Tool 5: Conducting a Review of Documentation

A review of company and worker documentation is a core element of social auditing. Alongside interviews with management and workers, this review helps auditors to gain a clearer picture of working and employment conditions at the audited facility, shedding light on issues such as working hours, wage levels and deductions, and any existing complaints and grievances raised by workers.

Auditors typically review a variety of documents. These include wage slips, company policies and procedures, contracts of employment, and all other files relevant to monitoring employment conditions face by workers in the facility. In auditing fair hiring and recruitment, this review is both deepened and extended. It is deepened to examine in greater detail the recruitment and employment conditions facing migrant workers; and it is extended beyond the facility and its immediate workforce to include an essential review of labor broker operations and the workers that are recruited and managed by them. A fair hiring audit is a more thorough and comprehensive audit.

There are many steps that companies can take to integrate fair hiring principles into this stage of their audits. Below you will find a list of the documents you may want to review, along with an explanation of what to look for. This guidance is divided into two sections: first, the company or facility documents to be reviewed; second, documents from the labor brokers themselves.

DOCUMENTS FROM THE FACILITY

1. A copy of the signed contract between the facility and each labor broker that provides migrant workers to the facility.

Review the contract to ensure that obligations are specified on the following:

- Services provided by the labor broker;
- Expenses and fees covered by the facility and labor broker;
- Recruitment fees;
- Prohibition of forced labor and human trafficking;
- Sanctions for non-compliance with contract terms relating to labor and human rights; and an
- Itemized account and manner of deductions made by either the facility or the labor broker.

2. A complete list of all migrant and foreign contract workers in the facility.

When you review this list, make sure it includes the following information:

- Full names and employee identification numbers of each worker;
- Workstation department with work schedule and shift;
- Date of hire;
- Name of labor broker (both sending and receiving countries);
- Home country address and contact information; and
- Emergency contact information

3. A complete list of all labor brokers providing workers to the facility and other documentation.

For each broker, be sure to review the following:

- Complete contact information;
- Broker licensing and accreditation information;
- Licensing and accreditation information for any sub-contractor or sub-agent used by the broker; and
- Records of due diligence performed by the facility in screening and selecting labor brokers.

4. All relevant facility policies and its operating procedures handbook.

A review of facility policies and procedures serves two basic functions: 1) it can help you identify the formal policy framework that has been adopted by the facility to address key labor issues relating to migrant workers; and 2) it can give you insight into the procedures developed by the facility to tackle human resource and other labor-related issues in the workplace. Review these materials – including human resource policies and codes of conduct – to evaluate their commitment to:

- Prohibit forced labor and human trafficking, and all forms of deception and coercion in the recruitment, hiring and management of migrant workers;
- Fair treatment for migrant workers with respect to:
  - ☑ Remuneration;
  - ☑ Hours of work;
  - ☑ Overtime arrangements;
  - ☑ Leave entitlements;
  - ☑ Membership in trade unions;
  - ☑ Accommodation; and
  - ☑ Benefits and social insurance.
- Contract only with those labor brokers that commit to charge no fees or expenses to workers for recruitment.
- Prohibit the confiscation or withholding of worker passports or other valuable documents.
  - ☑ However, in the event that this is required by law or requested by workers, review facility procedures to ensure that a clear and transparent mechanism has been established to guarantee that workers have access to their valuables at any time upon demand.
- Prohibit:
  - ☑ The collection of deposits, security payments or bonds at the time of recruitment and at any other time during e employment relationship;
  - ☑ Compulsory and involuntary overtime beyond the limit established by national law; and
  - ☑ Disciplinary sanctions that impose forced or compulsory work as a punishment for workplace infractions.
- Human resource practices in recruitment, contracts of employment, wages, and working hours that minimize the risk of forced labor and human trafficking.
- Guarantee worker freedom of movement and personal freedom in the management and operation of employer-operated residences.
- Progressively establish an effective screening and selection process for contracting responsible labor brokers that includes rigorous assessment tools and methodologies.

5. Personnel files of a representative number of migrant workers.

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In reviewing the personnel files of migrant workers, make sure to collect the following information in addition to what you have reviewed in the complete list of migrant and foreign contract workers in the facility:

- A copy of the worker's passport or national identification card;
- Name and contact information of the relevant labor broker;
- Emergency contact information;
- Disciplinary notices, if applicable; and a
- Signed employment contract.

Review the employment contracts of each migrant worker to ensure that wage provisions meet legal or industry minimum standards. Contracts of employment should also:

- Clearly state the circumstances in which workers can terminate their employment without penalty, given reasonable notice;
- Specify the rights and responsibilities of workers with regard to:
  - ☑ Wages;
  - ☑ Hours of work;
  - ☑ Days off and annual leave; and
  - ☑ Disciplinary procedures that can result in termination.
- Reveal no indications of contract substitution or the amendment of original contract provisions with those that are less favorable to the worker.

6. Personnel files of terminated migrant workers and those that have resigned.

Review the personnel files of terminated migrant workers and also those that have resigned. Be sure to document all of the above, with a particular view towards grievance and disciplinary procedures, noting:

- Personnel files of dismissed employees should include an accurate and detailed reason for dismissal, and severance pay documentation, where legally required; and
- Files reveal no evidence of violence, intimidation, harassment or verbal or physical threats and abuse in the workplace.

7. Wage slips and salary statements of migrant workers (see also the box provided below).

- Review the wage slips or salary statements of migrant workers to ensure that:
  - ☑ Salaries correspond to the legal or industry minimum, and are commensurate to those of country nationals working in the same job or section; and
  - ☑ Wage calculations are made clearly and with transparency. There should be no evidence of unlawful or unauthorized deductions.
- Review records relating to wage advances or loans provided to migrant workers. Make sure that:
  - ☑ They comply with the law;
  - ☑ Interest rates for their repayment are not excessive;
  - ☑ Other repayment terms are fair; and
  - ☑ Such records indicate advanced written agreement to the terms and conditions of the loan and its repayment signed by both parties.

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- Where facilities are required or requested by workers to remit their earnings, or part thereof, to a third party, review the relevant records to ensure that:
  - ☑ They indicate this is done with workers' prior knowledge and full and voluntary consent; and
  - ☑ Workers receive a receipt for the full amount remitted.

8. Facility training and orientation records.

Although the labor broker may provide most migrant worker training – from pre-departure to on-site orientation, the facility may share some training responsibilities. Depending on the extent of its involvement, the facility will need to maintain records that document the scope and nature of the training provided.

- These records should indicate that – prior to departure and upon arrival – workers received basic orientation and training on:
  - ☑ Their rights and responsibilities on the job as well as those of their employer, whether this is the labor broker or the facility;
  - ☑ Contractual obligations;
  - ☑ Terms and conditions of employment;
  - ☑ Living conditions; and
  - ☑ Grievance procedures that are in place for workers should they encounter a problem.

DOCUMENTS FROM THE LABOR BROKER

Note: Labor brokers may not be onsite during your facility audit. To ensure that you receive the documents you need to conduct a full review, consider contacting the broker prior to your site visit. Ask them to be ready to provide the following set of materials.

1. A copy of the labor brokers' license(s) to operate in the country where workers are recruited and where they are placed with the facility.

2. A copy of the signed contract between the labor broker and facility.

3. A complete list of migrant and foreign contract workers provided to the facility.

When you review this list, make sure it is consistent with that provided by the facility. It should include the following information:

- Full name and employee identification number for each worker;
- Workstation department and work schedule and shift;
- Date of hire;
- Name of labor broker (both in the sending and receiving country);
- Home country address and contact information; and
- Emergency contact information

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4. A list of all sub-contractors or sub-agents used to provide workers to the facility.

A given labor broker operating in the receiving country and placing workers at the facility may, in fact, operate through an extensive network of sub-contracted labor brokers or sub-agents located in either the sending or receiving country. It is important to ensure that each of these operates in full compliance with the law and respects the rights of workers they help to place. Through your review of documents, make sure to collect the following:

- A copy of each sub-contractor's or sub-agent's license to operate in each jurisdiction from which they recruit workers;
- Copies of the contracts signed between the labor broker and its sub-contractors and sub-agents;
- The names and contact information for each sub-contractor and sub-agent; and
- A list of the workers recruited by each sub-contractor.

Note: If the labor broker also acts as the formal employer or on-site manager of migrant workers, you will need to review documents relating to this function to gain insight into the human resources and other policies and practices of the broker. This has the potential to add an extra layer of complexity to the audit. A document review can help you reduce this complexity and establish whether migrant workers receive the protections they deserve.

5. Personnel files of a representative number of workers employed or managed by the labor broker.

Like the review of these files conducted with the facility, you should make sure to collect the following information in addition to what you have collected in the complete list of migrant and foreign contract workers provided by the labor broker:

- A copy of worker passports or national identification cards;
- Emergency contact information;
- Disciplinary notices, if applicable; and a
- Signed employment contract.

Review the employment contracts of each migrant worker to ensure that wage provisions meet legal or industry minimum standards. Contracts of employment should also:

- Clearly state the circumstances in which workers can terminate their employment without penalty, given reasonable notice;
- Specify the rights and responsibilities of workers with regard to:
  - ☑ Wages;
  - ☑ Hours of work;
  - ☑ Days off and annual leave; and
  - ☑ Disciplinary procedures that can result in termination.
- Reveal no indications of contract substitution or the amendment of original contract provisions with those that are less favorable to the worker.

6. Personnel files of terminated workers and those that have resigned.

Review the personnel files of terminated migrant workers and also those that have resigned. Be sure to document all of the above, with a particular view towards grievance and disciplinary procedures, noting if:

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- Personnel files of dismissed employees include an accurate and detailed reason for dismissal, and severance pay documentation, where legally required; and
- Files reveal no evidence of violence, intimidation, harassment or verbal or physical threats and abuse in the workplace.

7. All relevant labor broker policies and the operating procedures handbook.

Like the review of facility policies and procedures, a similar review of labor broker operations serves two basic functions: 1) to help the auditor identify the formal policy framework and standards that guide labor broker behavior with regard to the rights and protections of migrant workers; and 2) to give insight into the practices and procedures adopted by the broker, on its own or in cooperation with the facility, to address human resource and other issues in the workplace. Review broker policies and procedures – including their code of conduct provisions – with a view to the following:

- Labor broker records should indicate that the company has an implementing structure, an accountable officer and clear procedures to ensure that policies are compliant with all relevant legislation and regulation.
- Labor broker policies should clearly prohibit all forms of forced labor, human trafficking, and deception and coercion in the recruitment, hiring and management of migrant workers. They should further ensure that migrant workers are treated no less favorably than country nationals with respect to:
  - ☑ Remuneration;
  - ☑ Hours of work;
  - ☑ Overtime arrangements;
  - ☑ Leave entitlements;
  - ☑ Membership in trade unions;
  - ☑ Accommodation; and
  - ☑ Benefits and social insurance.
- Labor broker policies and procedures should also:
  - ☑ Clearly indicate that no fees or expenses are charged to workers for job placement services;
  - ☑ Prohibit the confiscation or withholding of workers' passports or other valuable documentation, unless required by law or requested voluntarily by workers;
  - ☑ Prohibit compulsory or involuntary overtime beyond the limits established by law, or a maximum of 12 hours per week where the law is silent on the issue;
  - ☑ Ensure that no unreasonable restrictions are levied to limit migrant workers' freedom of movement and personal freedom; and
  - ☑ Prohibit disciplinary sanctions that impose forced or compulsory work as a punishment for workplace infractions.
- Human resource practices of the broker with respect to recruitment, employment contracts, wages and working hours should indicate measures adopted to minimize the risk of forced labor and trafficking in persons.
- Written procedures should establish ethical practice in providing job-seekers with accurate details of working conditions at the time of recruitment, and that these details are communicated in language job-seekers understand. They should also prohibit brokers or sub-contractors working on their behalf from making false promises concerning employment conditions, in particular regarding wage expectations.
- Operating guidelines should further indicate that the labor broker has established an effective mechanism for confidential reporting of non-compliance, a grievance procedure, a process of investigating and reporting complaints, protection for whistleblowers, and an effective remediation procedure in the case of verified non-compliance.

8. Wage slips and salary statements (see also the box provided below).

- Review the wage slips or salary statements of migrant workers employed or managed by labor brokers to ensure that:

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- ☑ Salaries correspond to the legal or industry minimum, and are commensurate to those of country nationals working in the same job or section; and
- ☑ Wage calculations are made clearly, with transparency, and there is no evidence of unlawful or unauthorized deductions.

- Review records relating to wage advances or loans provided to migrant workers, if applicable. Make sure that:
  - ☑ They comply with the law;
  - ☑ Interest rates for their repayment are fair;
  - ☑ Repayment terms are fair;
  - ☑ The repayment period does not exceed the term of the employment contract; and
  - ☑ Such records indicate advanced written agreement to the terms and conditions of the loan and its repayment signed by both parties.

- Where labor brokers are required or requested by workers to remit their earnings, or a part thereof, to a third party, review relevant records to ensure that:
  - ☑ This is done with workers' prior knowledge and full and voluntary consent; and
  - ☑ Workers receive a receipt for the full amount remitted.

9. Labor broker training and orientation records.

- These records should indicate that – prior to departure and upon arrival – workers received basic orientation and training on:
  - ☑ Their rights and responsibilities on the job as well as those of their employer, whether this is the labor broker or the facility;
  - ☑ Contractual obligations;
  - ☑ Terms and conditions of employment;
  - ☑ Living conditions; and
  - ☑ Grievance procedures that are in place for workers should they encounter a problem.

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In Focus

Auditing Wages

Analyzing pay documents can be the most complex, time-consuming aspect of an audit. However, this review, combined with worker interviews, is the only way to determine whether workers' pay meets legal and contractual obligations. A thorough analysis of pay systems should include:

- *A representative number of pay slips;*
- *Payroll documents;*
- *Time cards; and*
- *Any other relevant material for wage calculation for each worker.*

Once you have assembled these documents, attempt to determine if paid wages are legally and in agreement with the employment contracts signed by workers.

Some tips can help you in this task:

- *Be sure to differentiate base wage from gross or net when calculating;*
- *Ensure that you apply the correct minimum wage rate according to region, type of factory and skill level of the worker;*
- *Randomly select a representative sample size of migrant workers from the list provided by the brand or supplier facility and/or labor broker, and analyze their payroll records. The sample should represent all categories of migrant workers from all sections in the facility.*

What to look for:

- *Verify from corresponding time cards and attendance records that all hours and days worked are recorded on the payroll.*
- *Check the rate of overtime compensation and determine if it is legal.*
- *Verify that workers were paid the legal overtime rate for overtime hours worked.*
- *Check that only legally mandated deductions are made.*
- *Check whether all workers have signed to indicate they have received their wages. If any worker has not signed, inquire why.*
- *Check sample pay slips to check that all relevant information is provided.*
- *Review the files of terminated or resigned workers and determine whether they were properly compensated.*

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