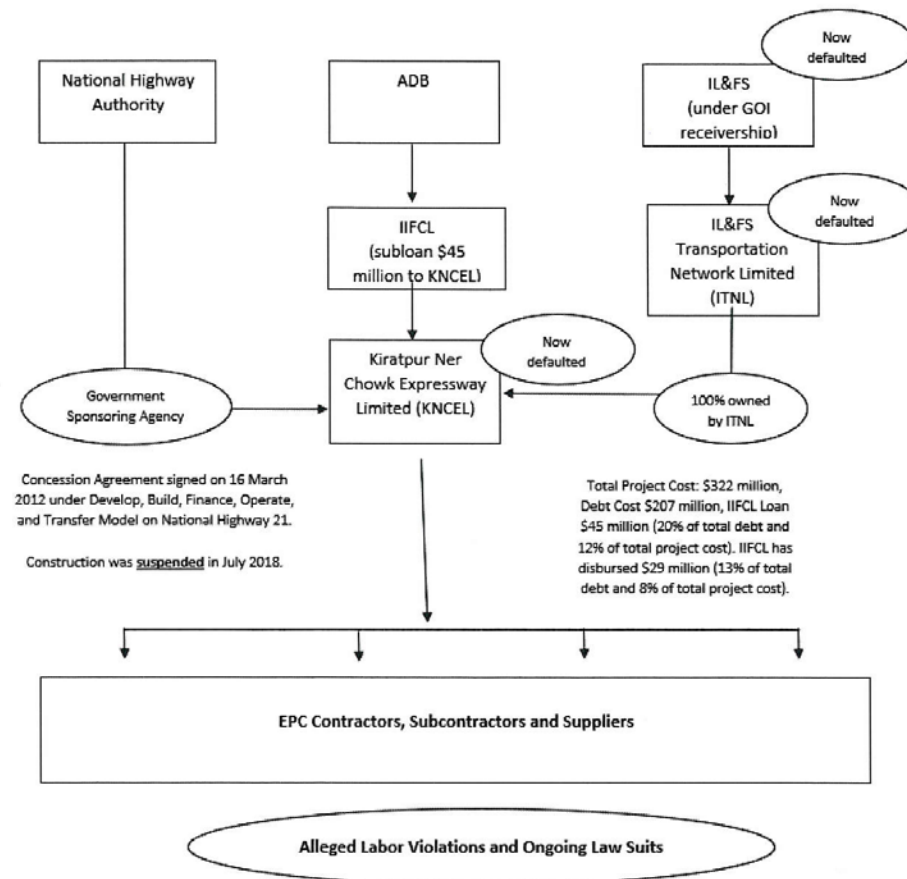
cc: Executive Director, India; Deputy Director General, SARD; Director General, SDCC/ Chief Compliance Officer, SDOD; Senior Advisor, SDOD, Director, SDSS; Country Director, INRM;

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Assistant General Counsel, P. Rhee, and D. Perkins, OGC; Advisor, VPO1; R. Barba, J. Francis, F. Tornieri, SAOD-PR; T. Hoshino, K. Hidalgo, M. Cariño, SAPF

Appendix 1

Contractual Relationship of the Concerned Subproject



Note: This chart was developed by ADB project team based on information from IIFCL.

Response Matrix

I. Complaints and ADB Responses

	Complaint	ADB Response	Details
A	Direct and Material Harm (non payment of workers' wages) (page 3-4 of the Complaint)		
1	Unpaid back wages	<p>ADB's contractual relationship is exclusively with IIFCL, the Borrower under the Loan Agreement and India (as guarantor). The claim is the direct result of a payment and entitlements dispute between the employer and the employees, and not the result of a failure to comply with ADB policies and procedures.</p> <p>In addition, if any unpaid back wages are owing, per the terms of any employment contract, it is the employers who are legally and contractually responsible to pay. If the employers are any of the IL&FS Group Companies currently the subject of an insolvency process, employees and workers may submit a claim for payment to Grant Thornton (the Claims Management Advisor). If the employers are non-IL&FS Group Companies (and it appears that Bharat Construction Engineering & Co. and Sammon Construction Pvt. Ltd may not belong to the IL&FS group) there would appear to be no reason why the Complainant or workers could not continue to pursue unpaid back wages and entitlements from these companies in the normal course, pursuant to the terms of their employment agreements and established avenues of dispute resolution.</p>	<p>Loan Agreement: (https://www.adb.org/projects/documents/loan-agreement-accelerating-infrastructure-investment-facility-india-project-1)</p> <p>Guarantee Agreement: (https://www.adb.org/sites/default/files/project-document/79903/47083-002-mga1.pdf)</p> <p>The IL&FS website provides instructions on how employees/workers should submit a claim in the insolvency of the IL&FS Group Companies under Regulation 9 of the Indian Insolvency Resolution Process for Corporate Persons Regulations (2016), along with a copy of the claim form to be completed (Form D or Form E): https://www.ilfsindia.com/claim-management/offline-filing-of-claims-forms-available-for-</p>

			<p><u>download-not-applicable-for-financial-creditors/.</u></p> <p>In addition, a public announcement was made inviting creditors (which would include workers and employees) of the IL&FS Group Companies (amongst others) to submit their claim with proof to Grant Thornton India LLP (the Claims Management Advisor): https://www.ilfsindia.com/media/2411/all_ads.pdf</p>
2	Receiving no formal appointment letters thereby having no legal privileges and/or contractual protections	IIFCL had a meeting with the developer on 27 August 2018 in Gurugram Haryana. The meeting was attended by Mr.Ashutoch Chandwar, Senior VP, IL&FS C. K. Singh, Manager, KNCCL, Nishant Shirvastava, VP & Project Director, KNCCL, Dr. S. Garg, General Manager, and K. Guru from IIFCL. IL&FS provided evidence of compliance with legal requirements for the workers.	<p>A local supplier of one of the main sub-contractors (IL&FS Engineering Construction Network Limited) provided the following documents as evidence:</p> <p>Sample employment cards (Attachment 1), IDs (Attachment 2 and Attachment 8), payslips (Attachment 3), Employee Provident Fund payments (Attachment 6 and Attachment 11), and insurance payments from BKS Services (Attachment 10).</p> <p>ADB requested detailed information from IIFCL, ADB's contractual counterparty, for further verification and validation. However, IIFCL was not able to</p>

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			obtain further information from KNCEL, its contractual counterparty, due to KNCEL's current insolvency process.
3	Widespread overtime violations and forced weekend work	Working hours were fixed at 8 hours. In accordance with the legal requirement, overtime hours were paid double the regular working hourly rate and weekly rest was given to applicable workers.	IIFCL obtained sample payslip (Attachment 3), attendance card (Attachment 4) and timesheet (Attachment 5). Please also refer to the minimum rates of wages (Attachment 9). ADB requested detailed information from IIFCL for further verification and validation but IIFCL was not able to obtain further information from KNCEL.
4	No social security coverage (This was at the sub-contractor level)	All applicable workers are covered with social security schemes such as, Employee's Provident Fund (EPF) and workers compensation policy. EPF contributions were deposited regularly for all applicable workers.	IIFCL obtained EPF form showing SBI receipt of payment (Attachment 6) and worker's welfare board receipt (Attachment 7). ADB requested detailed information from IIFCL for further verification and validation but IIFCL was not able to obtain further information from KNCEL.
5	No specific facilities for women workers	<p>ADB required, through the Environmental and Social Safeguards Framework (ESSF 2013), that financed subprojects with safeguard risks be subject to environmental assessment and that such assessment would require consideration of occupational health and safety risks.</p> <p>The Environmental Management Plan (EMP) within the Environmental and Social Due Diligence Report for the Kiratpur Ner Chowk Expressway included provisions related to occupational health and safety including a specific requirement for "separate</p>	None of the safeguard monitoring reports prepared by IIFCL and disclosed by ADB reflected these issues, nor were these issues raised during any ADB review missions. ADB requested detailed information from IIFCL for further verification and validation but IIFCL was not able to obtain further information from KNCEL.

		<p>toilets/bathrooms, wherever required, screened from those from men (marked in vernacular) be provided for women".</p> <p>The IIFCL site visit of 2-4 January 2015 reported in the Environmental and Social Due Diligence Report dated February 2015 that such facilities were in place.</p> <p>IIFCL further reported to ADB that toilet facilities were provided to all workers onsite, with special provisions for women.</p>	<p>ESSF 2013: (https://www.adb.org/projects/documents/accelerating-infrastructure-investment-facility-india-esmsa)</p> <p>Environment and Social Due Diligence Report for the Kiratpur Ner Chowk Expressway Ltd. (February 2015)⁷: (https://www.adb.org/projects/documents/accelerating-infrastructure-investment-facility-india-kiratpur-ner-chowk-expressway-sddr)</p>
6	Sub-standard Occupational Health and Safety measures and poor on site first-aid facilities	<p>ADB required, through the ESSF 2013, that financed subprojects with safeguard risks be subject to environmental assessment and that such assessment would require consideration of occupational health and safety risks.</p> <p>The EMP within the Environmental and Social Due Diligence Report for the Kiratpur Ner Chowk Expressway Ltd. (KNCEL) included provisions related to occupational health and safety including a specific requirement for "good first aid facilities and doctors should be available at all times at the site".</p> <p>The IIFCL site visit of 2-4 January 2015, as reported in the Environmental and Social Due Diligence Report dated February 2015 that such facilities were in place.</p> <p>Further, in the Environmental and Social Due Diligence Report dated February 2015, IIFCL reported to ADB that a First Aid Center was</p>	<p>None of the safeguard monitoring reports prepared by IIFCL and disclosed by ADB reflected these issues, nor were these issues raised during any ADB review missions.</p> <p>Links to the ESSF 2013, EMP and reports are provided above.</p>

⁷ Environmental Management Plan is on pages 177 and 211.

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		equipped with MBBS doctor, pharmacist and store for medicines. PPE and toolbox were provided onsite.	
B	Compliance with ADB Operational Policies and Procedures (page 4-5 of the Complaint)		
1	<p>ADB Social Protection Strategy</p> <p>The conduct of IL&FS has been in violation of the rules laid out in the ADB Social Protection Strategy, which guarantees the core labor standards and minimum legal protections.</p>	<p>Para 15(iii) of the Social Protection Strategy of 2001 lists the Core Labor Standards (CLS): (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the abolition of all forms of forced or compulsory labor; (c) the elimination of discrimination in respect of employment and occupation; and (d) the elimination of child labor.</p> <p>The Complainant has not specified which (if any) of these CLS have been breached, nor has it provided evidence of any such breach. Indeed, the nature of the alleged direct and material harm specified by the Complainant in the Complaint Form does not appear to pertain to any of the CLS.</p> <p>In any event, the Facility Administration Manual for the MFF contained commitments from IIFCL to work with subborrowers to promote adherence to national core labor standards consistent with Indian legislation and regulations. Additionally, in relation to (b) (the abolition of all forms of forced or compulsory labor), please see our response in item A3 above.</p>	<p>ADB Social Protection Strategy of 2001: (https://www.adb.org/documents/social-protection-strategy)</p> <p>Facility Administration Manual: (https://www.adb.org/sites/default/files/project-document/78975/47083-001-ind-fam.pdf)</p>
2	<p>Operations Manual Bank Policies OM Section C3/BP (OM C3/BP)</p> <p>The said OM pertains to the incorporation of social dimensions</p>	<p>The multitranche financing facility's (MFF) IPSA and SPRSS were prepared in accordance with OM C3/BP provisions and approved by the ADB Board as part of the RRP.</p> <p>In the IPSA and SPRSS for the facility, the social dimensions were extensively discussed to identify key issues that need to be addressed during the project implementation as part of the</p>	<p>IPSA: (https://www.adb.org/projects/documents/accelerating-infrastructure-investment-facility-india-ipsa)</p>

	into the ADB operations. Accordingly, an initial poverty and social analysis (IPSA) and Summary Poverty Reduction and Social Strategy (SPRSS) are required for all loan and grant-based investment projects and programs to identify social issues.	environmental and social management system arrangement for the facility.	SPRSS: (https://www.adb.org/sites/default/files/linked-documents/47083-001-ind-sprss.pdf)
3	Social Protection Operational Plan 2014-2020.	The Social Protection Operational Plan 2014-2020 (SPOP) is a guideline, not an operational policy or procedure. Therefore, under para. 146 of the AM Policy, the SPOP is not subject to compliance review.	

Note: ADB = Asian Development Bank, AM = Accountability Mechanism, CLS = Core Labor Standards, EMP = environmental management plan, EPF = Employee's Provident Fund, ESSF 2013 = Environmental and Social Safeguards Framework of 2013, IIFCL = India Infrastructure Finance Company Limited, IL&FS = IL&FS Transportation Network Limited, IPSA = initial poverty and social analysis, KNCEL = Kiratpur Ner Chowk Expressway Ltd., MBBS = Bachelor of Medicine and Bachelor of Surgery, MFF = multitranché financing facility, OM = operations manual (of ADB), PPE = personal protective equipment, RRP = Report and Recommendation of the President (to ADB Board of Directors), SBI = State Bank of India, SPOP = Social Protection Operational Plan 2014-2020, SPRSS = Summary Poverty Reduction and Social Strategy, VP = Vice President.

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II. ADB's Compliance with Other Applicable ADB Operational Policies and Procedures

	Other applicable ADB Operational Policies and Procedures	Status of Compliance	Details
1	Operations Manual Section D6/BP (Financial Intermediation Loans)	ADB team complied with the requirements for the subproject on the OM D6/BP. In particular: (i) the policies, systems and procedures to monitor compliance with the social and environmental impact of the Subproject was contained in the ESSF 2013 and the Environmental and Social Safeguards Reports provided by IIFCL; and (ii) the Loan Agreement required compliance with applicable laws, rules, regulations and policies of India and its relevant state(s), and ADB's Safeguard Policy Statement of 2009.	Links to the ESSF 2013 and Loan Agreement provided above. Environmental and Social Safeguards Reports: https://www.adb.org/projects/documents/accelerating-infrastructure-investment-facility-india-kiratpur-ner-chowk-expressway-sddr https://www.adb.org/projects/documents/ind-47083-002-esmr-0 https://www.adb.org/projects/documents/ind-47083-002-esmr-1
2	Safeguards Policy Statement paragraph 65 and Appendix 4 (Financial Intermediaries) and Operations Manual Section F1/OP Safeguards Policy Statement	Due diligence for the processing of the facility confirmed the existence of an adequate ESMS at IIFCL. ⁸ ADB assisted IIFCL in formulating its safeguards policy and framework in 2007. Its environmental and social safeguards framework (ESSF) was developed in consultation with JICA, KfW and the World Bank and was updated in 2010 and 2013. During the due diligence of the facility, IIFCL was in the process of further strengthening the environmental and social management unit (ESMU) with additional staff.	Links to ESSF 2013, reports and Loan Agreement provided above. In addition: Safeguards Policy Statement of 2009: https://www.adb.org/sites/default/files/institutional-

⁸ The ESSF 2013 describes its i) environmental and social policies in Section II; (ii) safeguard screening, categorization, and review procedures in Section III; (iii) organization structure and staffing in Section IV; and (iv) performance monitoring and reporting procedures in Section IV.


	<p>The FFA also includes relevant sections of the ESSF 2013.</p> <p>The ESSF 2013 replicates ADB's prohibited activities and cites that such activities do not qualify for financing from DFIs. The Loan Agreement requires compliance with applicable laws, rules, regulations and policies of India and its relevant state(s), and ADB's Safeguards Policy Statement of 2009.</p> <p>The ESMS (see ESSF 2013 Section III) describes categorization and safeguards requirements in accordance with ADB's Safeguards Policy Statement of 2009. The requirements safeguard monitoring and reporting during the project implementation were clearly documented in the FFA.</p> <p>As per the FFA, IIFCL prepared and submitted to ADB: (i) Annual Environmental and Social Audit Reports and (ii) Environmental and Social Safeguards Reports for the subproject. After ADB's verification, these reports are disclosed on ADB's website.</p>	<p>document/32056/safeguard-policy-statement-june2009.pdf</p> <p>Framework Financing Agreement: https://www.adb.org/sites/default/files/linked-documents/47083-001-ind-ffa.pdf</p>
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Note: ADB = Asian Development Bank, DFI = development finance institution, ESMS = environment and social safeguards management system, ESSF 2013 = Environmental and Social Safeguards Framework of 2013, ESMU = environmental and social management unit, FFA = Framework Financing Agreement, IIFCL = India Infrastructure Finance Company Limited, JICA = Japan International Cooperation Agency, KfW = Kreditanstalt für Wiederaufbau of Germany.

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Attachments to Appendix 2

Attachment 1: Employment cards

<p>FORM XIV [See Rule 76] Employment Card</p>	
Ref No.: BKS/KNCRP/EC/W/037	Date: 01.01.2015
<p>Name and address of Contractor: BKS Services:-Rink View Bulilding Set no -3 Near Revoli Lakkar Bazar Shimla HP Pin Code 171001</p>	<p>Name and address of establishment in/ under which contract is carried on: IL&FS Engineering and Construction Co.Ltd Vill.Kuddi PO Binola Tehsil Sadar Distt.Bilaspur HP Pin Code 174001</p>
<p>Nature and location of work: Four Laning of Kiratpur NerChowk Section of NH-21</p>	<p>Name and address of PrincipalEmployer: National Highways Authority of India PIU-Mandi, Village Chakkar, PO Nagchala, Tehsil Balh Distt. Mandi. Himachal Pradesh Pin Code 175021</p>
<p>1.Name of the workmen : Surinder Singh</p>	
<p>2.Sl. No. In the register of workmen employed:-KNCRP/W/037 Date of Joining:- 01-01-2015</p>	
<p>3 Nature of employment/Designation: Excavator Operator</p>	
<p>4.Wage rate (with particular of unit, in case of piece-work): 19000 /- Per Month</p>	
<p>5. Wages period: MONTHLY</p>	
<p>6.Tenure of employment: CONTRACTUAL</p>	
<p>7. Remarks.....</p>	
<p> Signature of Contractor</p>	
<p>20/4/15</p>	

Attachment 2: Identification cards

<p>IL&S Engineering Services KIRATPUR NERCHOWK ROAD PROJECT NH-21</p> <p>Name : Surinder Singh E.Code : KNCRP/W037 Designation : Excavator Operator Department : P&M D.O.J. : 02-Jan-14</p> <p>IL&S Engineering and Construction Co. Ltd. Project Office : Village Kudli, NH-88, Near Ghagus, P.O. Binola Tehsil Sadar, Dist. Bhaspur, HP-174001</p>	<p>IL&S Engineering Services KIRATPUR NERCHOWK ROAD PROJECT NH-21</p> <p>Name : Sanjay Kumar E.Code : KNCRP/W055 Designation : B. Plant Operator Department : P&M D.O.J. : 11-Feb-14</p> <p>IL&S Engineering and Construction Co. Ltd. Project Office : Village Kudli, NH-88, Near Ghagus, P.O. Binola Tehsil Sadar, Dist. Bhaspur, HP-174001</p>
<p>IL&S Engineering Services KIRATPUR NERCHOWK ROAD PROJECT NH-21</p> <p>Name : Prakash Chand E.Code : KNCRP/W081 Designation : TM Driver Department : P&M D.O.J. : 01-May-14</p> <p>IL&S Engineering and Construction Co. Ltd. Project Office : Village Kudli, NH-88, Near Ghagus, P.O. Binola Tehsil Sadar, Dist. Bhaspur, HP-174001</p>	<p>IL&S Engineering Services KIRATPUR NERCHOWK ROAD PROJECT NH-21</p> <p>Name : Majeet Kumar E.Code : KNCRP/W0135 Designation : Rigger Department : P&M D.O.J. : 01-May-14</p> <p>IL&S Engineering and Construction Co. Ltd. Project Office : Village Kudli, NH-88, Near Ghagus, P.O. Binola Tehsil Sadar, Dist. Bhaspur, HP-174001</p>
<p>IL&S Engineering Services KIRATPUR NERCHOWK ROAD PROJECT NH-21</p> <p>Name : Ramesh Kumar E.Code : KNCRP/W0135 Designation : Store Assistant Department : Stores D.O.J. : 03-Jun-14</p> <p>IL&S Engineering and Construction Co. Ltd. Project Office : Village Kudli, NH-88, Near Ghagus, P.O. Binola Tehsil Sadar, Dist. Bhaspur, HP-174001</p>	<p>IL&S Engineering Services KIRATPUR NERCHOWK ROAD PROJECT NH-21</p> <p>Name : Avinash Bhardwaj E.Code : KNCRP/W0164 Designation : Storekeeper Department : Stores D.O.J. : 23-Aug-14</p> <p>IL&S Engineering and Construction Co. Ltd. Project Office : Village Kudli, NH-88, Near Ghagus, P.O. Binola Tehsil Sadar, Dist. Bhaspur, HP-174001</p>
<p>IL&S Engineering Services KIRATPUR NERCHOWK ROAD PROJECT NH-21</p> <p>Name : Lal Mani Mourya E.Code : KNCRP/W189 Designation : Weigh Bridge Operator Department : Stores D.O.J. : 09-Nov-14</p> <p>IL&S Engineering and Construction Co. Ltd. Project Office : Village Kudli, NH-88, Near Ghagus, P.O. Binola Tehsil Sadar, Dist. Bhaspur, HP-174001</p>	<p>IL&S Engineering Services KIRATPUR NERCHOWK ROAD PROJECT NH-21</p> <p>Name : Pawan Kumar E.Code : KNCRP/W259 Designation : Electrician Department : P & M D.O.J. : 25-Mar-15</p> <p>IL&S Engineering and Construction Co. Ltd. Project Office : Village Kudli, NH-88, Near Ghagus, P.O. Binola Tehsil Sadar, Dist. Bhaspur, HP-174001</p>
<p>IL&S Engineering Services KIRATPUR NERCHOWK ROAD PROJECT NH-21</p> <p>Name : Jai Ram E.Code : KNCRP/W261 Designation : Electrician Department : P & M D.O.J. : 25-Mar-15</p> <p>IL&S Engineering and Construction Co. Ltd. Project Office : Village Kudli, NH-88, Near Ghagus, P.O. Binola Tehsil Sadar, Dist. Bhaspur, HP-174001</p>	<p>IL&S Engineering Services KIRATPUR NERCHOWK ROAD PROJECT NH-21</p> <p>Name : Bhagvan Singh E.Code : KNCRP/W280 Designation : Cook Department : Admin D.O.J. : 21-Apr-15</p> <p>IL&S Engineering and Construction Co. Ltd. Project Office : Village Kudli, NH-88, Near Ghagus, P.O. Binola Tehsil Sadar, Dist. Bhaspur, HP-174001</p>

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Attachment 3: Payslip

IL And FS Engineering Services

FORM
WAGE SLIP
(Rule 78(1)(ii))

Name and address of contractor: IL&FS Engineering and Construction Co. Ltd. Village Kuddi, Near Ghagus, P.O.: Binola, Tehsil Sadar, Distt: Gilaspor 174001 Himachal Pradesh		Name and of the Workman: KAMAL JEET	
Nature and location of work: Four Lining of Kiratpur to Ner Chowk, Section of NH-21		Father's/Husband's Name: Sh Attar Singh	
For the Month ending: Jun-15		PF Number: HPSML1054625-00000000058	
No. of days worked Days: 30		Designation: Electrician	
		QT Hour: 89	
1	Rate of daily wages/piece-rate	8528	
2	Amount of overtime wages	5658	
3	Statutory Bonus	292	
4	Other Allowances	3475	
5	Tunnel Allowance	1706	
6	Gross wages payable	19659	
7	Deductions, if any: PF Deduction Rs. Mobile Deduction Rs.	1023	
8	Net amount of wages paid	18636	

Rupees Eighteen Thousand Six Hundred Thirty Six Only

This is a system generated slip and does not require a physical Signature

Attachment 4: Attendance card

53 NAME OF EMPLOYER / COMPANY: **IL And FS Engineering Services**

Employee's Name: **Shushil Kumar** No. **64**

Post: **Grader Operator**

Address: _____

Phone: _____

Section / Dept: _____

Nature of Work: **Grader Operator**

Working Hours From: _____ To: _____

Interval: _____ To: _____

To: _____

The Manager:

1. I agree to abide by all Employer's rules.

2. I am engaged on monthly / Daily from day to day.

3. All damages done to tools & machines etc. of the mill by my carelessness negligence or dishonesty shall be compensated by me.

4. I shall not abscond myself with leave and in case I do, I shall be responsible for such loss suffered by the mill by my such conduct.

5. If this card is lost or destroyed I shall pay Rs. 1/- to get a new one.

6. I shall not be entitled to any dues in case I am dismissed for misconduct.

7. I promise to deposit the card before issuing the new card.

Date: _____ Yours _____

IL And FS Engineering Services

Attachment 5: Timesheet

ST-2

Date	Attendance		Interval	2nd Time	Total Hours Worked	Advances	Signature	Date	Attendance		Interval	2nd Time	Total Hours Worked	Advances	Signature
	1st	2nd							1st	2nd					
1	P	P			8:00		[Signature]	16	P	P			8:00		[Signature]
2	P	P			11		[Signature]	17	P	P			11		[Signature]
3	P	P			11		[Signature]	18	P	P			11		[Signature]
4	P	P			11		[Signature]	19	P	P			11		[Signature]
5	P	P			11		[Signature]	20	P	P			11		[Signature]
6	P	P			11		[Signature]	21	P	P		7	11		[Signature]
7	P	P		4	9:00-12		[Signature]	22	P	P			11		[Signature]
8	P	P			8:00-11		[Signature]	23	P	P			11		[Signature]
9	P	P			11		[Signature]	24							[Signature]
10	P	P			11		[Signature]	25							[Signature]
11	P	P			11		[Signature]	26							[Signature]
12	P	P			11		[Signature]	27							[Signature]
13	P	P			11		[Signature]	28							[Signature]
14	P	P		4	4:00-12		[Signature]	29							[Signature]
15	P	P			3:00-12		[Signature]	30							[Signature]
								31							

Attachment 6: Employee's Provident Fund payment receipt by State Bank of India

COMBINED CHALLAN OF A/C NO. 04, 02, 19, 21 & 22 (With ECR)
(STATE BANK OF INDIA)
EMPLOYEES' PROVIDENT FUND ORGANISATION
SHIMLA.

TOTAL 22/02/2019
Employee's Code

ESTABLISHMENT CODE & NAME : FPM1815402000 (BANSERWICKS)
ADDRESS: ROOM NO-3 BHK VEEVILLOO (VILLU) LAKSHI BAZAR, BAZAR, SHIMLA-171009

For the wage month of 02/2019

TOTAL SUBSIDIES	A/C 01 241	A/C 12 203	A/C 21 201		
TOTAL WAGES	A/C 01 1802017	A/C 12 1803019	A/C 21 1804017		

SL. PARTICULARS	A/C 01	A/C 02	A/C 19	A/C 21	A/C 22	TOTAL
1. EMPLOYEES SHARE OF CONT.	7543		10744	8278		22765
2. EMPLOYEES SHARE OF CONT.	22947					22947
3. ADMIN CHARGES						
4. INSPECTION CHARGES		10252			195	10447
5. PENAL DAMAGES						
6. WAGE PAYMENT INTEREST US 702						

GRAND TOTAL (IN WORDS) : Rupees Four Lakh Seventy-Two Thousand Two Hundred and Sixty Nine Only

FOR BANKS USE ONLY
 Branch/Regional Office
 Date of presentation of Cheque/CC
 Date of Realisation of Cheque/CC
 SBI Branch Name
 SBI Branch Code

FOR EMPLOYEES' PROVIDENT FUND ORGANISATION USE ONLY (To be normally sent to Employer)
 Cheque/CC No. 4444444444
 Cheque/CC Date sent to Employer
 Name of the Designated Bank
 Date of Deposit
 Signature of the Employer

REMARK: INSERT CHEQUE/COUNTER DRAFT & CHALLAN AT THE COUNTER ONLY

(This is a system generated statement generated by the system. The particulars shown in this challan are populated from the Electronic Challan System (ECS) uploaded by the beneficiaries for the respective month and year. Beneficiaries can also verify their Cheque/CC in any designated branch of SBI.)

(For any discrepancy/errata/omission/alteration, please visit www.sbi.co.in or ESRM Query)

Attachment 7: Worker's welfare board receipt

**H. P. BUILDING & OTHER CONSTRUCTION WORKERS
WELFARE BOARD, SHIMLA-171002**

No. 0003946 Original 5902 Date 7/7

Received with thanks from Mr./Mrs. Mr. Sat. Saffi

Sum of Rupees S/o. Sat. Saffi
Ten. only

By Cash/Cheque/Draft No. and date by Cash

On account of Recep. for cap to 5/20/7

Rs. 10/- Signature with Stamp

(Local/Multicity cheque subject to realization)

राजकीय मुद्रांकन दि 0 प्र 0, शिमला-2659-बी 0 ओ 0 मी 0 इस्सू 0/2010-2-4-2010-1,000 कितारें।

**H. P. BUILDING & OTHER CONSTRUCTION WORKERS
WELFARE BOARD, SHIMLA-171002**

No. 0003947 Original 5903 Date 7/7

Received with thanks from Mr./Mrs. Sardar Singh

Sum of Rupees S/o. Sat. Saffi
Ten. only

By Cash/Cheque/Draft No. and date by Cash

On account of Recep. for cap to 5/20/7

Rs. 10/- Signature with Stamp

(Local/Multicity cheque subject to realization)

राजकीय मुद्रांकन दि 0 प्र 0, शिमला-2659-बी 0 ओ 0 मी 0 इस्सू 0/2010-2-4-2010-1,000 कितारें।

Attachment 9: Wages per Chief Labor Commissioner

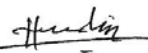
(2)

Therefore the minimum rates of wages showing the basic rates and Variable Dearness Allowance payable w.e.f. 01.04.2015 will be as under :-

Category of worker	Rates of wages including V.D.A. per day (In Rupees)		
	A Area	B Area	C Area
Unskilled	<u>180.00 + 168.00</u> 348.00	<u>150.00 + 140.00</u> 290.00	<u>120.00 + 113.00</u> 233.00
Semi-Skilled/Unskilled Supervisory	<u>200.00 + 185.00</u> 385.00	<u>170.00 + 158.00</u> 328.00	<u>140.00 + 132.00</u> 272.00
Skilled/ Clerical	<u>220.00 + 204.00</u> 424.00	<u>200.00 + 185.00</u> 385.00	<u>170.00 + 158.00</u> 328.00
Highly Skilled	<u>240.00 + 221.00</u> 461.00	<u>220.00 + 204.00</u> 424.00	<u>200.00 + 185.00</u> 385.00

The VDA has been rounded off to the next higher rupee as per the decision of the Minimum Wages Advisory board meeting held of 26-8-2008.

The Classification of workers under different categories and the classification of cities under different areas will be same as in the notification referred to in para I as amended from time to time. The present classification of cities into areas A, B & C is enclosed at Annexure I for ready reference.



(P.P. MITRA)

CHIEF LABOUR COMMISSIONER(C)

To

As per list attached

प्रभु श्री गणेशाय नमः
THE ORIENTAL INSURANCE COMPANY LIMITED
 (भारत सरकार द्वारा अनुमोदित)
 CIN - U66010DL1947GOI007158

Policy No. : 263102/48/2016/756
 Cover Note No. : -
 Insured's Code : 70322595
 Insured's Name : M/S BKS SERVICES
 Address : HEAD OFFICE RINK VIEW BUILDING SET NO-3, NEAR REVOLI LAKKAR BAZAR SHIMLA-171001 HP

SHIMLA HIMACHAL PRADESH 171003
 Tel /Fax /Email : 9418095051 / 9418095051 / bksservices182@yahoo.in
 Tel /Fax /Email : 0177-2652056, 2651307 / 0177-2651307 / 263102@orientalinsurance.co.in

Agent/Broker Details
 Dev.Off.Code : NA0000007465 MR. D.C. CHAUHAN
 Agent/Broker : BA0000094814 MRS. DEEPA
 Address : VILL, DHANI, PO MASHOBKA, TEHSIL & DISTT. SHIMLA, SHIMLA, HIMACHAL PRADESH, 171007
 Tel/Fax/Email : 0177-2740244/2740244/INA

Period of Insurance : FROM 00:00 ON 01/12/2015 TO MIDNIGHT OF 30/11/2016
 Collection No. & Dt. : CHQCSH 2280003391 - 30/11/2015
 Gross Premium : 58,387
 Co-insurance Details : NIL
 Number of persons covered : 346
 Total Sum Insured : 34600000
 AOA Limit : 2000000

Details of Insured Persons :

Sr. No.	Designation/ Occupation	No. of Persons	Risk Group	Section/Cover	Sum Insured	Additional Covers
1	1 Namewise List of 346 Employees attached with proposal	346	HEAVY RISK	Table of benefits II	34600000	

Total Sum Insured in words : Indian Rupees Three Crores Forty-Six Lakhs. Only
 Total Premium in words : Indian Rupees Sixty-Six Thousand Eight Hundred Fifty-Three Only

Term of Insurance: As per the Clauses written hereunder and/or attached herewith :
 In case of any single accident, the liability under this policy shall be restricted to the AOA Limit specified in the Schedule.
 In the event of a claim under the policy exceeding Rs. 1 lac or a claim for refund of premium exceeding Rs. 1 lac, the insured

Place : SHIMLA
 Date : 30/11/2015

For and on behalf of
 The Oriental Insurance Company Limited

1800 11 8485 and 011 33208485.
 CIN: U66010DL1947GOI007158 All the Amounts mentioned in this policy are in Indian Rupees
 IRDA Regn. No. 556 - Now you can buy and renew all notified policies online at www.orientalinsurance.org.in

Page 1 of 2

Attachment 11: Provident Fund online receipt



FORM No 5A Date: 20-10-2015
 EMPLOYEES' PROVIDENT FUND SCHEME 1952 (Please refer Para 35A)
 EMPLOYEES' PENSION SCHEME 1995 (Please refer Para)
 EMPLOYEES' DEPOSIT LINKED INSURANCE SCHEME 1976 (Please refer Para 10)

(1st RETURN OF OWNERSHIP AFTER ONLINE APPLICATION FOR CODE NUMBER)

[THIS FORM 5A HAS BEEN GENERATED BASED ON ONLINE DECLARATION BY THE EMPLOYER WHILE APPLYING FOR THE CODE NUMBER THROUGH APPLICATION ACKNOWLEDGEMENT NUMBER 2026796898 Date 29-12-2014 AND IS A MANDATORY PART OF THE CODE ALLOTMENT LETTER]

1. Name of the Establishment : BKSSERVICES
2. Code Number of the Establishment under EPF Scheme 1952 : HPSML1054625
3. Postal address of the Establishment and its branches : ROOM NO- 3 RINK VIEW BUILDING REVOLI LAKKER BAZAR SHIMLA [No Branch]
4. Industry or business in which engaged : ESTABLISHMENTS ENGAGED IN CLEANING, SWEEPING SERVICES
5. Date of commencement of business : 12-12-2014
6. Date of closure by previous management : N/A
7. Whether run by owner or lessee : Run by Owner
8. Particulars of owners :

Name	Date of Birth	Status	Father's Name	Residential Address	Date From Which In Position
(a)	(b)	(c)	(d)	(e)	(f)
Mr. SANJEEV SHYAM	22-09-1974	MANAGING DIRECTOR	SH.B.L.SHYAM	KUSHAL NIWAS KUFTA DHAR BHARARI SHIMLA	12-12-2014

9. In case on lease, particulars of lessee: N/A
10. If registered under Factories Act, particulars of Manager or occupier: N/A

Appendix 3

Chronology of Communication with the Complainant

Date	Day	Action
01-Feb-18	Thursday	Building and Wood Workers' International Asia & Pacific (BWI) submitted a Charter of Demands to IL&FS Transportation Network Limited (IL&FS), the 3 main contractors and National Highways Authority of India (NHAI).
25-Jun-18	Monday	ADB was reviewing the case.
27-Jun-18	Wednesday	ADB was discussing the case internally.
02-Jul-18	Monday	ADB was discussing the case internally.
11-Jul-18	Wednesday	ADB sent an email to India Infrastructure Finance Company Limited (IIFCL) requesting for information on alleged violations.
14-Jul-18	Saturday	ADB talked to IIFCL team.
16-Jul-18	Monday	IIFCL explained to ADB the case.
02-Aug-18	Thursday	IIFCL further explained the case to ADB.
24-Aug-18	Friday	Meeting with BWI held to discuss possible site visit.
27-Aug-18	Monday	IIFCL met with IL&FS.
31-Aug-18	Friday	IIFCL emailed ADB regarding work stoppage and reasons for contract termination.
21-Sep-18	Friday	BWI sent follow-up email to ADB.
25-Sep-18	Tuesday	ADB had a telecon with IIFCL.
27-Sep-18	Thursday	ADB sent a set of questions to IIFCL to send to IL&FS.
05-Oct-18	Friday	ADB followed-up with IIFCL.
09-Oct-18	Tuesday	BWI sent follow-up email to ADB.
10-Oct-18	Wednesday	In ADB's telecon with IIFCL, ADB advised IIFCL to schedule a site visit together with BWI.
12-Oct-18	Friday	A site visit was planned from 12-14 November 2018.
15-Oct-18	Monday	Mission clearance for proposed site visit was requested from the Government of India.
25-Oct-18	Thursday	IIFCL provided updates on the government takeover of IL&FS, with possible NHAI takeover of sponsor assets.
29-Oct-18	Monday	BWI planned to apply for the India visa with the ADB mission.
07-Nov-18	Wednesday	The mission did not receive mission clearance from the Government of India.
15-Nov-18	Thursday	ADB sent list of pending items to IIFCL.
19-Nov-18	Monday	ADB followed-up with IIFCL.
07-Dec-18	Friday	IIFCL informs ADB about the ongoing legal complications associated with IL&FS insolvency process and government takeover of IL&FS.
09-Jan-19	Wednesday	ADB arranged meeting with BWI.
16-Jan-19	Wednesday	Videoconference held between ADB project officer and BWI.
16-Jan-19	Wednesday	ADB briefed IIFCL and requested for updates.
17-Jan-19	Thursday	ADB sent the meeting summary to BWI.
18-Jan-19	Friday	BWI responded to keep in touch "in case of any development".
06-Feb-19	Wednesday	ADB followed-up IIFCL on updates.
08-Feb-19	Friday	BWI wrote to ADB DG, South Asia Department (DG, SARD).
11-Feb-19	Monday	ADB DG, SARD, appointed focal to handle the issue.
13-Feb-19	Wednesday	ADB met BWI and ADB Forum representatives in ADB HQ.

16-Feb-19	Saturday	ADB provided link of IIFCL document to BWI.
27-Feb-19	Wednesday	BWI wrote to ADB India Country Director.
26-Mar-19	Tuesday	ADB India Country Director replied informing readiness of consultation (upon further development of ongoing court and insolvency cases).
28-Jun-19	Friday	Complaint receiving officer (CRO) received complaint and sought ADB SARD for project confirmation.
02-Jul-19	Tuesday	ADB project officer confirmed for the request from CRO.
24-Jul-19	Wednesday	The CRO submitted the complaint to the compliance review panel (CRP).

Note: ADB = Asian Development Bank, BWI = Building and Wood Workers' International Asia & Pacific, CRO = Complaint Receiving Officer, CRP = Compliance Review Panel, DG = Director General, IIFCL = India Infrastructure Finance Company Limited, IL&FS = IL&FS Transportation Network Limited, NHAI = National Highways Authority of India, SARD = South Asia Regional Department