

## PROTECTIONS AGAINST TRAFFICKING IN PERSONS

### Criteria for Screening and Evaluating Labor Recruitment Candidates in Seafood Supply Chains

The risks of Human Trafficking can be controlled by properly designed and implemented processes for recruitment, selection and hiring of workers. Those risks are greater and more difficult to control when recruitment, selection and hiring are outsourced to third party labor recruiters. Therefore, companies should, whenever possible, recruit, hire and employ workers directly.

When direct recruitment is not possible, companies must exercise careful due diligence in the screening and selection of labor recruiters to minimize the risk of human trafficking as a result of fraudulent or misleading recruitment practices. The following sample tool recommends a generic approach to due diligence, but is not intended to ensure compliance with specific legal requirements, such as the Federal Acquisition Regulation (FAR).

In this due diligence process, the company needs to obtain enough information to have reasonable confidence that the labor recruiter will comply with all applicable legal requirements and its standards for ethical recruitment. Such a process entails looking for the “presence or absence” of policies and procedures that relate to issues of ethical recruitment.

Many brokers in the seafood supply chain are highly informal. Verité research has found that informal labor brokers and employers in particular are associated with abuses of workers on vessels. Although informal brokers will be more difficult to monitor, and cannot be expected to have mature management systems in place, they may nevertheless be held to basic standards of ethical practices. For example, while informal brokers will not be able to produce copies of their legal registration, they can commit to not charging worker fees and to accurately explaining terms and conditions of work to job seekers. Similarly, while informal brokers may not be able to guarantee ethical behavior by brokers in sending countries, they can commit to asking simple questions of prospective workers to determine and help alleviate potential debt burdens. Finally, in supply chain segments where broker registration systems are weak or non-existent and informal brokers predominate, companies can move progressively towards direct hiring and/or contracting with brokers whose performance, through monitoring, has been determined to be ethical and legal.

It should also be noted that migrant workers who are recruited via informal brokers may lack the requisite documentation to access protections granted to migrant workers in the destination countries – thereby leaving the workers further exposed to forced labor and other abuses.

Assessing the recruiter’s ongoing performance will occur later, as part of the management and monitoring process.

**THE EVALUATION CRITERIA**

Verité recommends defining a set of performance requirements that complement your company's *Code of Conduct* (social responsibility expectations), *legal requirements* (licensing requirements, applicable laws and regulations, government procurement requirements, etc.) and *technical requirements* (ability to source suitable workers within a defined timeframe and budget). This will help your company to better understand the labor recruiter's policies and approaches to preventing human trafficking.

Each company will have its own specific criteria in this area. To determine criteria, a company should undertake a careful review of the legal requirements in the sending country and country of operation and any other applicable legal requirements. You should also review your company's Code of Conduct or other high-level policy language, and any such requirements of your clients.

Once the screening criteria have been defined, each criterion should be paired with indicator(s) that serve to measure whether the criterion is being met. For example:

Sample Criteria	Sample Indicators
Compliance with legal requirements	<ul style="list-style-type: none"> <li>• The recruiter is fully licensed.</li> <li>• The recruiter has no record of legal sanctions in the past three years, or violations have been corrected or are on-track for correction.</li> <li>• Informal recruiters can demonstrate awareness of legal requirements.</li> </ul>
Compliance with broad social responsibility standards	<ul style="list-style-type: none"> <li>• The recruiter formally expresses a commitment to uphold the company's social (labor and ethics) standards.</li> <li>• The recruiter has written policy and commitment statements that address social (labor and ethics) standards.</li> <li>• Informal recruiters can demonstrate awareness of social (labor and ethics) standards.</li> </ul>
Compliance with company standards and legal requirements on recruitment	<ul style="list-style-type: none"> <li>• The recruiter has a policy that prohibits the use of misleading or fraudulent recruitment practices, including:               <ul style="list-style-type: none"> <li>✓ failing to disclose basic information about the key terms and conditions of employment.</li> <li>✓ making material misrepresentations regarding the key terms and conditions of employment, including wages, benefits, hours of work, location of the work, living conditions, employer provided or arranged housing and associated costs, any significant cost to be charged to the worker, and, if applicable, the hazardous nature of the work.</li> </ul> </li> <li>• The recruiter has a policy stating that workers are not charged recruitment fees.</li> <li>• Informal recruiters demonstrate awareness of ethical recruitment issues and commit to avoiding</li> <li>• The recruiter has a procedure for verifying that workers are not charged fees by sending country agents (e.g., worker interviews, a plan for periodic worker surveys, receipt review, etc.). These procedures can be equally applied by informal recruiters.</li> </ul>
Compliance with company standards and legal requirements on employment contracts	<ul style="list-style-type: none"> <li>• The recruiter has a policy to ensure that workers' contracts meet all legal and company requirements.</li> <li>• Informal recruiters can demonstrate awareness of company standards and legal requirements on employment contracts.</li> </ul>

**CONDUCTING A SCREENING INTERVIEW**

When interviewing a prospective labor recruiter, the recruiter should be asked to describe how they are able to meet your selection criteria. In the table below, Verité offers some examples of questions that could be asked in this regard.

Sample Criteria and Indicators	Sample Screening Questions
<p>Compliance with legal requirements</p> <ul style="list-style-type: none"> <li>• The recruiter is fully licensed.</li> <li>• The recruiter has no record of legal sanctions in the past three years.</li> </ul>	<ol style="list-style-type: none"> <li>1) Does your company have a valid license to operate?</li> <li>2) Has your company been subject to any regulatory actions where monetary penalties were assessed?</li> <li>3) If formal corrective actions were mandated by the issuing government agency, can you provide documentation to show that violations have been corrected or are on-track for correction?</li> <li>4) Do you agree to adhere to the legal requirements of the sending and receiving countries, and to register your agreement by signing a contract to this effect?</li> </ol>
<p>Compliance with broad social responsibility standards</p> <ul style="list-style-type: none"> <li>• The recruiter expresses a commitment to uphold the company's social (labor and ethics) standards.</li> <li>• The recruiter has written policy and commitment statements that address social (labor and ethics) standards.</li> </ul>	<ol style="list-style-type: none"> <li>1) What is the scope and coverage of your labor and ethics policies?</li> <li>2) Do your labor and ethics policies have executive management endorsement?</li> </ol>
<p>Compliance with company standards and legal requirements on recruitment</p> <ul style="list-style-type: none"> <li>• The recruiter has a policy that prohibits the use of misleading or fraudulent recruitment practices</li> <li>• The recruiter has a policy stating that workers are not charged recruitment fees.</li> <li>• The recruiter has a procedure for verifying that workers are not charged fees by sending country agents (e.g., worker interviews, a plan for periodic worker surveys, receipt review, etc.).</li> </ul>	<ol style="list-style-type: none"> <li>1) Does your company have a policy prohibiting misleading or fraudulent recruitment practices? If yes, what is included in the policy?</li> <li>2) Does your company have a no-fee policy on charging employees recruitment fees and expenses?</li> <li>3) Does your company's policy on recruitment fees and expenses have executive management endorsement?</li> <li>4) Where in your recruitment, selection and hiring process do you think the risk of noncompliance to the no-fee policy is highest?</li> <li>5) What operational controls have you put in place to minimize these identified risks and to ensure that workers are not charged fees? Following are some examples of controls:             <ol style="list-style-type: none"> <li>a. Policies and procedures are in place to implement the no-fee statement in the Code of Conduct.</li> <li>b. A safe procedure for workers to report violations by internal staff or sub-agents of the no-fee policy without retaliation. Such a procedure should include an investigation and response to reports of violations.</li> <li>c. A policy and implementing procedures that prevent the use of illegal sub-agents or subcontractors.</li> <li>d. If the company uses sub-agents or subcontractors, a procedure to ensure these sub-agents are paid by the</li> </ol> </li> </ol>

	<p>agency for their services and that they sign and comply with the agency's no-fee policy.</p> <p>e. If workers are being recruited from remote or interior regions, the company has staff (on the company's payroll) in these areas.</p> <p>f. Workers, upon arrival, are routinely interviewed to verify that they have not paid recruitment fees.</p>
<p>Compliance with company standards and legal requirements on employment contracts</p> <ul style="list-style-type: none"> <li>The recruiter has a policy to ensure that workers' contracts meet all legal and company requirements.</li> </ul>	<ol style="list-style-type: none"> <li>Are the terms of the workers' contracts and the contracting process itself consistent with sending and receiving country laws and other applicable legal requirements?</li> <li>Does the employment contract include terms and conditions that are consistent or aligned with the hiring company's ethical recruitment standards?</li> <li>Do employment contracts comply with the requirements of the hiring company's client/customer (for example, U.S. Federal Acquisition Regulations)?</li> </ol>

**EVALUATING THE RESULTS AND MAKING A FINAL DECISION**

After labor recruiter candidates have been screened, the responses must be analyzed. Verité recommends the use of a transparent methodology for evaluating labor recruiters against screening criteria. Such a methodology should define how candidates will be evaluated, by whom, and the process by which a final decision will be made and a contract issued.

One approach is to use a rating system that assigns each criterion a weight and performance score as shown below. This allows you to score each recruiter candidate's performance on each criterion, while also giving appropriate emphasis to the areas of compliance that are most important to your company and/or your customer.

The results of such a rating process allows for the performance of all candidates to be cross-analyzed and compared with ease, which will then allow you to rank and compare candidates. For informal brokers, length of relationship with supplier may also be a key indicator, particularly as they will have increased opportunity to demonstrate their knowledge of social requirements and can more easily be held accountable compared to brokers that have newer relationships.

**Example Labor Recruiter Rating System**

Criteria	Weight (%)	Score (%)	Performance Rating
Compliance with legal requirements	20		
Compliance with social responsibility standards	30		
Compliance with legal and company standards on recruitment	30		
Compliance with company standards and legal requirements on employment contracts	20		

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Total	100	
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*Note: Weights given to the above criteria are provided as an example. Companies should determine their own weighting systems based on applicable legal requirements, their policies and (where relevant) those of their clients.*

Once the successful labor recruiter candidate has been selected and hired, companies can use the information from this due-diligence selection process as baseline data for managing and monitoring the performance of the recruiter.