

Tool 3: Conducting Interviews with Managers

This tool is designed for brands and social auditors to provide guidance on topics to discuss with facility managers on migrant workers and the risks of forced labor and human trafficking. It covers issues including working and employment conditions at the brand or supplier facility, the selection and screening process governing oversight of labor brokers, and many others. Like the migrant worker and labor broker interview tools provided elsewhere in this section, this tool is consistent with the code provisions and benchmarks outlined in the “Improving Codes of Conduct” section of this toolkit. Taken together, these three interview tools represent a robust assessment process involving the three key actors in recruitment and hiring.

GENERAL PROFILE OF MIGRANT WORKERS AT THE FACILITY

In speaking with facility management about migrant and foreign contract workers in the workplace, it is important first to determine the general profile of such workers, for example how many there are at the facility, where they come from, and the methods and labor brokers used to get them there. This will provide the foundation upon which the auditor can build an accurate picture of the recruitment, hiring and employment conditions facing migrants, and identify any potential red flags at the outset. Here are some of the issues auditors may wish to address at this stage:

- How many migrant workers are employed at the facility? What is the total size of the workforce, and the percentage of migrant workers compared to this total?
- What are the countries of origin of migrant workers (or regions, for internal migration) and what is the corresponding information:
 - ☑ Number of workers per country of origin;
 - ☑ Name and address of each labor broker in the country of origin and in the destination country; and
 - ☑ Duration of contracts of migrant workers.
- For each labor broker in the country of origin and destination, what is the number of years that the facility has been working with them?
- What are the reasons for the facility hiring migrant workers?
- What are the relevant laws and regulations in the facility’s country governing the hiring of migrant workers? Does the facility have a system in place to ensure that it stays up-to-date on new legal and regulatory developments concerning migrant workers in the country?
- Does the facility have a complete list of migrant workers in the facility, including the following information:
 - ☑ Names and employee numbers;
 - ☑ Workstation department and work schedule or shift;
 - ☑ Date of hire;
 - ☑ Name of labor broker (both sending and receiving country);
 - ☑ Home country address and phone number; and
 - ☑ Emergency contact information.
- Does the facility have a complete list of labor broker providing migrant workers to the facility, including all relevant names and contact information?

SELECTION OF LABOR BROKERS AND CONTRACTING

The next step for auditors to consider taking is the examination of how labor brokers are screened, selected and contracted by the facility. This is important because it gives the auditor insight into whether selection measures include indicators of labor broker compliance with legal and regulatory norms and social responsibility instruments. It is also important because only an interview with the facility manager can provide this information and insight. Auditors should bear this in mind as they review the following issues:

- What is the process used by the facility for selecting labor brokers in the country of origin and destination?

- ☑ Has the facility developed specific criteria for broker screening and evaluation? What are these criteria, and do they include social compliance indicators?
 - ☑ Has the facility developed an assessment methodology for evaluating brokers, including assessment tools, measurable indicators, clear guidelines and nomination of a representative to conduct evaluations?
 - ☑ Who is responsible for making the final decision in selecting brokers?
- What measures does the facility have in place to ensure that contracted labor brokers are legally registered and licensed to operate in the countries from which they send workers?
- Does the facility have measures in place to ensure that contracted labor brokers comply with all relevant laws and regulations in the jurisdictions in which they operate? What are these measures?
- How does the facility ensure that contracted labor brokers have an implementing structure, an accountable officer and clear procedures that guarantee that policies are compliant with relevant laws and regulations?
- What measures are in place at the facility to ensure that the labor brokers they contract have:
 - ☑ Not been cited, suspended or otherwise sanctioned for non-compliance in any country of operation; or where this has occurred, that the labor broker can demonstrate it has corrected the problem?
 - ☑ A code of conduct that prohibits forced labor and human trafficking, and sets out protective measures for migrant workers?
 - ☑ An established grievance mechanism, procedures for investigating and reporting grievances, and protection for whistleblowers?
 - ☑ An effective remediation procedure in case of verified reports of noncompliance?
- How do labor brokers “win” the facility’s account? Has the facility ever received money from a broker or agency for awarding a contract to provide labor? Who covers the cost of the facility’s involvement in the recruitment process, for example travel and accommodation expenses?
- Do contracts signed between the facility and its labor brokers include specific clauses on social compliance policies, in particular measures to prevent forced labor and human trafficking? Are contractual obligations of the broker on the following issues specified in the contract: fees and expenses charged, services provided and an itemized account of deductions?

OVERSIGHT OF THE RECRUITMENT PROCESS

Along with close oversight of labor broker operations in the screening and selection process, it is also important that the facility develop procedures to assess and monitor those operations after the broker has been contracted. This may be difficult for the facility to accomplish, particularly for brokers that operate in the country of origin; however, it is at this stage that migrant workers are at the greatest risk of abuse from unscrupulous brokers and therefore of utmost importance that brand and supplier facilities have this insight into broker practices. Auditors may wish to consider the following issues in their discussion with facility management:

- What is the step-by-step process used by the facility for recruiting migrant workers through labor brokers?
- Once contracted, what kind of oversight does the facility have on the practices of labor brokers with regard to:
 - ☑ Recruitment and applicant selection;
 - ☑ Document processing (for example, travel and work permit);
 - ☑ Contracting process and signature of employment contracts;
 - ☑ Recruitment fees; and
 - ☑ Pre-departure briefing?
- How does the facility ensure that labor brokers give migrant workers accurate details about working, employment and living conditions at the time of recruitment?
- Does the facility have measures in place to ensure that labor brokers provide pre-departure orientation and training to workers in order to review:
 - ☑ Contractual obligations;
 - ☑ Employee and employer rights and obligations;
 - ☑ Terms and conditions of work;
 - ☑ Living conditions;
 - ☑ Company policies; and
 - ☑ Grievance mechanisms in place for workers?



RECRUITMENT FEES AND EXPENSES

Fees and expenses charged to workers for recruitment and other services represent the most significant risk of debt bondage for migrants. In speaking with facility managers, auditors should seek to determine how much workers have been charged, exactly what fees and expenses they have incurred, and to whom these charges are typically paid, for example labor brokers in the country of origin, the receiving country or sub-agents of either. These facts can then be cross-checked with information provided by migrant workers themselves. Auditors may also wish to probe further on the measures that facilities have in place to oversee this key aspect of labor broker operations.

- Does the company know whether migrant workers at the facility have paid a fee(s) to the labor broker(s) in the sending country? How much do they have to pay and what do these fees cover?
 - ☑ **Reservation or Commitment Fee**
Is this amount returned or refunded to the worker if he or she is not selected for employment?
 - ☑ **Service, Placement or Recruitment Fee**
Is this fee paid up-front and directly to the labor broker or is it deducted from the workers' salary?
 - ☑ **Processing of Travel documents, Visas and Work Permits**
Is a separate fee charged for this or is this included in the recruitment fee?
 - ☑ **Registration for Skills Testing or Certification**
Is this charge included in the recruitment fee or do workers pay for this directly to a government agency providing this service?
 - ☑ **Mandatory Physical, Health or Medical Tests Required By Sending and Receiving country**
 - ☑ **Language Training or Pre-departure Orientation Seminar**
 - ☑ **Air Travel or Other Transportation Costs**
Are these costs included in the recruitment fee, paid by the worker up-front, or paid by the facility?
 - ☑ **Surety Bond or Deposit**
 - ☑ **Other**
- What measures does the facility have in place to assess whether labor brokers provide migrant workers with a written, itemized breakdown of the fees and expenses they pay?
- In addition to oversight of sending country labor brokers, does the facility have measures to review the practices of receiving country brokers, where these are involved? What are these measures?
- Does the facility know whether migrant workers have to pay a fee to labor brokers in the receiving country? How much is this fee and what does it cover? For example:
 - ☑ Labor broker fee;
 - ☑ Levy fee;
 - ☑ Surety bond; and/or
 - ☑ Other.
- Does the facility make deductions from workers' salaries to pay for these fees? How much is deducted per month, and for how many months?
- Do migrant workers ever lodge deposits with the facility or labor broker in order to secure or hold a contract? Under what circumstances and how do workers get their deposit back?

CONTRACTS OF EMPLOYMENT

Understanding the contracting process for migrant workers will be critical to the auditor's ability to uncovering abuse and exploitation, if they have occurred. Migrant workers can be under contract to brand or supplier facilities, labor brokers, or both at the same time. Many aspects of their terms and conditions of employment will be contingent on who employs them. Deception in the recruitment process can also be a key feature at this stage. In speaking with facilities, auditors may wish to consider discussing contract substitution or the false promises sometimes made to migrant workers at the time of recruitment or contracting. These can play a key role in facilitating workers' descent into debt bondage or forced labor.

- Are migrant workers under contract to the facility, labor broker or both?
- Do migrant workers sign their employment contracts in the country of origin, on-site upon arrival, or both?
- Is the employment contract written in a language that migrant workers understand?



- Are migrant workers given a copy of their employment contract?
- What measures does the facility have in place to ensure that:
 - ☑ The details described in migrant workers' contracts of employment are the same as those provided at the time of recruitment?
 - ☑ Workers understand the terms and conditions described in the employment contract before they sign it?
 - ☑ The actual terms and conditions of employment that are provided on the job are consistent with those that the labor broker has described in the employment contract?
- Are original contracts of employment signed by migrant workers ever amended in any way by the brand, supplier or labor broker? If so, under what circumstances has this occurred? Have amendments ever been made that significantly change the worker's originally anticipated conditions of work? Are changes made with the full knowledge and consent of the migrant worker concerned?
- Under what conditions can an employment contract be renewed?
- Are migrant workers given a copy of the facility's personnel policies or employee handbook? Are these provided in a language that workers understand?
- Are facility policies, procedures, and work instructions communicated to workers in a language they understand?

DOCUMENT RETENTION

Brands, suppliers and labor brokers can be involved in withholding or confiscating the passports or other valuable documents of migrant workers. It will therefore be important for auditors to discuss this with facility management, in order to ensure that the facility itself never acts in this way and that it has significant oversight over labor brokers to ensure that they, too, do not operate in an abusive manner. At the same time, auditors may also wish to probe on facility measures that address this issue in legal environments where they are required to keep migrant worker documentation, or when they are asked by workers themselves to do so, e.g. for security reasons.

- Does the facility or labor broker hold migrant workers' passports or other valuable items (e.g. bank books or ATM cards) at any time? Is this legally required?
- If passports or other documentation are withheld for legal reasons or by request of the worker:
 - ☑ Does the facility ensure that workers have immediate, unrestricted access to these documents?
 - ☑ Are workers provided with an exact copy of such documentation when it is not in their possession?
 - ☑ Has the facility nominated a responsible person to ensure that workers have free access to their documents upon demand?
 - ☑ Does the facility notify workers of these procedures in advance?
 - ☑ Are workers provided free access to a locked, secure storage space for personal documents and valuables?

DEPOSITS

Migrant workers are sometimes required to pay a deposit or bond to the facility or labor broker. This money is used as a form of "run-away insurance" to prevent them from leaving their job and finding another, a situation which represents a clear case of abuse. Auditors should inquire about this practice when they speak with facilities; and they should also keep in mind that it may be the labor broker, not the facility, that has applied this charge. If this is the case, the auditor may wish to determine whether the facility has developed appropriate measures to ensure such abuse is not committed by the brokers it contracts.

- Do migrant workers have to pay a deposit or bond of any kind during the recruitment process or at any other time during employment, either to the facility or to the labor broker? How much is this deposit or bond, and to whom is it paid? When and how is the money returned to workers?

WAGES AND WAGE DEDUCTIONS

The interview with facility management represents an important opportunity to discuss migrant workers' salaries and facility wage payment practices, including the key issue of wage deductions. Auditors will want to cross check this information through the document review by examining worker pay slips and salary statements, and by speaking with workers themselves. As with other aspects of the audit process, facility managers can also provide the auditor with key



information that provides a more complete picture of the working and employment conditions faced by migrant workers. Some of the issues auditors may wish to consider discussing include: wage payment delays, transparency in payments and deductions, loans and advances provided to workers, and savings programs facilitated by the facility or broker.

- Are migrant workers paid directly by the facility? Who pays migrant workers' salaries?
- When and at what frequency are migrant workers paid?
- Have wage payments for migrant workers ever been delayed or withheld by the facility or broker? Why and under what circumstances has this occurred?
- Are migrant workers given a pay slip or wage statement on pay day? Does this pay slip clearly indicate wage calculations and any deductions made from their salary?
- Are migrant workers paid at the same basic rate as local workers?
- Are any deductions or withholdings made from migrant workers' pay? How much is deducted and for what purpose? Are deductions withheld by the facility or the labor broker? Are deductions made with workers' consent? Are they stipulated in workers' contracts?
- Does the facility deduct for meals or housing? Do migrant workers have the option to withdraw from employer-provided food and housing?
- Are migrant workers ever paid in the form of non-cash or "in-kind" payments?
- Does the facility or labor broker ever provide migrant workers with loans or advances on their wages? What are the terms of such loans or advances, including interest rates and financing periods? Are the terms of loan agreements and advances concluded with the full knowledge and consent of workers?
- Does the facility or labor broker make deductions from workers' salaries as part of a savings program? Are these deductions voluntary? How much are these deductions and where are they kept? When do workers receive their savings?
- If savings are kept in a bank account, does the labor broker, facility or anyone other than the worker have access to withdraw these funds?
- Do migrant workers have free access to their bank accounts? If no, under what circumstances can workers access their savings?

COMPULSORY OR INVOLUNTARY OVERTIME

Migrant workers may not be alone in facing requirements to work overtime, but they may be more vulnerable to the pressures and demands from facilities or labor brokers to do so. Auditors should inquire whether overtime is regularly performed at the facility, and cross check this information through worker interviews and production records. They should speak with managers about facility policy on overtime; and whether and under what conditions workers are ever required to perform it. The key issue, in this case, is whether migrant workers are free to refuse overtime if they so desire, and that no threat or penalty, such as the threat and termination and repatriation, has been introduced to "persuade" them to accept it.

- Does the facility ever require workers, including migrant workers, to work more overtime than allowed by national law? What are the circumstances of such requirements?
- When overtime is necessary, are workers free to refuse it? Does the facility or labor broker ever punish workers for refusing overtime?

FREEDOM OF MOVEMENT AND PERSONAL FREEDOM

In their interview with facility managers, auditors may wish to discuss a number of issues linked to migrant worker freedom of movement. These can include balancing basic personal freedoms with the requirements of workplace discipline, and restrictions that may face migrant workers living in a dormitory owned and operated by the facility or a labor broker. In each case, this information should be gathered from the facility and cross-checked with statements made by workers. The auditor may also wish to discuss other relevant concerns, such as the legal or security environment, insofar as these may influence the freedom of movement for migrant workers in particular jurisdictions or national contexts.



- Does the facility or labor broker place any restrictions on migrant workers' freedom of movement in the workplace? What are these restrictions and the reasons for them?
- Are workers free to use toilet facilities and drinking stations at any time during working hours?
- Does the facility or labor broker provide accommodation to migrant workers? Are migrant workers required to live in such facilities or are they free to reside elsewhere?
- Do migrant workers pay for this accommodation? How much do they pay per month? Is the amount they pay commensurate to or lower than market rates? How do workers pay for this accommodation?
- Are there any restrictions on movement for migrant workers within such accommodation or outside working hours? Does the residence have a curfew? Are workers allowed to receive guests or visitors?

WORKPLACE DISCIPLINE

Disciplinary measures and policies at the facility should be discussed by the auditor for a variety of reasons. In the case of migrant workers, it is essential to determine whether such measures are fair and objective, and whether disciplinary sanctions or punishments ever result in compulsory labor, for example for participation in a strike or other labor disputes. Auditors may also wish to discuss facility oversight of labor broker disciplinary practices in those cases where workers in the facility are in their direct employ.

- What are the steps taken by the facility for disciplining a worker?
- Who is responsible for workplace discipline in the facility? Are there any parties aside from facility management involved in disciplining workers, for example a labor broker representative on-site or in the country of origin, or a dormitory representative?
- Is the facility or labor broker responsible for reporting migrant workers' disciplinary citations?
- Does the facility or labor broker levy monetary fines for misconduct? If so, for which offenses, how much, and how are payments for these fines made?
- Do disciplinary sanctions ever involve compulsory work? If they do, under what circumstances does this occur?
- What types of misconduct carry the penalty of dismissal and repatriation? Does the facility have a clear process that includes credible investigation before workers are terminated and repatriated?
- What are the penalties if migrant workers quit before their contract expires? If this occurs, who pays for migrant workers' return travel?
- What are the penalties if migrant workers are terminated or fired before their contract expires? If this occurs, who pays migrant workers' return travel?

THREAT OF VIOLENCE AND INTIMIDATION

Serious forms of abuse and exploitation such as verbal and physical abuse, sexual harassment, intimidation and corporal punishment should be strictly prohibited by the brand or supplier. This applies to all workers, including migrant and foreign contract workers. Auditors can take the opportunity of the management interview to discuss the facility's policy on this matter, and any training that it has conducted for supervisors, managers and workers. They may also wish to discuss how this policy applies to and impacts labor broker operations.

- What is the facility's policy on the following:
 - ☑ Verbal abuse, harassment or intimidation?
 - ☑ Physical abuse, corporal punishment?
 - ☑ Sexual harassment or abuse?
- Have there been any instances of such abuse in the facility or committed by a labor broker acting on the facility's behalf?



WORKER COMMUNICATION, AWARENESS AND GRIEVANCE PROCEDURE

Interviews with management can present auditors with an important opportunity to discuss the complaints mechanisms or grievance procedures they have established to ensure that migrant workers can raise issues of concern with regard to brand, supplier or labor broker practice. Such mechanisms and procedures are often the first line of defense in taking corrective action against abusive or exploitative circumstances. Auditors may wish to discuss the process of raising grievances and determine how transparent, trusted and effective they are in resolving problems for workers.

- Does the facility or labor broker have a representative who receives and processes complaints of migrant workers? Does this representative speak the language(s) of migrant workers?
- Does the facility have an assigned unit, staff, or worker representative to receive and process workers grievances?
- What are the facility's policies and procedures for addressing grievances and complaints from migrant workers, including complaints about labor brokers?
- Are migrant workers free to join trade unions?

TERMINATION OF EMPLOYMENT

At the core of a free employment relationship is the ability of workers, including migrant workers, to terminate their employment contract at any time without penalty and given reasonable notice. Migrant workers, however, are often highly vulnerable to threats and penalties that can effectively prevent them from resigning from their positions, taking up a new job, or returning home. These threats or penalties can include the loss of previously earned wages, savings, security deposits, or passports that have been confiscated. Auditors should address these issues with facility management and seek to clarify the policies and practices that govern both facility and labor broker behavior.

- What is the facility's policy and procedure for resignation?
- Are migrant workers free to resign at any time, given reasonable notice?
- Are there any penalties for migrant workers who terminate their contract before its end-date? What are those penalties?
- For migrant workers employed and managed by labor brokers, what measures does the facility have in place to ensure that no deceptive or coercive means are used to restrict workers' freedom to terminate employment?

