



2009

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Nike, Inc.
COUNTRY: Guatemala
FACTORY CODE: 070028436H
MONITOR: Coverco
AUDIT DATE: October 13-16, 2009
PRODUCTS: T-Shirts
PROCESSES: T-Shirt Production
NUMBER OF WORKERS: 745



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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: The factory records and interviews indicate that several workers have not received their vacations. The factory indicated that they have not granted vacations this year because the factory considers providing vacations in December for its entire workforce. At the audit, the monitor received 4 complaints indicating that the factory had not granted and paid their vacation periods for 2008 and 2009. Coverco corroborate this in the Ministry of Labor legal proceedings for not granting and paying such leave. Document review: Guatemalan Labor Code Art. 132 Mandates that workers shall have their vacations within 60 days later of fulfilling 1 year of continuous service.

Interviews revealed that the factory pays the benefits (severance, mid-year bonus, Christmas bonus and vacations) in installments to workers who resign or are dismissed, without any agreement of both parties. The monitor noted that the factory has issued severance payment agreements signed by the workers without making the corresponding payments. In addition, it was observed that mid-year bonus, Christmas bonus and vacations are not paid according to the legally defined time periods.

Document Review: Christmas bonus benefit Law, Art 5, Annual bonus Law, Decree Law 4292, Art 3

Plan Of Action:

1. The factory should provide all legally mandated vacation benefits to all qualified employees. All vacation shall be provided in time off.
2. Mid-year bonus, Christmas bonus and vacations must be paid according to the legally defined time periods.
3. Management should post the policies and local laws regarding vacation in an easily visible area and include applicable information on orientation sessions. The policy should include the name of the person who is in charge of implementing this policy.
4. Training on this policy should be given at beginning of employment (orientation) and refresher trainings throughout employment.



Deadline

Date:

Action Taken:

Plan

Complete:

Plan

Complete

Date:

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)

Uncorroborated Evidence of Noncompliance

Explanation: During the audit the factory provided receipts (that are sealed by a bank) showing that the last payment made was in September 2009, in accordance with the local law.

However, the monitor consulted a confidential source of the Social Security who indicated that the factory agreed to a payment plan for the overdue payments in January 2009. This source is unaware of the period covered by the payment plan. Although in the Social Security database payments appear from April to June 2008, there is no information regarding payments from July 2008 to October 2009, with the exception of December 2008, when the factory made a payment of Q108.63 (\$13.00).

Likewise, the source mentioned that workers may not be attended by Social Security until the factory pays overdue payments. The monitor considers that the factory should pay the Social Security payments in the proper time since these amounts were deducted monthly from the workers. Document Review: Regulation on Collection of Contributions to Social Security, Art. 1: Employer is obligated to contribute with the corresponding payments to the Social Security.



- Plan Of Action:**
1. In order to avoid employees having problems utilizing the Social Security services, the factory must deposit Social Security payments in a timely manner.
 2. The factory should provide receipts in order to show that deposits are being deposited in a timely manner.
 3. The factory is to provide a plan to pay overdue Social Security contributions, including a timetable.
 4. The factory should provide supporting documentation showing that contributions are being made according to plan until all payments are made and up-to-date.

Deadline Date:

Action Taken:

Plan 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: The factory did not properly pay overtime premium rates to workers for 4 hours in September 2009, since the factory only paid for this time Q30.00 (\$3.57).(Workers Interviews) Document Review: Guatemalan Labor Code, Art. 121: Overtime must be equal to at least 150% more of the minimum wage.

Plan Of Action:

1. The factory must compensate employees for overtime worked as required by local law.
2. The factory should have a clear written overtime policy and provide training to the supervisors and workers.
3. For any overtime miscalculations identified in the audit, the factory must recalculate and payback the difference in wages to the employees.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:

Wages, Benefits and Overtime Compensation: Timely Payment of Wages

WBOT.4 All wages, including overtime compensation shall be paid within legally defined time limits. When no time limits are defined by law, compensation shall be paid at least once a month. (S)

Noncompliance

Explanation: Interviews revealed that the factory does not pay wages in the established time to those workers that resign. There were 2 cases of resignation in March and May and the factory paid them until August and October, respectively. Through documentary review it was corroborated that benefits calculation was incomplete in 4 cases. In 1 case there was no calculation and payment of benefits. Documentary review: Guatemalan Labor Code, Art. 93 Mandates that employer shall pay wages within legally defined time limits.

Plan Of Action:

1. The factory must pay all wages to employees in a timely manner as stipulated by the local law, including those of employees who resigned.
2. The factory should post frequency of pay, and inform employees verbally as well.
3. Additionally, the factory should designate a person who is responsible for overseeing that wages and other payments are made to employees.

**Deadline
Date:**

Action Taken:

**Plan
Complete:**

**Plan
Complete
Date:**



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: The factory did not properly pay overtime premium rates, as it recorded a portion of overtime worked in September 2009. The overtime worked from 16:30 to 19:00 is registered and paid in the payroll, while the remaining overtime is not registered in payrolls. Even though the President paid Q30.00 (\$3.57) in cash to each worker for the overtime at the end of the day and provided dinner through a ticket of Q10.00 (\$1.19) exchangeable in the canteen. (Workers Interviews) Document Review Guatemalan Labor Code, Art.123: Employer must record in the payrolls hours and earnings related to overtime work. Document Review: Guatemalan Labor Code, Art. 121: Overtime must be paid at least 150% more of the minimum wage.

Plan Of Action:

1. The factory must have an accurate and correct electronic timekeeping system to record all working hours, including all overtime hours.
2. All payments for regular and overtime hours must be based on this timekeeping system.
3. Overtime must equal at least 150% more of the minimum wage.
4. The factory must review payroll records retroactively and pay any outstanding overtime wages to employees.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:

Wages, Benefits and Overtime Compensation: Accurate Calculation and Recording of Wage Compensation

WBOT.17 All payments to workers, including hourly wages, piecework, benefits, bonuses, and other incentives shall be calculated and recorded accurately. (S)

Noncompliance

Explanation: The factory did not record a portion of overtime worked in September 2009. Document Review Guatemalan Labor Code, Art.123: Employer must record in the payrolls hours and earnings related to overtime work.

Plan Of Action:

1. The factory must have an accurate and correct electronic timekeeping system to record all working hours, including all overtime hours.
2. All payments for regular and overtime hours must be based on this timekeeping system.

**Deadline
Date:**

Action Taken:

**Plan
Complete:**

**Plan
Complete
Date:**



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: Facility records evidence only a portion of overtime worked. Document Review
Guatemalan Labor Code, Art.123: Employer must record in the payrolls hours and earnings related to overtime work.

Plan Of Action:

1. The factory must have an accurate and correct electronic timekeeping system to record all working hours, including all overtime hours.
2. All payments for regular and overtime hours must be based on this timekeeping system.

**Deadline
Date:**

Action Taken:

**Plan
Complete:**

**Plan
Complete
Date:**



Wages, Benefits and Overtime Compensation: Payroll Record Maintenance/Worker Acknowledgement

WBOT.20 All compensation records shall be maintained accurately and shall be acknowledged by the worker as accurate. (P)

Noncompliance

Explanation: Facility records evidence only a portion of overtime worked. Document Review
Guatemalan Labor Code, Art.123: Employer must record in the payrolls hours and earnings related to overtime work.

Plan Of Action: 1. The factory must have an accurate and correct electronic timekeeping system to record all working hours, including all overtime hours.
2. All payments for regular and overtime hours must be based on this timekeeping system.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:



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: The facility records evidence only a portion of overtime worked. Document Review Guatemalan Labor Code, Art.123: Employer must record in the payrolls hours and earnings related to overtime work.

Plan Of Action:

1. The factory must have an accurate and correct electronic timekeeping system to record all working hours, including all overtime hours.
2. All payments for regular and overtime hours must be based on this timekeeping system.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:



Wages, Benefits and Overtime Compensation: Worker Wage Awareness

WBOT.22 Employers shall make every reasonable effort to ensure workers understand the wages, including the calculation of wages, incentives systems, benefits and bonuses they are entitled to in a factory and under applicable laws. To this end, employers shall communicate orally and in writing to all workers all relevant information in the local language or language(s) spoken by the workers, if different from the local language. (P)

Noncompliance

Explanation: Interviews revealed that workers are unaware of the calculation of their benefits. Factory records showed 5 cases in which the workers have unclear deductions. These workers are unaware of these deductions, and when consulting the factory, they mentioned that deductions were for manual tools lost by the workers.

- Plan Of Action:**
1. The factory should communicate to workers, in understandable terms, information about regular and overtime wage calculation, wage structure, benefits, incentive systems and bonuses. For piece rate workers, the detailed piece wage calculation methodology will be recorded and workers will be trained to understand the calculation method.
 2. The factory must ensure that the employees will be compensated at least the legally mandated wage for the area and/or industry.
 3. Additionally, the factory should explain all deductions that are made from employees' wages.
 4. The factory should include this information in the new hire orientation and on bulletin boards effectively to improve workers' awareness.

**Deadline
Date:**

Action Taken:

**Plan
Complete:**

**Plan
Complete
Date:**



Wages, Benefits and Overtime Compensation: Other - Wages, Benefits and Overtime Compensation

Other

Uncorroborated Evidence of Noncompliance

Explanation: Since there are no records of a portion of overtime and interviews revealed working long overtime, there is the possibility that the factory worked extensive hours, failing to comply with the local law and FLA benchmarks.

Plan Of Action:

1. Factory must have an accurate and correct electronic timekeeping system to record all working hours, including all overtime hours.
2. All payments for regular and overtime hours must be based on this timekeeping system.
3. Every hour worked above 60 must be voluntary, as evidenced by the employee's signature not less than once each week, indicating a desire to work the additional hours.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:

Harassment or Abuse: Discipline/Worker Awareness and Participation of Workers

H&A.6 Workers must be informed when a disciplinary procedure has been initiated against them. Workers have the right to participate and be heard in any disciplinary procedure against them. Employers shall maintain written records of all disciplinary actions taken. Workers must sign all written records of disciplinary action against them. Such records must be maintained in the worker's personnel file. (P)

Noncompliance

Explanation: Through documentary review, it was found that some workers had several warnings in their files. When comparing the signatures of these workers it was found that the signatures were different. The monitor interviewed these workers and found that they were unaware of these warnings.

Plan Of Action:

1. Workers must be informed when a disciplinary procedure has been initiated against them.
2. Workers have the right to participate and be heard in any disciplinary procedure against them.
3. Employers shall maintain written records of all disciplinary actions taken.
4. Workers must sign all written records of disciplinary action against them.

**Deadline
Date:**

**Action
Taken:**

**Plan
Complete:**

**Plan
Complete
Date:**



Harassment or Abuse: Discipline/Verbal Abuse

H&A.11 Employers shall not use any form of verbal violence, including screaming, yelling, or the use of threatening, demeaning, or insulting language, as a means to maintain labor discipline. (S)

Noncompliance

Explanation: At the time of the audit, the monitor witnessed a case of verbal abuse in the administrative area. Document Review: Guatemalan Labor Code, Art. 161 Mandates that employer shall refrain of using verbal abuse.

Plan Of Action: Employers shall not use any form of verbal abuse, including screaming, yelling or the use of threatening, demeaning or insulting language, as a means to maintain labor discipline.

Deadline

Date:

Action Taken:

Plan

Complete:

Plan

Complete

Date:

Child Labor: Other - Child Labor

Other

Noncompliance

Explanation: 1. The factory changed the labor conditions for a worker who presented her complaint to the Ministry of Labor, because the factory did not grant her vacation.

2. The factory refused to deliver a labor certificate to a worker who wanted to enroll her child into the Social Security plan. She was able to enroll her child through her husband; however, to fulfill this process, this worker was absent from her duties for 3 days at different dates. Since these absences, the factory confiscated her badge and refused to accept the Social Security certificates that the worker presented to them. The worker remains in the factory but she cannot mark her attendance. A person from the administrative area mentioned to her that the company could fire her for abandoning her work, regardless if she is breastfeeding, since she has no proof of her attendances.

Plan Of Action: 1. The factory must provide all legally mandated insurance benefits to all eligible employees.

2. The factory must comply with the obligations outlined by the local law.

3. All documentation employees require from the factory to enroll in Social Security must be provided to employees.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:

Non-Discrimination: Pregnancy Testing

D.6 Employers shall not use pregnancy tests or the use of contraception as a condition of hiring or of continued employment. Employers shall not require pregnancy testing of female workers, except as required by national law. In such cases, employers shall not use (the results of) such tests as a condition of hiring or continued employment. (S)

Noncompliance

Explanation: Although the factory does not conduct medical examinations, interviews showed that when women workers fill out the employment application, they are asked verbally if they are pregnant. Document Review: Guatemalan Labor Code, Art. 137: Non-discrimination of any kind is prohibited.

Plan Of Action:

1. Factory must not require job applicants to take a pregnancy test as part of the hiring process. This includes questioning an employee's pregnancy status.
2. The factory must send a written letter of commitment to Nike stating that it will no longer require pregnancy testing or question applicants about pregnancy.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:

Non-Discrimination: Possible Marriage or Pregnancy

D.7 Employers shall not threaten female workers with dismissal or any other employment decision that negatively affects their employment status in order to prevent them from getting married or becoming pregnant. (S)

Noncompliance

Explanation: The monitor consulted the Ministry of Labor, who indicated that the factory dismissed 1 pregnant worker and 1 breastfeeding worker. Document Review: Guatemalan Labor Code, Art. 151: Employers are prohibited to dismiss pregnant and breastfeeding workers.

Plan Of Action:

1. The factory must inform employees and assure them that they will not be dismissed while pregnant or breastfeeding.
2. The factory should include this information in the new hire orientation and on bulletin boards to improve the workers' awareness.

**Deadline
Date:**

Action Taken:

**Plan
Complete:**

**Plan
Complete
Date:**



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: Although the standards are posted, interviews revealed that the factory has never trained workers about company standards.

- Plan Of Action:**
1. Provide initial training on company standards to all new hires.
 2. Provide ongoing/refresher training with employees.
 3. The factory must document all trainings. Training documents should specify which topics were discussed and include the name of each employee in attendance, along with their signature.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:

Code Awareness:

GEN.3 Develop a secure communications channel, in a manner appropriate to the culture and situation, to enable Company employees and employees of contractors and suppliers to report to the Company on noncompliance with the workplace standards, with security that they shall not be punished or prejudiced for doing so.

Noncompliance

Explanation: Interviews revealed that workers are unaware of the existence of a communications channel to both the company and suppliers.

Plan Of Action: Nike's objective is to strengthen contract manufacturers' internal grievance systems, so that direct involvement by Nike in employee grievances should be considered a last resort. Nike's contracted independent monitoring company spends time listening to factory employees during 1-on-1 confidential interviews during in-depth audits.

1. The factory must establish a formal confidential grievance process.
2. The factory should implement a written investigation procedure which establishes clearly the responsibility to investigate grievances, record complaint information and document the evidence/findings.
3. The factory should communicate to all workers how the system works and verify that workers have confidence in the system and how communicative action can be taken.

Deadline

Date:

Action Taken:

Plan

Complete:

Plan

Complete

Date:

Health and Safety: General Compliance Health and Safety

H&S.1 Employers shall comply with all local laws, regulations and procedures concerning health and safety. (S)

Noncompliance

Explanation: In the personnel file of a pregnant worker appears a letter from the Social Security requesting the factory issue a labor certificate to this worker, this letter was given to her 2 months later. There is no evidence that 5 pregnant workers, all between 4 to 6 months of pregnancy, are enrolled in the Social Security plan. At the end of the audit, the monitor received 4 off-site complaints stating that the factory does not provide labor certificates to pregnant workers, 2 of these workers presented their complaints to the Ministry of Labor.

Document Review Social Security Regulation, Art.45: The monitor consulted the Ministry of Labor (September 22, 2009) and proved 16 complaints against the factory. These complaints are: 11 complaints for refusing to issue labor certificates, 3 complaints for denying permission to attend to the Social Security and 5 complaints for refusing to accept the Social Security assistance receipts.

Plan Of Action:

1. The factory must provide pregnant employees with the necessary documents upon request, so as to receive their Social Security benefits.
2. The factory must implement policy and procedures for enrolling pregnant women into the Social Security system.
3. This policy should designate a person who is responsible for managing the policy.
4. This policy and the person responsible for managing the policy should be communicated to employees both verbally in training sessions and posted on bulletin boards.

**Deadline
Date:**

Action Taken:

**Plan
Complete:**

**Plan
Complete
Date:**

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: [The evacuation aisle \(external exits 5 and 6\) was blocked with plastic chairs. Factory Walk through. Document Review General Regulations About Hygiene and Safety at Work, Art.86, Labor Code Chapter V Health & Safety Standards.](#)

Plan Of Action: [The factory must keep all aisles free from obstruction.](#)

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:

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: Although the factory has a warehouse with limited access, during the sensory inspection a 5-gallon thinner container was found in the workplace area.

Plan Of Action:

1. The factory should properly store chemical products in a separate area from the production area.
2. Chemical products should be maintained in a clean and orderly way, with fire safety protection nearby as well as appropriate ventilation.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:



Health and Safety: Ventilation/Electrical/Facility Installation and Maintenance

H&S.17 All necessary ventilation, plumbing, electrical, noise and lighting services shall be installed and maintained to conform to applicable laws and in such a manner as to prevent or minimize hazardous conditions to workers in the facility. (S)

Noncompliance

Explanation: During the inspection it was observed that 6 chemical extractors were not functioning. The workers said they had already reported to the person in charge; however, this issue was not resolved. When consulted, the management mentioned that they had fixed the problem, as the extractors were unplugged.

Plan Of Action: The factory should have adequate ventilation and/or an exhaust system to avoid high temperatures and overexposure to fumes.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:



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: The workers, mainly pregnant workers, who stand in the iron and inspection departments do not have ergonomic mats.

Plan Of Action: The factory should provide ergonomic mats to those employees who are standing during their scheduled hours.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:

Health and Safety: Sanitation in Factory Facilities

H&S.22 All facilities including factory buildings, toilets, canteens, kitchens, and clinics, shall be kept clean and safe and be in compliance with all applicable laws, including relevant sanitation, medical and safety and health regulations. (S)

Noncompliance

Explanation: There is insufficient space for seating and tables in the canteen. Workers take their lunchtime in the aisles, in the stairwells, on the floor and even under the containers located in the factory parking lot. The conditions in this factory do not meet the standards of local law. Interviews revealed that this facility is dirty and revealed a lack of equipment for workers to heat their food and to clean their utensils.

During the inspection on October 13, 2009, it was observed that toilet paper was not available in the restrooms. In the afternoon of the same day, the factory provided toilet paper. Document Review: General Regulations About Hygiene and Safety at Work, Art.97, 105

Plan Of Action: In order for employees to have their meals away from the production floor and be protected from the elements, the factory must provide a sufficient number of tables and chairs in the canteen area.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:



Health and Safety: Toilets

H&S.23 Employers shall establish the number of toilets required under applicable laws within reasonable distance of the workplace. (S)

Noncompliance

Explanation: There is an insufficient number of sinks in the restrooms, according to the requirements of the local law. Document Review: General Regulations About Hygiene and Safety at Work, Art.98

Plan Of Action: The factory must provide a sufficient number of sinks to satisfy the employee population.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:

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: The factory did not properly record working hours. Workers interviews revealed working extended hours in September, although these hours are not registered in the time recording system and payrolls. According to workers, they registered in the system their exit at approximately 20:00, but they continued the shift even further until 23:00. These hours are paid in cash to the workers. The monitor reviewed the time records and payrolls and there was no evidence of those hours worked. Document Review: Guatemalan Labor Code, Art. 121: Overtime must be paid at least 150% more of the minimum wage. Guatemalan Labor Code Art.123: Employer must record in the payrolls hours and earnings related to overtime work.

Plan Of Action:

1. The factory must have an accurate and correct electronic timekeeping system to record all working hours, including all overtime hours.
2. All payments for regular and overtime hours must be based on this timekeeping system.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:



Hours of Work: Extraordinary Business Circumstance/Forced Labor

HOW.11 In case of extraordinary business circumstances, employers shall make reasonable efforts to secure voluntary overtime work prior to mandating involuntary overtime. Employers must get workers voluntary consent periodically for all overtime that is above the 12 hours as provided for in the Code and that is not due to extraordinary business circumstances. (P)

Noncompliance

Explanation: Interviews revealed that in September employees worked overtime until 22:50 hrs. The overtime worked from 16:30 to 19:00 is registered and paid in the payroll, while the remaining overtime is not registered in payrolls.

- Plan Of Action:**
1. The factory must have an accurate and correct electronic timekeeping system to record all working hours, including all overtime hours.
 2. All payments for regular and overtime hours must be based on this timekeeping system.
 3. Every hour worked above 60 must be voluntary, as evidenced by the employee's signature not less than once each week, indicating a desire to work the additional hours.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:

Hours of Work: Annual Leave

HOW.14 Employers shall provide workers with paid annual leave as required under local laws, regulations and procedures. (S)

Noncompliance

Explanation: The factory records and interviews indicate that several workers have not received their vacations. The factory indicated that this year they have not granted vacations since the factory considers providing vacations in December to its entire workforce. At the end of the audit, the monitor received 4 complaints indicating that the factory had not granted and paid for the vacation periods of 2008 and 2009. The monitor corroborated this fact in the Ministry of Labor legal proceedings for not granting and paying such leave. Document review: Guatemalan Labor Code Art. 132 Mandates that workers shall have their vacations within 60 days later of fulfilling 1 year of continuous service.

Plan Of Action:

1. The factory should provide all legally mandated vacation benefits to all qualified employees. All vacation shall be provided through time off.
2. Mid-year bonus, Christmas bonus and vacations must be paid according to the legally defined time periods.
3. Management should post policy and local law regarding vacation in an easily visible area and include applicable information in orientation sessions.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date: