



2009

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: ChicoBag
COUNTRY: China
FACTORY CODE: 930015194H
MONITOR: Social Compliance Service Asia
AUDIT DATE: August 25, 2009
PRODUCTS: Handbags
PROCESSES: Material Preparation, Cutting,
Sewing, Trimming, Finishing, Packing
NUMBER OF WORKERS: 82

FLA Comment: This report was submitted with a corresponding corrective action plan to the FLA and was reviewed by FLA staff. In an effort to improve the effectiveness of remediation, the FLA has provided feedback and recommendations to the company. The FLA has not yet received a response from the company. Therefore, the report is posted in its current state and will be updated once a finalized report has been received.



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Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses

WBOT.5 Employers shall provide all legally mandated holidays, leave, benefits and bonuses, such as official holidays, annual leave, sick leave, severance payments and 13th month payments, to all eligible workers within legally defined time periods. In addition, all leave and bonuses shall be calculated correctly. (S)

Noncompliance

Explanation: 1. Per social insurance contribution record of May 2009, factory covered 110 employees under accidental and injury insurance and 40 under medical, unemployment and retirement insurance. No employees covered by childbearing (maternity) insurance, as factory claimed childbearing insurance had not yet been implemented by local government. Factory provided waiver from local social insurance bureau May 12, 2009. No June and July contribution records available for review. Factory management unable to demonstrate calculation method for social insurance deduction; no deductions for employees found on payroll for social insurance premium. (Article 73 of PRC Labor Law)

2. Due to inconsistencies noted between time and payment records provided and other information and records obtained during the audit, auditors' actual status of wages and benefits could not be accurately verified. (Articles 51 and 45 of PRC Labor Law)

Plan Of Action: Obtain all receipts with respect to benefits paid for employees for all months.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will be checking to ensure that the receipts are now in place for all months and employees.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009



Wages, Benefits and Overtime Compensation: Deposit of Legally Mandated Deductions

WBOT.13 All legally mandated deductions for taxes, social insurance, or other purposes shall be deposited each pay period in the legally defined account or transmitted to the legally defined agency. This includes any lawful garnishments for back taxes, etc. The employer shall not hold over any of these funds from one pay period to the other unless the law specifies that deposits are to be made less frequently than pay periods (e.g., monthly deposits, weekly pay). If the law does not specify, then deposits shall be made before the next pay period in all cases. (S)

Noncompliance

Explanation: Based on payment records provided, it was noted that factory did not make the legal mandated personal income tax withholding and contributed the personal income tax to the respective bureau in accordance with prevailing legislation. (Article 1 of Standing Committee of the National People's Congress Individual Income Tax Law of the PRC)

**Plan Of
Action:**

**Deadline
Date:**

**Action
Taken:**

**Plan No
Complete:**

**Plan
Complete
Date:**



Wages, Benefits and Overtime Compensation: General Compliance Wages, Benefits and Overtime Compensation

WBOT.1 Employers shall comply with all local laws, regulations and procedures concerning the payment of wages and benefits, including overtime compensation. In any case where laws and the FLA Code are contradictory, the standard that provides the greatest protection for workers shall apply. Where provisions are lacking, employers shall take measures to reasonably accommodate matters concerning the payments of wages and benefits, including overtime compensation. (S)

Noncompliance

Explanation: Due to inconsistencies noted between time and payment records provided and other information and records obtained during the audit, auditors were unable to accurately verify workers' actual working hours, wages, overtime compensation and other benefits status at the facility. (Articles 48 and 44 of PRC Labor Law)

Plan Of Action: Collect all relevant data for subsequent audits.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will be checking to ensure that time cards and records are now in place for all months and employees.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009



Wages, Benefits and Overtime Compensation: Minimum Wage

WBOT.2 Employers shall pay workers at least the legal minimum wage or the prevailing industry wage, whichever is higher. (S)

Noncompliance

Explanation: Due to inconsistencies noted between time and payment records provided and other information and records obtained during audit, auditors were unable to accurately verify workers' actual wages and status at the facility. (Article 48 of PRC Labor Law)

Plan Of Action: Collect all relevant data for subsequent audits.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will be checking to ensure that time cards and records are now in place for all months and employees.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009



Wages, Benefits and Overtime Compensation: Premium/Overtime Compensation

WBOT.10 The factory shall comply with all applicable laws, regulations and procedures governing the payment of premium rates for work on holidays, rest days, and overtime. (S)

Noncompliance

Explanation: Due to inconsistencies noted between time and payment records and other information and records obtained during the audit, auditors were unable to accurately verify workers' actual status of the wages on holidays, rest days and overtime. (Articles 44, 51 and 45 of PRC Labor Law)

Plan Of Action: Collect all relevant data for subsequent audits.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will be checking to ensure that time cards and records are now in place for all months and employees.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009



Wages, Benefits and Overtime Compensation: False Payroll Records

WBOT.19 Employers shall not use hidden or multiple payroll records in order to hide overtime, to falsely demonstrate hourly wages, or for any other fraudulent reason. Payroll records maintained shall be authentic and accurate. (P)

Noncompliance

Explanation: Based on the review of time and payment records, it was noted that workers were paid above local minimum wage and overtime hours were paid at 150% and 200% of normal rate as according to the law. However, due to unreliable records found, auditor could not verify whether the basic wages were properly calculated and paid to workers and whether workers were properly guaranteed with the minimum wages and overtime compensation. (Articles 48, 44 of PRC Labor Law)

Plan Of Action: Confirm and collect all relevant data for subsequent audits.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will be checking to ensure that time cards and records are now in place for all months and employees.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009



Wages, Benefits and Overtime Compensation: Record Maintenance

WBOT.21 Employers shall ensure that all legally required payroll documents, journals and reports are available, complete, accurate and up-to-date. (P)

Noncompliance

- Explanation:** 1. Factory could only provide payroll records for months April-July 2009 for review.
2. Factory was not able to provide attendance record for August 2009. Factory stated that they can only consolidate the summary of attendance data on the pay date. Furthermore, their time record machines (fingerprint recording) were malfunctioning these days and they could only record the attendance manually. Factory was not able to submit complete manual attendance records for review. In addition, 3 workers' attendance records could not be provided for review. (Article 41 of PRC Labor Law)

Plan Of Action: Confirm and collect all relevant data for subsequent audits.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will be checking to ensure that time cards and records are now in place for all months and employees.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009



Wages, Benefits and Overtime Compensation: Forced Overtime

F.14 The imposition of mandatory overtime beyond the limits set by the law, a freely negotiated collective bargaining agreement, and/or the FLA Code, in an environment where a worker is unable to leave the work premises, constitutes forced labor. (S)

Noncompliance

Explanation: Workers were required to apply leave to get approval from management for not working for overtime. There was no written policy in the respect of voluntary overtime.

Plan Of Action: Company will work with factory to develop a written policy for voluntary overtime and institute an application form for employees.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will be checking to ensure that the policy and application process are in place.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009

Freedom of Association: Right to Freely Associate

FOA.2 Workers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. The right to freedom of association begins at the time that a worker seeks employment, and continues through the course of employment, including eventual termination of employment, and is applicable as well to unemployed and retired workers. (S)

Noncompliance

Explanation: **FLA Comment:** The Chinese constitution guarantees Freedom of Association (FOA); however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union - the All China Federation of Trade Unions (ACFTU). According to the ILO, many provisions of the Trade Union Act are contrary to the fundamental principles of FOA, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. However, the government has introduced new regulations that could improve the functioning of the labor relations mechanisms. The Amended Trade Union Act of Oct. 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. Trade unions also have an enhanced role in dispute resolution. In Dec. 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements.

Plan Of Action: Include language in Employee Handbook stating employees have the right to organize a union and instruct them on how to proceed.

Deadline Date: 11/14/2009

Supplier CAP: Representative and Auditing Consultant met with factory owner and manager to review.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan 11/09/2009

Complete

Date:

Freedom of Association: Grievance Procedure

FOA.26 Employer shall have in place written grievance procedures that allow first an attempt to settle grievances directly between the worker and the immediate supervisor but that, where this is inappropriate or has failed, it is possible for the worker to have the grievance considered at one or more steps, depending on the nature of the grievance and the structure and size of the enterprise. Employers shall ensure that the grievance procedures and applicable rules are known to workers. (P)

Noncompliance

Explanation: No written grievance procedures or channels have been established for workers such as a suggestion box, etc.

Plan Of Action: Add a written grievance procedure to employee handbook.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will be checking to ensure employee handbook has been updated and employees know what to do.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009



Harassment or Abuse: Discipline/Review of Disciplinary Action

H&A.3 The disciplinary system shall include possibilities for workers to have disciplinary action imposed on them reviewed by someone at a higher managerial position than the manager who imposed the disciplinary action. In addition, such a system shall include the ability of a worker to appeal and/or question any disciplinary action against him or her and/or have a third party of his or her choice present when the disciplinary action is being imposed. (P)

Noncompliance

Explanation: There is no system in factory for workers to appeal or question the disciplinary action which they received.

Plan Of Action: Factory will develop a policy that allows for 3rd party mediation in employee/management disputes.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will be checking to ensure employee handbook has been updated and employees know what is available to them.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009



Harassment or Abuse: Discipline/Written Disciplinary System

H&A.5 Employers shall maintain a system of written disciplinary rules, procedures and practices. Disciplinary rules, procedures and practices shall be clearly communicated to all workers. (P)

Noncompliance

Explanation: Factory did not have written policy on the disciplinary system or policy on the prohibition of harassment and abuse.

Plan Of Action: Factory will develop a policy of prohibition of harassment and abuse.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will be checking to ensure employee handbook has been updated and employees know what is available to them.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009



Harassment or Abuse: Discipline/Monetary Fines and Penalties

H&A.8 Employers shall not use monetary fines and penalties as a means to maintain labor discipline, including for poor performance or for violating company rules, regulations, and policies. (S)

Noncompliance

Explanation: Monetary fines were implemented and posted on factory notice, such as: absence from cleaning dormitory as assigned will result in a deduction of RMB 10.

Plan Of Action: Fines were implemented by workers themselves to ensure all participated in dorm room cleaning. Penalty will be changed from monetary to extra duties at employee level.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will be checking to ensure employee handbook has been updated and employees know what is required of them.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009



Code Awareness:

GEN.2 Ensure that all Company factories as well as contractors and suppliers inform their employees about the workplace standards orally and through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and undertake other efforts to educate employees about the standards on a regular basis.

Noncompliance

Explanation: It was noted that no ChicoBag Code of Conduct (COC) was posted in factory. No COC training was provided for workers.

Plan Of Action: Code will be resent to the factory for display.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will check to make sure the code is now posted.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009



Health and Safety: Evacuation Requirements and Procedure

H&S.9 All applicable legally required or recommended elements of safe evacuation (such as posting of evacuation plans, the installation and maintenance of an employee alarm and emergency lighting systems, ensuring aisles/exits are not blocked and that workers are not blocked within their workstations, employee education, evacuation procedures, etc.) shall be complied with. Workers shall be trained in evacuation procedures. Alarm systems shall be regularly tested and evacuation drills shall be undertaken at least annually. (S)

Noncompliance

Explanation: No secondary exit was found at the one 3-story building. The 2nd and 3rd floors of building were used as a dormitory. (Article 3.5.1 of Fire Prevention Standard for Building Design (new revision of GBJ 16-87)).

**Plan Of
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Health and Safety: Safety Equipment and First Aid Training

H&S.10 All safety and medical equipment (such as fire fighting equipment, first aid kits, etc.) shall be available in sufficient numbers throughout the factory, maintained and stocked as prescribed and easily accessible to workers. A sufficient number of workers shall be trained in first aid and fire fighting techniques. (S)

Noncompliance

Explanation: It was noted that first aid kits at workshops were with insufficient supplies. (PRC Factory Safety and Sanitary Regulations Article 31)

Plan Of Action: Factory is required to replenish current first aid kits and add additional kits.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will check to make sure the kits are stocked and additional ones in place.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009

Health and Safety: Personal Protective Equipment

H&S.11 Workers shall be provided with effective and all necessary personal protective equipment (such as gloves, eye protection, hearing protection, respiratory protection, etc.) to prevent unsafe exposure (such as inhalation or contact with solvent vapors, noise, dust, etc.) to health and safety hazards, including medical waste. (S)

Noncompliance

Explanation: Workers handling the glue and chemicals were not provided with protective face masks. (Article 27 of the Regulation For Chemical Usage Safety in Work Place of PRC)

Plan Of Action: All glue operation will move to 3rd floor and carbon face masks will be provided and required for employees working with, or around, the glue and chemicals.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will check to make sure the glue operation has moved and the masks are available.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009

Health and Safety: Chemical Management and Training

H&S.13 All chemicals and hazardous substances shall be properly labeled and stored in accordance with applicable laws. Labels shall be placed in the local language and the language(s) spoken by workers, if different from the local language. Workers shall receive training, appropriate to their job responsibilities, concerning the hazards, risks and the safe use of chemicals and other hazardous substances. (S)

Noncompliance

Explanation: There was no secondary containment for chemicals and some chemical agents were found sitting on work floor (1st floor production). (Article 20 of the Regulation For Chemical Usage Safety in Work Place of PRC)

Plan Of Action: All glue, chemical work and storage will be moved to the singular area and secondary containment for chemicals will be used.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will check.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009



Health and Safety: Material Safety Data Sheets/Worker Access and Awareness

H&S.14 Material Safety Data Sheets (MSDS) for all chemicals used in the factory must be available at the usage and storage sites of the chemicals, in the local language and the language(s) spoken by workers, if different from the local language. Workers shall have free access to MSDS. (P)

Noncompliance

Explanation: No MSDS in local language was posted out at chemical storage and usage areas.

Plan Of Action: All related MSDS sheets will be collected and compiled in a binder and posted in a communal area.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will check to make sure the MSDS are now available.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009

Health and Safety: Machinery Maintenance and Worker Training

H&S.18 All production machinery, equipment and tools shall be regularly maintained and properly guarded. Workers shall receive training in the proper use and safe operation of machinery, equipment and tools they use. Employers shall ensure safety instructions are either displayed/posted near all machinery or are readily accessible to the workers. (S)

Noncompliance

Explanation: Some sewing machines were not equipped with pulley guards. (Article 32 of Factory Safety and Health Rules)

Plan Of Action: Factory mechanic will perform inspections of all equipment and install guards as needed.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will check to ensure all sewing machines have the pulley and needle guards installed.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009

Health and Safety: Bodily Strain

H&S.20 Workstations, including seating and standing arrangements and reach required to obtain tools, shall be designed and set-up in such a manner as to minimize bodily strains. Employers shall train workers in proper lifting techniques and items such as belts shall be provided. (S)

Noncompliance

Explanation: No kind of ergonomic system was established in the facility.

Plan Of Action: Factory will institute breaks to allow for stretching and other ergonomic accommodations.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will check to ensure that employees are receiving training in ergonomics.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009



Hours of Work: General Compliance Hours of Work

HOW.1 Employers shall comply with all local laws, regulations and procedures concerning hours of work, public holidays and leave. (S)

Noncompliance

Explanation: 1. Due to inconsistencies noted between time and payment records provided and information and records obtained during audit, workers' actual working hours could not be accurately verified during audit. (Article 36, 41 of PRC Labor Law)

2. Some workers found working excessive hours at a certain time, such as in the month of April 2009. For example, workers worked 67.5 to 84 hours a week in a particular 2 weeks in April 2009. (Articles 36, 41 of PRC Labor Law).

Plan Of Action: Use swiping time cards in lieu of manual time records to reduce inconsistency issue.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will be checking to ensure that time cards and records are now in place for all months and employees.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009

Hours of Work: Time Recording System

HOW.6 Time worked by all workers, regardless of compensation system, shall be fully documented by time cards or other accurate and reliable recording systems such as electronic swipe cards. Employers are prohibited from maintaining multiple time-keeping systems and/or false records for any fraudulent reason, such as to falsely demonstrate working hours. Time records maintained shall be authentic and accurate. (P)

Noncompliance

Explanation: Various inconsistencies were noted during audits: A second set of manual time records was collected from work floor. This set indicated, for example, that cutting section workers worked on various Sundays, such as June 7, 2009; July 5, 2009; July 12, 2009; July 26, 2009, etc. However, the corresponding time and payment records of workers showed that they were off on the aforementioned days. Also, it was noted that the provided time records indicated that no workers had ever performed more than 3 hours evening overtime after April 2009. However, manual time records indicated that workers had at least worked 4 hours daily evening overtime on a frequent basis in June, July and August 2009. Information gathered from on-site and off-site worker interviews also presented discrepancies with information indicated on provided time and payment records. Hence, auditors concluded time and payment records were unreliable and failed to accurately reflect workers' actual working hours and wages at the facility.

Plan Of Action: Use swiping time cards in lieu of manual time records to reduce inconsistency issue.

Deadline Date: 11/14/2009

Supplier CAP: Representative going on site will be checking to ensure that time cards and records are now in place for all months and employees.

Supplier CAP Date: 11/09/2009

Action Taken: Representative and Auditing Consultant met with factory owner and manager to review.

Plan Complete: Yes

Plan Complete Date: 11/09/2009

