



PROTECTIONS AGAINST TRAFFICKING IN PERSONS

Sample Food and Beverage Supply Chain Assurance Program

This document provides an overview of the processes a company could implement to identify where risks of human trafficking are evident within its supply chains; to address identified issues; to implement enduring solutions; and to monitor supplier performance over time.

It describes the fundamental systems approach to risk management, known as “Identify, Evaluate, Control and Monitor.” The specific processes a company needs to put in place will depend on the size and complexity of the company’s supply chain and its inherent risks, and particular legal or other obligations that may apply. Companies may want to manage the processes entirely in-house or may choose to outsource some (e.g., audits) or all processes to specialized third parties. This document simply provides the underlying principles to follow and does not attempt to ensure compliance with any applicable legal requirements, such as the Federal Acquisition Regulation (FAR): Ending Trafficking in Persons.

INTRODUCTION AND SCOPE

<insert company name> stakeholders expect that it is known where the products and services that are sold or used by the business are fairly and ethically sourced and that human trafficking and other labor abuses are not present in its supply chain. Having a robust approach for evaluating and verifying supplier social responsibility practices and performance will:

- manage risks to workers in our supply chain;
- help ensure compliance with all applicable social responsibility laws, regulatory requirements and customer requirements, including those addressing human trafficking;
- provide transparency for our customers, partners, the public, and other stakeholders;
- ensure <insert company name> Code of Conduct requirements are upheld; and
- protect our company’s brand and reputation.

This supply chain risk management program applies to all <insert company name> business activities and provides the framework to verify that suppliers and subcontractors are conforming to both Company Code of Conduct standards and applicable legal requirements.

This document should be read in conjunction with Attachment 2, Supply Chain Risk

Management Process Flowchart, and the <insert company name> Supply Chain Code of Conduct.

OBJECTIVES

<insert company name> strives to deliver quality products and services to our customers, but not at the expense of the welfare of workers anywhere in our supply chain. We will therefore:

- seek to ensure that products and services delivered to customers or used in our business are sourced from suppliers, subcontractors, and business partners that share our commitment to worker welfare and eradicating all forms of human trafficking in their operations and supply chains; and
- establish a consistent process for engaging with our suppliers and subcontractors to ensure that they meet or exceed minimum Code requirements and legal standards;
- define <insert company name> roles and responsibilities for assuring supplier workplace ethical standards;
- enable <insert company name> to achieve its supply chain social responsibility objectives and targets;
- monitor and manage the social responsibility performance of our suppliers and subcontractors on an ongoing basis; and
- establish a transparent process for reporting <insert company name> supply chain risks and progress in achieving conformance with social responsibility Code and legal requirements.

IMPLEMENTATION

General Obligations

<insert company name> senior management shall ensure that responsibilities are assigned, and processes and programs are planned and implemented to ensure:

- i. all existing and new suppliers and subcontractors are identified and formally declare that they will comply with the <insert company name> Supply Chain Code of Conduct and all applicable legal requirements (Attachment 3). This will be incorporated into the approval and sign-off processes for new suppliers.
- ii. new and existing suppliers and subcontractors go through risk screening (type of goods or services provided, country of operation, etc.) to identify potential human trafficking and other social responsibility risks.
- iii. where screening identifies potential social responsibility risks, those suppliers

- and subcontractors complete and submit self-assessments using the <insert company name> Supplier Self-Assessment Questionnaire.
- iv. those suppliers and subcontractors with identified social responsibility risks by self-assessment will undergo on-site assessments/audits and address all serious nonconformance prior to:
 - a) approval as a supplier to <insert company name>,
 - b) renewing existing contracts, or
 - c) placing new orders.
 - v. <insert company name> will monitor supplier and subcontractor social responsibility performance on an ongoing basis and work cooperatively with them to ensure that they meet applicable legal requirements and the ethical workplace standards set out in the <insert company name> Supply Chain Code of Conduct and that any noncompliance identified during the term of the contract are immediately and effectively addressed.

Appendix 2 provides a visual overview of the Supply Chain Risk Management Process.

Supplier Identification and Declarations

- i. The <add position title here > is responsible for mapping the Company's supply chain by identifying all current suppliers and subcontractors and determining the nature and scale of the supply of good and services according to:
 - Type of product or service
 - Location of the supplier (i.e. country)
 - Contractual relationship (i.e. sourced via a third party; direct from a production site; service provider)
 - Contract value (revenue, length of engagement, etc.)
- ii. Compliance with the requirements of the <insert company name> Supply Chain Code of Conduct and with all applicable human trafficking and social responsibility laws and regulations will be incorporated into both new and existing supplier and subcontractor contracts and purchase agreements.
- iii. All suppliers and subcontractors are required to sign a declaration (see Attachment 3) as evidence of their commitment to comply with the <insert company name> Supply Chain Code of Conduct as follows:
 - All new suppliers, subcontractors and agents are required to confirm their commitment to compliance as part of the contracting process.
 - All existing suppliers, subcontractors and agents are required to confirm their compliance commitment prior to contract renewal or new orders being placed.

Supplier Prioritization

The <add position title here > is responsible for identifying “at risk” suppliers and subcontractors using the following two-stage prioritization process:

i. Risk Screening

This is a high-level assessment of the potential risk presented by a supplier based on the supplier’s location, product or service, contract size, and other indicators of risk.

- All existing and new suppliers and subcontractors are required to disclose information about the location and nature of its operations and operating sites to support risk screening.
- The risk screening will be completed for each current and prospective supplier and subcontractor in order to identify those with potential social responsibility risks.
- The <add position title here > is responsible for maintaining a record of the potential risks identified for each supplier and subcontractor.
- Suppliers and subcontractors with low potential social responsibility and human trafficking risks should be re-evaluated at least every two years to determine if changes in operations, location or contract value have increased the potential risk presented by the supplier.
- All potentially “at risk” suppliers, subcontractors, and sites will be required to complete the <insert company name> Supplier Self-Assessment Questionnaire.

ii. Self-Assessment Questionnaire (SAQ)

The Supplier Self-Assessment Questionnaire looks at business processes, such as worker recruitment and hiring, to identify process gaps that could lead to social responsibility issues, including human trafficking.

- All suppliers and subcontractors identified by screening as having potential human trafficking and other social responsibility risks based on the results of Risk Screening are required to complete the <insert company name> Supplier Self-Assessment Questionnaire (SAQ).
 - a) Prospective suppliers, subcontractors, and agents will complete the SAQ prior to approval as a <insert company name> supplier.
 - b) Current suppliers, subcontractors, and agents are required to complete the SAQ within 30 days of receiving a request to do so.
 - c) Suppliers, subcontractors, and agents that decline to complete the self-assessment will be rated as high risk and will not be eligible to become a <insert company name> supplier or renew their contract and receive new orders until the SAQ is

completed.

- The <add position title here > will review the completed questionnaires with the supplier, subcontractor, or agent to ensure the responses are accurate and to request supporting information, as needed.
- Based on the Self-Assessment results, the <add position title here > will:
 - a) rank suppliers, subcontractors, and agents in order of risk potential;
 - b) require those suppliers, subcontractors, and agents ranked as high and moderate risk to undergo an on-site audit; and
 - c) re-evaluate all low-risk suppliers and sites every two years to determine if there have been any changes in the supplier's operation(s) that could increase its risk score.

Supplier and Subcontractor Social Responsibility Audits

All current and potential suppliers, subcontractors, and agents that have been rated as high or medium risk based on the Supplier Self-Assessment will be requested to undergo an on-site social responsibility audit to objectively evaluate the effectiveness of the supplier's control of social responsibility risks, including human trafficking.

- i. Initial (baseline) audits will be performed according to the following timeframe:
 - Prospective suppliers, subcontractors, and agents: prior to contracting
 - Current suppliers, subcontractors and agents identified as high priority: within 30 days
 - All other current suppliers, subcontractors and agents: prior to contract renewal or placing of new orders
 - Suppliers may provide reports of recent audits (less than one year old) and status of corrective actions in lieu of a new audit. Unless otherwise agreed, <insert company name> will only accept Social Responsibility audits which meet its minimum audit process requirements, including the considerations for auditing for human trafficking provided in Attachment 4.
- ii. Audits must be completed by a competent third-party auditor or audit firm approved by <insert company name>.
- iii. As a general principle, suppliers should be expected to pay all reasonable costs associated with audits. <insert company name> may choose to share audit costs with the supplier or in certain cases pay for all costs associated with the audit.
- iv. The <add position title here> may, at his/her discretion, rely on information contained in existing audits assuming that they:

- have been completed to equivalent standards by a competent party; and
- are no more than 1 year old.

Audit Findings and Follow-up

The <add position title here> is responsible for ensuring that any Code nonconformance and legal noncompliance identified by the auditor(s) are effectively addressed in a timely manner. The process for audit reporting and implementing corrective and preventive action includes the following elements:

- Egregious Issues.* The auditor will notify the <add company name and position title here> of any egregious issue (e.g., passport withholding, workers locked in their accommodation, etc.) immediately upon identification. The <add company name and position title here> will then contact the supplier to ensure that remediation actions are promptly taken and future risks are mitigated.
 - The <add position title here> is responsible for promptly notifying the customer (including the Contracting Officer for US Government contracts) of the specific nature of the identified issue and the measures and timeframe to address them.
- Audit Report.* The auditor will submit a written audit report to the <add company name and position title here> within two weeks after completing the on-site assessment. The report will contain a description of the audited facility/operation, a summary of the audit process, and detailed information and supporting evidence on all findings, compliant and noncompliant. The findings must be described clearly as the report serves as the basis for the supplier's corrective action plan.
- Corrective Action Plan.* The <add company name and position title here> will:
 - ensure that the audited supplier, subcontractor, or agent submits a Corrective Action Plan to <insert company name> within one month of completion of the on-site audit.
 - review and approve submitted Corrective Action Plans to verify that:
 - a) corrective actions have been taken for any egregious findings (e.g., passport withholding, charging of recruitment fees, etc.);
 - b) all findings are addressed;
 - c) root causes have been identified;
 - d) corrective and preventive actions are appropriate;
 - e) action owners and target completion dates are listed; and
 - f) specific corrective actions directed by the USG Contracting Officer or Contracting Officer Representative (for federal contracts) have been addressed.

- require suppliers and subcontractors to submit monthly status reports to track and follow-up on corrective and preventive actions;
 - remotely verify the closure of corrective actions where possible (e.g., by reviewing documents or photographs provided by the supplier); and
 - schedule a follow-up audit to verify the closure of any egregious and major findings or to verify corrective actions that can only be evaluated through worker interviews and on-site documentation reviews.
 - ensure that no new contracts or new orders are placed until any egregious issues have been independently verified as being addressed (within two weeks of priority closure notification).
- iv. *Progress Reporting.* The supplier subcontractor will send monthly progress reports to the <add company name> until all nonconformances have been corrected, evidence of completion has been submitted to the <add position title here>, and closure of egregious and major issues has been verified by follow-up audit.
- If any egregious findings are identified during the audit, the first progress report must be submitted no later than 30 days after discovery and should clearly identify how the issue is being addressed, including copies of supporting evidence where appropriate.
 - The <add position title here> will then schedule a follow-up audit at the earliest opportunity to verify closure of the item(s). Closure audits will be performed within 60 days of identification of the egregious finding.
 - In the absence of egregious nonconformance, follow-up audits will be performed within one year of the initial audit.
- v. *Frequency of Re-audits.* Once remediation of all egregious and major findings has been verified by follow-up audit, the <add position title here> will arrange for re-audits of the supplier every two years.
- If egregious findings are not satisfactorily addressed by the closure audit, prospective suppliers will not be approved for use and current suppliers will not receive new orders and be eligible for contract renewal, and may be subject to contract termination.
 - If major issues remain outstanding after two rounds of follow-up audits have taken place, <insert company name> shall evaluate its continued relationship with the supplier or subcontractor.

Note to User: The following two sections, “*Notification*” and “*Certification*,” apply only to compliance with FAR 52.222-50, Combating Trafficking in Persons. Although

only some federal contractors are required to provide certifications, all federal contractors are required to comply with the trafficking in persons prohibitions and the notification requirements described below.

- vi. *Notification.* For U.S. Government contracts, the <add company name and position title here> will inform the Contracting Officer and the agency Inspector General immediately of:
- audit findings or any credible information from any other source indicating that a <add company name> employee, subcontractor (including suppliers), subcontractor employee, (including supplier employees), or their agent has violated the policy requirements of FAR 52.222-50(b), and
 - any remedial actions and/or other actions taken against a <add company name> employee, subcontractor, subcontractor employee, or their agent.
- vii. *Certification.* Prior to contract award and annually thereafter, <add company name> will submit a certification to the Contracting Officer that:
- it has implemented a compliance plan to prevent the prohibited activities listed in FAR 52.222-50(b) and to monitor, detect, and, if necessary, terminate any agent, subcontract, or subcontractor employee engaging in prohibited activities; and
 - after having conducted due diligence, either
 - to the best of <add company name>'s knowledge and belief, neither it nor any of its proposed agents, subcontractors, or their agents is engaged in any such activities; or
 - if abuses relating to any of the prohibited activities identified in 52.222-50(b) have been found, <add company name> or proposed subcontractor has taken the appropriate remedial and referral actions.

Ongoing Performance Monitoring

The < add company name and position title here> will:

- i. Work with suppliers and partners to progressively ensure that all suppliers, subcontractors and agents meet or exceed minimum social responsibility standards set out in the <insert company name> Supply Chain Code of Conduct and applicable legal requirements. This includes provision of appropriate training, consultation, and other capacity-building services as required.

- ii. Require suppliers, subcontractors, and agents to submit quarterly performance reports as evidence of their ongoing efforts to ensure conformance with the Supply Chain Code of Conduct and legal requirements.
 - Performance reports should contain the results of internal/self-audits, summaries of worker grievance reports and their resolution, interviews with new migrant workers on the recruitment process, agreed Key Performance Indicators (KPIs), etc. The specific content of the reports will depend on the supplier or subcontractor's business and identified risks, and must be approved by the <add company name and position title here>.
 - Supplier reporting and the results of <insert company name> audits and assessments will be used to create periodic reports for customers and the public on the company's risk management program, including specifics on reported violations and how they were remediated.
- iii. Set improvement targets for suppliers and subcontractors to achieve when they are re-audited every two years.

Reporting, Assurance, and Escalation

- i. The <add position title here> will maintain appropriate records associated with supplier social responsibility performance. As a minimum, the following will be recorded:
 - Supplier declarations
 - Risk screening results
 - Completed Supplier Self-Assessment reports
 - Prioritized listing of suppliers and subcontractors by risk
 - Audit reports and associated Corrective Action Plans and supplier progress reports
 - Follow-up audits and associated evidence of closure
 - Supplier quarterly performance reports
 - Reports of significant violations of legal and Code of Conduct requirements, including how the issues were remediated
- ii. The <add position title here> will track and report internally all progress with the requirements of this Standard in collaboration with other supplier-facing functions.
- iii. Company and supplier compliance with the requirements of Supply Chain Code of Conduct and this program will be reported to <insert company name> executive management and to the public on a regular basis, no less than annually.

ATTACHMENT 1: Definition of Terms

Audit

An *Audit* is an 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 include policies, procedures, and requirements. Audit evidence is used to determine how well the audit criteria are being met. Audit evidence is used to determine how effectively policies and procedures are being implemented, and how well requirements are being met.

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 evidence in order to evaluate how well an Auditee's risk management systems meet <insert company name> Supplier Code of Conduct 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 improvements can be achieved by carrying out audits, self-assessments, management reviews, and benchmarking projects. Continual improvements can also be realized by collecting data, analyzing information, setting objectives, and implementing corrective and preventive actions.

Correction

A *correction* is any action that is taken to eliminate a nonconformance. However, corrections do not address root causes.

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. It tries to prevent recurrence by eliminating causes.

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.

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,

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

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>.

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 closure of 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 recruiter’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 elements 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 request pending and a procedure that has not been revised to reflect a change in regulations.

Objective Evidence

Objective evidence is data 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.

Overtime Hours

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 social responsibility, ethical sourcing, etc. 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 nonconformities.

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.

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

An *SAQ (self-assessment questionnaire)* is a detailed risk assessment completed by a supplier or subcontractor that asks questions about the programs and other 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* or *subcontractor* 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.

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.

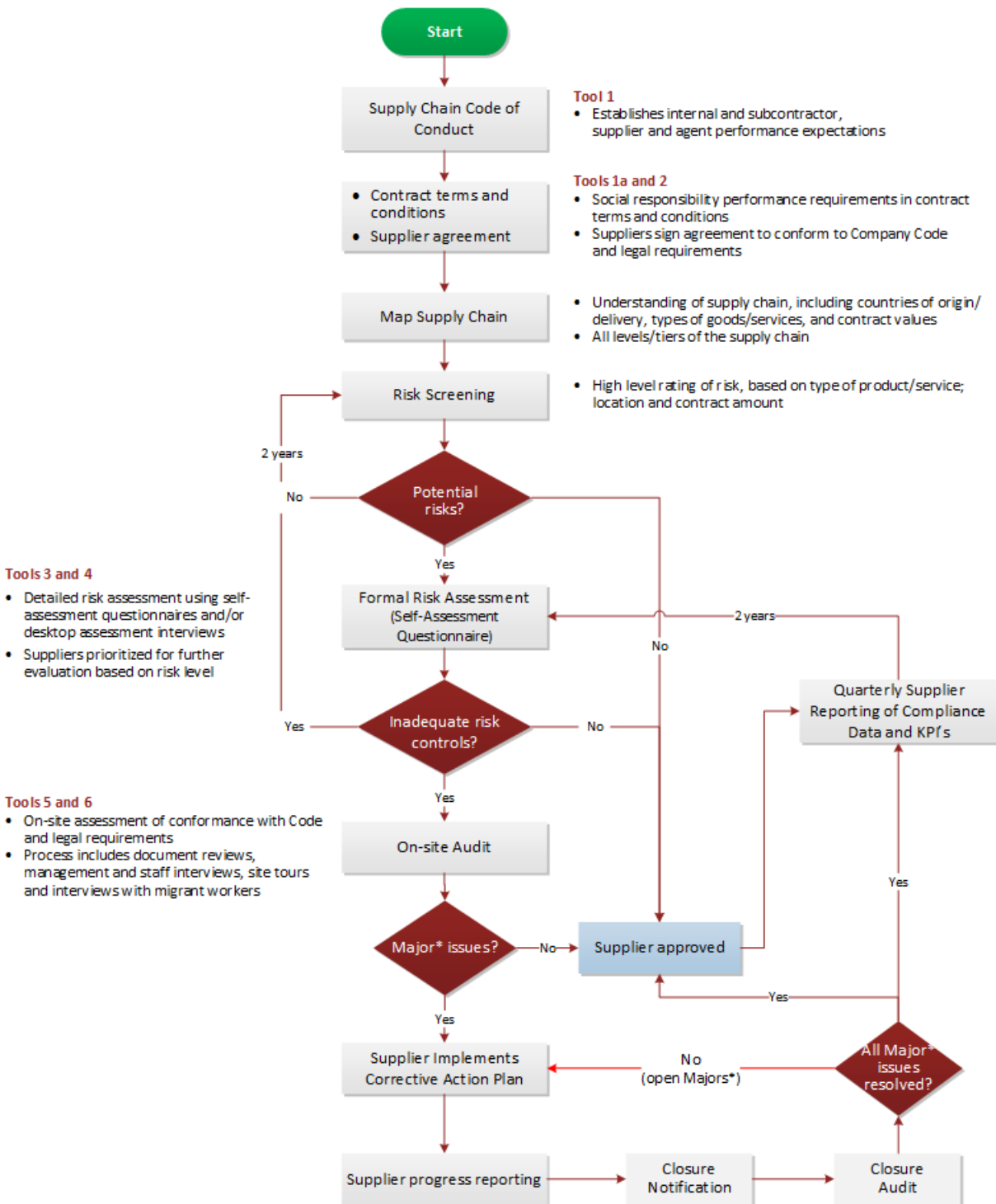
Work Environment

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.

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.

ATTACHMENT 2: Sample Supply Chain Social Responsibility Risk Management Process Flow



- Tool 1**
 - Establishes internal and subcontractor, supplier and agent performance expectations
- Tools 1a and 2**
 - Social responsibility performance requirements in contract terms and conditions
 - Suppliers sign agreement to conform to Company Code and legal requirements

- Understanding of supply chain, including countries of origin/delivery, types of goods/services, and contract values
- All levels/tiers of the supply chain

- High level rating of risk, based on type of product/service; location and contract amount

- Tools 3 and 4**
 - Detailed risk assessment using self-assessment questionnaires and/or desktop assessment interviews
 - Suppliers prioritized for further evaluation based on risk level

- Tools 5 and 6**
 - On-site assessment of conformance with Code and legal requirements
 - Process includes document reviews, management and staff interviews, site tours and interviews with migrant workers

*includes both Major and Egregious findings

ATTACHMENT 3: Sample Supplier Declaration Form

This Supplier Social Responsibility agreement (“Agreement”) is dated this **[day]** of **[month], [year]** by and between _____ Company, _____ <address> (the “Company”) and **[name & corporate address of supplier]** (“Supplier”).

Rationale

- A. This Agreement is intended to supplement any and all contracts and agreements between the Company and Supplier for the supply of goods or services by Supplier to the Company.
- B. The Parties wish to address in this Agreement how they may work collaboratively to achieve the objectives of the _____ Company Supply Chain Code of Conduct.

The Parties agree as follows:

1.0 Supplier Responsibility

- 1.1 Supplier confirms that it has read the Company Supplier Code of Conduct, agrees with its statement of requirements, and commits to comply with them.
- 1.2 Supplier will complete the Company Supplier/Subcontractor Self-Assessment questionnaire available at **[add URL for supplier access to SAQ]**.
- 1.3 Supplier will be responsible for identifying any areas of its operations that do not conform to the Company’s Supplier Code of Conduct and for implementing and monitoring improvement programs designed to achieve conformance with the Company Supply Chain Code of Conduct.
- 1.4 Upon request by the Company, Supplier will submit a report to the Company describing actions taken and progress made by Supplier to meet the requirements of the Company Supply Chain Code of Conduct.
- 1.5 Supplier will provide the Company, or its nominated representative, on reasonable notice, access to Supplier’s production facilities, work sites, and relevant records insofar as they relate to contracts and purchase agreements with the Company, in order to verify information provided in Supplier’s report.

2.0 Company Responsibility

The Company agrees that the report, site access, and records referred to will only be used for the purposes of assessing the Supplier’s progress in accordance with the Company’s Supply Chain Code of Conduct and will not be disclosed

to any third party without Supplier's prior written consent.

3.0 Scope of Agreement

- 3.1 This Agreement applies to all existing and future contracts and purchase agreements between Supplier and the Company.
- 3.2 This Agreement will remain in force so long as there are any contracts in force. This Agreement will terminate when and if no contract is in force.
- 3.3 This Agreement does not require either the Company or Supplier to enter into any contract nor to enter into any new or further agreement of any kind.

ATTACHMENT 4: Sample Considerations for Auditing for Human Trafficking

Introduction

Human trafficking and trafficking-related activities are complex issues. They are hidden, characterized by deception, and typically the result of complex pressures, abuses, and exploitation levied not by a single employer, but by a number of abusive actors at different stages of the recruitment, hiring, and employment processes, and at every level in the supply chain. The <insert company name> company requires audits performed on its behalf to integrate the following guidance to improve auditors' ability to identify potential human trafficking risks.

There are many reasons why human trafficking can be difficult for auditors to detect:

- Deception and lies are a defining factor of human trafficking and among the key means used by dishonest labor recruiters to lure their victims into hiring traps.
- Migrant workers are a particularly vulnerable group. They may be hesitant to provide details about their recruitment experience or their situation in the workplace for fear of reprisal, up to and including termination of their contract and deportation.
- A situation of trafficking may be the result not of a single, easily identifiable abuse, but rather a series of circumstances and violations committed by different actors.
- The abuse may originate with criminal actions of a labor recruiter overseas, as in the case of debt bondage due to excessive recruitment fees.
- The management of workers by an on-site recruiter can make it more difficult to determine the nature of employment and working conditions due to a lack of direct control.
- Auditors themselves may lack the skills, experience, and resources needed to identify human trafficking.

Audits for human trafficking share many common elements with other social audits, including:

- *Site Tours and Inspections*, including work areas, canteens and accommodations. Visiting the employer- or recruiter-provided housing is particularly important when trafficking audits as migrant workers often have no option but to live in such accommodations. Security practices at worker housing is often a source of restrictions in freedom of movement. Workers' living quarters may also be a good place for third-party auditors to conduct confidential worker interviews.
- *Management Interviews*. These interviews need to focus on the recruitment process, worker contracts, wage payments, disciplinary actions, and the worker grievance reporting process. More details are provided below.
- *Worker Interviews*. Gathering information from workers is an essential part of any social audit, but is even more critical when evaluating the risk of trafficking. Due to the prevalence and extent of illicit and unethical practices by labor recruiters and sub-agents, workers may be the only source of reliable information on the details of the recruitment and hiring process. Trained native language interviewers must be part of any human trafficking audit team to cover all the languages spoken by the workforce.
- *Labor Recruiter Interviews*. Labor recruiters play an essential role in cross border recruitment and often provide complete outsourcing of a company's recruitment selection and hiring process and therefore must be part of any human trafficking focused audit. Interviewing recruiters will provide the auditor with a more complete picture of the recruitment process. See below for more details.

Interviewing Managers

Managers are a key source of information for social auditors. The following approach should be used in audits of <insert company name> facilities and those of its suppliers and subcontractors. In assessing compliance against the Supplier Code of Conduct provisions, auditors should make sure to speak with all possible members of the management team. Auditors should speak about human trafficking directly and address the full complexity of these issues, recognizing the need to go beyond simply asking if such abuse is prohibited. In addition, auditors should ask about migrant workers in the workplace and learn about the use of labor recruiters and recruitment methods; and discuss in greater detail the recruitment, selection, and hiring process used by the employer or worksite, as well as employment conditions facing migrant workers. Cross-check this information with the results of interviews with workers and labor recruiters themselves.

Here is a selective list of the key issues auditors should discuss with managers:

- General profile of workers at the facility or worksite
- The process for selecting and contracting labor recruiters
- Who has oversight of the recruitment process

- Recruitment fees and expenses
- Contracts of employment for migrant workers
- Other methods of communicating working conditions (hours, wages, length of voyage) to workers
- Document retention and withholding passports
- Charging of security deposits
- Wage payments and deductions
- Compulsory or involuntary overtime
- Worker freedom of movement and personal freedom at the workplace and in dormitories
- Workplace discipline
- Threats of violence and intimidation
- Grievance procedures and whistleblower protections
- Worker rights to terminate employment without penalty

Gathering Information from Workers

Speaking with workers — in particular, migrant workers — is a key aspect of a comprehensive and effective social audit focused on human trafficking. This can be done individually or in groups, and every effort must be made to ensure the confidentiality and anonymity of worker identities and the statements they make. This is important when dealing with sensitive matters such as human trafficking, which can result in criminal sanctions for the perpetrators and others involved, and thus increase the risk of retaliation to workers.

Make sure to speak with a wide cross-section of workers from different shifts, production lines, occupational groups (e.g., including security or cleaning staff) and sections of the workplace. Speak with both local and migrant workers both informally during the site inspection or walk-through, and more formally in the workplace, at dormitories, or other agreed upon locations, if the latter allow workers to feel more comfortable. Use a variety of means and methods of interviewing to elicit detailed information about the recruitment, hiring, and employment conditions facing workers. Information can also be gathered from grievance mechanisms.

Interviews should be conducted by trained native language interviewers that are part of the audit team. Unless it is absolutely necessary, do not rely upon facility or recruiter staff to translate for the workers. This will create an atmosphere in which workers are unwilling to share sensitive information.

Here are some of the issues that auditors should discuss directly with workers:

- how they were recruited, hired, transported and received in the countries of origin and destination;

- what fees or expenses they were charged by the labor recruiter or its local partner in the country of destination, and if they were given receipts;
- whether an employment contract was signed, with whom it was signed, when it was signed, and whether the worker had to sign two or more different contracts;
- if the worker was provided a copy of the contract;
- whether wage payments are ever withheld or delayed, or if illegal or unexplained deductions are made by the labor recruiter or employer from workers' salaries;
- if passports or other valuable documentation are ever confiscated or withheld;
- what restrictions there are, if any, on migrant workers' freedom of movement and personal freedom in dormitories or other employer- or labor recruiter-operated housing;
- the safety and quality of employer provided housing;
- whether the job terms recruited for match the job in reality, including location of work, type of work, and hazardous nature of work; and
- if there is a way for them to file a complaint or grievance about recruitment or employment practices, if they feel comfortable using the process, and, if they have used it, was it effective in resolving their issues.

Interviewing Labor Recruiters

A third feature of an effective human trafficking audit —one which is only rarely performed — are interviews with the labor recruiters contracted by the employer. This can give the auditor full insight into the recruitment, selection, and hiring procedures used by the recruiter, and the conditions facing migrant workers in pre-deployment, transportation, arrival, and placement.

Auditors should speak with a broad cross-section of labor recruiters. They should interview recruiter representatives and sub-agents, if possible, from each country of origin of migrant workers in the facility, as well as local partners in the receiving country. Topics to discuss range from the specifics of fees and expenses charged to workers or the contracting employer to the recruiters' legal history and its certification or license to operate in each country from which it sends workers. Some of the other issues to address with recruiters include:

- the pre-departure orientation or training they provide to workers;
- contracting procedures and contract substitution;
- whether they also perform human resource management functions for migrant workers, such as salary payment;
- document retention or confiscation; and
- whether the recruiter has established an effective complaints mechanism or

grievance procedure for workers.

Reviewing Documents and Records

A review of documents and records is an important part of an audit against the trafficking of migrant workers. It is likely to include both company and worker documentation such as wage slips and contracts of employment, which are common to most social auditing systems; however, it should also include a review of labor recruiter materials, which can be collected and used to cross check information gathered through the recruiter and worker interviews. Although smallholder employers will be more difficult to monitor and cannot be expected to have mature management systems in place, they may nevertheless be held accountable to basic standards of ethical practices. Smallholder farmers, for example, will likely not have formal payroll documents, however they should be required to maintain basic documentation, such as handwritten records of when and how much workers were paid. Ultimately, all employers should have a transparent system that documents: the amount of work a worker performs; the wage system; how many hours worked or quota units completed; what overtime wages are, if applicable; what deductions may have been made; and how much money is due and paid out per pay period. Workers should be able to receive some sort of pay-slip, even if handwritten, which both the worker and employer can confirm is accurate.

Some of the written materials auditors may wish to review include:

- signed contracts between each labor recruiter and the employer;
- a list of all migrant workers in the worksite and their migration status;
- copies of employer and labor recruiter policies and each party's respective operating procedures handbook;
- personnel files for a representative number of workers in the worksite, including recently terminated workers and those that have resigned;
- copies of pre-departure and arrival worker training materials;
- recruiter and facility training records for workers; and
- records of pending and past complaints or grievances that have been raised by workers.

This tool is intended for use specifically by companies that need to demonstrate compliance with the requirements of the Federal Acquisition Regulation (FAR): Ending Trafficking in Persons and submit certifications under 52.222-50(h) and 22.1703(c).

1. **Compliance Plans.** U.S. Government contractors are required to create and implement a compliance plan to prevent any prohibited activities identified in FAR 52.222-50(b) for any portion of a contract that:

- a) is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or
- b) services to be performed outside the United States; and
- c) the overseas portion has an estimated value that exceeds \$500,000.

The plan must be maintained throughout the performance of the contract and must be appropriate to:

- the size and complexity of the contract; and
- the nature and scope of the activities to be performed for the Government, including
 - the number of non-United States citizens expected to be employed and
 - the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons

The Contractor must provide the compliance plan to the Contracting Officer upon request. The Contractor must also post the relevant contents of the compliance plan at the workplace and on the Contractor's Web site.

2. **Certification.** Prior to contract award, and annually thereafter, the Contractor must certify to the Contracting Officer that:
 - It has implemented a compliance plan to prevent any prohibited activities identified in the FAR and to monitor, detect, and terminate any agent, subcontract or subcontractor employee engaging in prohibited activities; and
 - after having conducted due diligence, either
 - to the best of the Contractor's knowledge and belief, neither it nor any of its agents, subcontractors, or their agents are engaged in any such activities; or
 - if abuses relating to any of the prohibited activities have been found, the Contractor or subcontractor has taken the appropriate remedial and referral actions.
3. **Subcontracts.** Contractors must include the substance of the clause at FAR 52.222-50, Combating Trafficking in Persons, in all subcontracts and in all contracts with agents. However, requirements for a compliance plan apply only to any portion of the subcontract that meets the same prime contractor thresholds in a), b) and c) in Section 1, Compliance Plans, above.

If any subcontractor is required by this clause to submit a compliance plan and certification, the Contractor must require submission prior to the award of the subcontract and annually thereafter. The certification shall cover the items described above in Section 2, Certification.

