



PROTECTIONS AGAINST TRAFFICKING IN PERSONS

Definitions of Terms

Audit

An *Audit* is an in-depth evidence gathering process. Audit evidence is used to evaluate how well audit criteria are being met. Audits must be objective, impartial, and independent, and the audit process must be both systematic and documented.

Audit Criteria

Audit Criteria are the social responsibility performance criteria used to measure a supplier's conformance with Code of Conduct requirements. Audit evidence is used to evaluate the implementation and effectiveness of the supplier's policies and procedures in meeting the audit criteria.

Audit Evidence

Audit Evidence includes records, factual statements, visual observations, and other verifiable information that is related to the audit criteria being used. Audit evidence should be triangulated to justify a finding of conformance or nonconformance

Audit Findings

Audit Findings result from a process that evaluates audit evidence and compares it against audit criteria. Audit findings can show that audit criteria are being met (conformity) or that they are not being met (nonconformity). They can also identify improvement opportunities. Audit findings are used to assess the effectiveness of the management system and to identify opportunities for improvement.

Auditor

An *Auditor* is a person who collects and evaluates evidence to determine how well an Auditee's management system and supporting processes meet <Company name> Supplier Code of Conduct and legal requirements. Auditors are expected to determine whether management systems comply with standards and other planned arrangements. They must also be able to determine whether management systems are properly implemented and maintained — and they must be able to do all of this while being independent, objective, impartial, and competent.

Audit Scope

The *scope of an Audit* is a statement that specifies the focus, extent, and boundary of a particular audit. The *audit scope* is generally defined by specifying the physical location of the audit, the organizational units that will be examined, the processes and activities that will be included, and the time period that will be covered.

Conformance

To conform means to meet or comply with requirements. There are many types of requirements. There are Company requirements, customer requirements, product requirements, management requirements, legal requirements, and so on. When an organization meets a requirement, you can say that it conforms to that requirement.

Continual Improvement

Continual Improvement is a set of activities that an organization carries out in order to enhance its ability to meet requirements. Continual improvement opportunities can be identified by carrying out audits, self-assessments, management reviews, and benchmarking projects. Continual improvements are achieved by collecting data, analyzing information, setting objectives, and implementing corrective and preventive actions.

Corrective Action

Corrective actions are steps that are taken to remove the causes of an existing nonconformity or undesirable situation. The *corrective action process* is designed to prevent the recurrence of nonconformities or undesirable situations. It tries to make sure that existing nonconformities and situations don't happen again by eliminating or mitigating root causes.

Debt Bondage

Debt may be used illegally as a prohibited means of compelling someone into forced labor. Some workers fall victim to traffickers or recruiters who unlawfully exploit an initial debt assumed as a condition of employment, while in certain countries some workers "inherit" the debt.

Although contract violations and hazardous working conditions for migrant laborers do not in themselves constitute human trafficking, the imposition of costs and debts on these laborers can contribute to a situation of debt bondage.

In other cases, employment-based temporary work programs in which the workers' legal status in the country is tied to a particular employer present challenges to workers who would like to flee from such an employer

Egregious Finding

Egregious findings represent intolerable abuses of worker rights and freedoms and require immediate escalation by Auditors. Egregious findings confirm the presence of practices or conditions, such as passport withholding or serious restrictions in freedom of movement (e.g., workers locked in accommodation). Some Codes of Conduct refer to these as "Zero Tolerance" or "Critical" issues.

Foreign Migrant Worker

A *foreign migrant worker* is a worker who is not a citizen of the country of work and who migrates from their home country of origin to the country of work for the specific purpose of employment

Human Trafficking

The Trafficking Victims Protection Act of 2000 as amended¹ and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol) define human trafficking as the "The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery." For more information on federal legal definitions of trafficking in the U.S., see: <https://humantraffickinghotline.org/what-human-trafficking/federal-law>.

For additional definitions, glossary of terms, primary authorities, please see the 2021 National Action Plan on Human Trafficking.²

Internal Migrant Worker

¹ H.R. 3244. January 24, 2000. <https://www.govinfo.gov/content/pkg/BILLS-106hr3244enr/pdf/BILLS-106hr3244enr.pdf>

² The National Action Plan to Combat Human Trafficking, December 2021: <https://www.whitehouse.gov/wp-content/uploads/2021/12/National-Action-Plan-to-Combat-Human-Trafficking.pdf>

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An *internal migrant worker* or *migrant worker* is a worker who is a citizen of the country of work who migrates from his or her normal place of residence to another state/province/region within the same country for the specific purpose of employment.

Key Performance Indicator (KPI)

A *key performance indicator (KPI)* is a category of performance and an associated metric or measure. KPIs are used to quantify and evaluate organizational success, set measurable objectives, evaluate progress, monitor trends, make improvements, and support decision making. KPIs should be quantifiable and appropriate and should collect information that is useful to the organization and relevant to the needs and expectations of interested parties.

Examples of KPIs include employee turnover rate, average hours worked per week, average time to close nonconformities, lost workday case rate, employee satisfaction survey score, and energy costs per unit of production.

Major Finding

A *major finding* is a significant failure in the management system — one that affects the ability of the system to produce the desired results. It may also be caused by failure to implement an established process or procedure, or if the process or procedure is totally ineffective. For example, the failure of an organization to monitor its labor agent's Code conformance or compliance to applicable laws and regulations is a major finding.

Management System

A *management system* is a set of interrelated or interacting processes that organizations use to implement policy and achieve objectives. Most social responsibility issues can be traced back to gaps or failures in a company's business management system and processes.

Minor Finding

A *minor finding* is a finding that by itself doesn't indicate a systemic problem with the management system. It is typically an isolated or random incident. Examples are: an internal audit with an overdue corrective action pending and a procedure that has not been revised to reflect a change in regulations.

Native Language

Native language is the language of the foreign migrant worker's country of origin or a language that the worker speaks and understands.

Objective Evidence

Objective evidence is unbiased data (not opinion or inference) that shows or proves that something exists or is true. Objective evidence can be collected by performing observations, measurements, tests, or by using any other suitable method.

Origin Country

The *origin country* (also known as sending country) is the home country of foreign migrant workers from which they emigrate to pursue employment in the destination country (also known as the receiving country or country of work).

Overtime

Overtime hours are paid work hours that are in addition to the standard number of work hours per day or week specified by local or country law. Some laws define overtime as any time beyond the standard number of work hours per day, while others consider overtime to be only the number of work hours that exceed the standard number of work hours per week. Workers must be paid at a premium for overtime work.

Policy

An organization's *policy* defines top management's commitment to achieve a certain result, such as social responsibility or ethical sourcing. Policies should be used to generate objectives and should serve as a general framework for action. Policies can be based on the Supplier Code of Conduct and legal requirements and should be consistent with the organization's other policies.

Preventive Action

Preventive actions are steps taken to remove the causes of *potential* nonconformities or *potential* situations that are undesirable — they address problems that haven't yet occurred. The *preventive action process* is designed to prevent the occurrence of nonconformities or situations that do not yet exist. It tries to prevent occurrence by eliminating causes.

While *corrective actions* prevent recurrence, *preventive actions* prevent occurrence. Both types of actions are intended to prevent or mitigate adverse impacts.

Reasonable Notice

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Reasonable notice is no more than one-month prior notice, or less if required by applicable laws and regulations, for a worker to voluntarily terminate their employment contract with the employer.

Record

A *record* documents the past and provides evidence that activities have been performed or results have been achieved. Records can, for example, show that audits have been performed and that preventive and corrective actions are completed.

Recruitment Agent

Recruitment agents are private employment agencies (PEA), labor recruiters, labor brokers, staffing agents, dispatch agents, labor providers, and any other third parties involved in the recruitment, selection, hiring, transportation, and/or in some cases employment of workers in either origin (sending) or destination (receiving) countries

Recruitment Fees

The terms '*recruitment fees*' or '*related costs*' refer to any fees or costs incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection

Recruitment fees include:

- a) payments for recruitment services offered by labour recruiters, whether public or private, in matching offers of and applications for employment;
- b) payments made in the case of recruitment of workers with a view to employing them to perform work for a third party;
- c) payments made in the case of direct recruitment by the employer; or
- d) payments required to recover recruitment fees from workers

Requirement

A *requirement* is a need, expectation, or obligation. It can be stated or implied by an organization, its customers, or other interested parties. A *specified requirement* is one that has been stated (in a document, for example), whereas an *implied requirement* is a need, expectation, or obligation that is common practice or customary.

SAQ

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An *SAQ (self-assessment questionnaire)* is a detailed risk assessment completed by a supplier that asks questions about the management system processes and controls the supplier has in place to ensure conformance with the Supplier Code of Conduct. Suppliers with SAQ responses that indicate the presence of uncontrolled risk in one or more categories of the SAQ should be considered for an on-site audit.

Social Responsibility

Social responsibility refers to a company's internal policies, standards, and legal requirements intended to safeguard human rights. The basis for social responsibility requirements can be found in the International Labour Organization (ILO) Conventions, the Universal Declaration of Human Rights, and the UN Guiding Principles on Business and Human Rights. Workplace health and safety is typically considered to be under the umbrella of social responsibility.

Supplier

A *supplier* is a person or an organization that provides products or services. Examples of suppliers include organizations and people who produce, distribute, or sell products, provide services, or publish information. For the purposes of this document, "supplier" includes contractors, subcontractors, vendors, agents, recruitment agents, staffing agents, and any other entity that provides goods or services to a company.

Verification

Verification is a process. It uses objective evidence to confirm that specified requirements have been met. Whenever specified requirements have been met, a *verified status* is achieved.

There are many ways to verify that requirements have been met. For example, tests could be given, demonstrations performed, alternative calculations carried out, or documents could be inspected before issuance.

Work Environment

The term *work environment* refers to all the conditions and factors that influence work. In general, these include physical, social, psychological, and environmental conditions and factors, supervisory practices, and reward and recognition programs.

Worker

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The term *worker* means any direct or indirect, full-time, part time, temporary or seasonal worker a) who is dedicated to the production of goods or delivery of a service, b) whose work hours are based on production and service volumes, and c) who is covered by local laws governing overtime.

Working Hours or Hours of Work

Working hours are the period of time an individual spends performing paid occupational labor or time for which applicable labor law requires the individual to be compensated. Working Hours are defined in national labor law. Some countries define break time as paid working time, some countries do not. National labor legislation should be checked to clarify the definition of what is included in working hours. It is possible that short breaks before and after meals are defined as paid and therefore are working time while lunch or dinner may not.