



RESPONSIBLE SOURCING TOOL

Construction Industry | Tool 3

PROTECTIONS AGAINST TRAFFICKING IN PERSONS

Sample Benchmarks of Good Practice in Recruitment and Employment in the Construction Industry

Benchmarks of good practice are the detailed performance standards of a Code of Conduct. They further clarify requirements for business partners and can be used to measure the human rights performance of suppliers. The set of sample benchmarks below is consistent with the sample Supplier Code of Conduct provisions listed in Tool 2 and can serve as a basis for establishing and monitoring key performance indicators. However, they are not intended to ensure compliance with specific legal requirements, such as U.S. Federal Acquisition Regulation (FAR): Combating Trafficking in Persons.¹

The guidance in this document and other tools for the construction industry, is designed to align with both international and voluntary standards. The UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, is the primary international instrument centered on forced labor² and overseen by the UN Office on Drugs and Crime (UNODC), The International Labour Organization (ILO), is the UN agency that sets internationally recognized labor standards.

Construction companies should work with their subcontractors and agents to cascade and enforce their Codes of Conduct throughout all tiers of their materials and labor supply chains, which include many different types of materials and services that suppliers are involved in; from providing skilled and unskilled construction labor to the production of raw materials, the manufacturing of composite materials and building systems, or the manufacturing and maintenance of construction equipment, tools, and vehicles.

For guidance on mapping complex construction industry supply chains, use Tool 6.

¹ For guidance on complying with the Federal Acquisition Regulation (FAR): Combating Trafficking in Persons, please review Tool 12, RST's Sample Compliance Plan Template

² The United States recognizes two primary forms of trafficking in persons: forced labor and sex trafficking. For the purposes of this and other tools in the set, several terms are used such as "trafficking in persons," "human trafficking," and "forced labor." In relation to these tools, they refer to a crime whereby traffickers exploit and profit at the expense of adults or children by compelling them to perform labor.

HUMAN TRAFFICKING, INCLUDING FORCED LABOR

Sample benchmarks include:

- Subcontractors and suppliers have written policies prohibiting forced, compulsory, bonded, indentured labor or involuntary prison labor in their own operations and all entities in their supply chains, including those involved in the recruitment, selection, and hiring of workers.
- Subcontractors and suppliers have a written policy that prohibits sex trafficking and the procurement of commercial sex in their own operations and all entities in their supply chains.
- Clear and transparent human resource practices are in place to minimize the risk of forced labor, including:
 - Appropriate due diligence is performed of all recruitment and staffing agents used to select, recruit and/or transport migrant workers;
 - Workers are not charged recruitment, placement fees, or expenses during the recruitment process or during employment;
 - Workers enter employment freely and employment terms and conditions are agreed to voluntarily, without deception, coercion, or threat of penalty;
 - All workers are provided written employment contracts in their native language (or a language they understand) before beginning work;
 - Official worker identification documents, passports, travel papers or other personal documents are not held or confiscated by their employers or any other third parties;
 - Overtime work is strictly voluntary; and
 - Workers are free to terminate their employment, without penalty, upon giving reasonable notice (up to 30 days), except in the case of severe labor or human rights abuse when workers should be free to leave immediately.
- The company and its suppliers comply with all relevant local laws and regulations, including those concerning the prohibition of forced labor in each jurisdiction in which they operate.

CHILD LABOR

Child Labor and Forced Labor Risk

Child labor is not synonymous with forced labor, but the drivers for both may be similar, including the demand for cheap, exploitable, and unskilled labor; poverty; unequal access to education; and exclusionary social attitudes based on caste, gender, immigration status, or ethnicity. Child labor and the worst forms of child labor are widespread in informal economic sectors, including the construction industry.

The risk of child labor is closely tied to poverty and the economic wellbeing of parents. For example, in some countries, children may be unpaid family members that help making and hauling bricks, or working independently or alongside their parents in paid positions mining mica or other minerals that serve as the raw materials for manufactured building products. Wages for adults should be sufficient so their children do not have to work.

- Subcontractor and supplier written policies prohibit child labor in their own operations and all entities in their supply chains, including those involved in the recruitment, selection, and hiring of workers.
- In compliance with ILO Convention 138, no one under the age of 15 (or under the age for completion of compulsory education, whichever is higher) is employed.
- Workers' ages are verified through checking standard age verification documents, when available, or through alternate documents such as local school records or attestations from community leaders.
- No person under 18 is employed to work on a construction site, under hazardous conditions, to work at night, or to work overtime.
- Procedures are in place to remediate the discovery of child labor including:
 - Removal of the child from the workplace to their home or other safe location;
 - Support for child workers to complete their education; and
 - Continuing to pay the young worker an amount equivalent to what they were earning until they reach legal working age or hire an adult family member in their place.

RECRUITMENT FEES AND EXPENSES

- Subcontractors and suppliers have written policies that workers shall not pay any amount to secure a job with their company or with their suppliers.
- All job advertisements include the statement that no fees shall be charged at any phase in the recruitment and hiring process.
- After a job offer is accepted, the employer covers all recruitment and processing fees, costs, and expenses, including recruitment agent service fees and those associated with securing identity cards, medical certificates and examinations, skills testing, and travel expenses incurred for travel, lodging and subsistence within or across national borders in the recruitment process, including for training, interviews, consular appointments, relocation, and return or repatriation.³
- The employer and/or its recruitment agent(s) have mechanisms to continuously monitor and ensure that workers are not charged any amount to secure a job.
- The subcontractor or supplier only engages recruiters, agents, and sub-agents who do not charge fees or expenses to jobseekers.
- The subcontractor, supplier, or agents acting on its behalf, has means of informing jobseekers at the point of recruitment that workers do not pay fees or costs for any services directly related to obtaining employment.
- Workers found to have been charged fees are promptly repaid.
- Contracts with recruiters found to have charged fees are suspended until it can be verified that they have changed their practices to prohibit recruitment fees and have reimbursed workers or made a good faith effort to repay workers in cases where departed workers could not be located.

Fees and Forced Labor Risk

Fees are often charged to workers at a variety of points in the recruitment, hiring, and employment process, and frequently charged in the form of cash or deducted

³ [Fair recruitment initiative: General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs \(ilo.org\)](#)

from wages. The different types of fees regularly charged to workers by third parties, such as labor brokers, are listed below:

- Fees covering passport/identity documentation or visas (as well as any secondary costs associated with procuring documentation such as for security clearance, birth certificates, or document replacement).
- Transportation and lodging costs between workers' home and worksite.
- Costs of orientation and/or training either pre-departure or at worksite.
- Costs of medical examination.
- Deposit or bond required by a recruitment intermediary or the employer.
- Costs associated with paying workers' salary, such as bank fees.
- Fees for mandatory daily transportation to a worksite provided by the employer or an intermediary.
- Costs of work-related equipment, tools, PPE, and apparel.

The Federal Acquisition Regulations prohibits all recruitment fees. For a comprehensive list of types of fees that workers may encounter, see:

<http://responsiblerecruitmenttoolkit.org/wp-content/uploads/Eliminating-Recruitment-and-Employment-Fees-Charged-to-Workers-in-Supply-Chains.pdf>

HEALTH, SAFETY, AND WELLBEING

- Employers provide workers with safe and hygienic working and living environments in accordance with prevailing industry standards, paying special attention to prevention of accidents and incidents.
- As the workers for subcontractors and suppliers in many cases work at construction jobsites operated by the construction company or the construction company's client, subcontractors must have processes in place to coordinate with the construction company to identify, evaluate, and control the health and safety hazards for which they are individually or mutually responsible to control.
- Employers conduct workplace health and safety risk assessments to identify and evaluate hazards and establish corresponding controls. (for guidance on how to

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perform such an analysis for construction work, see the ILO Code of Practice on Safety and Health in Construction.⁴⁾

- The employer provides workers with information about and instruction on the health and safety hazards of the operation, their jobs, and any precautions needed to prevent injury and illness in a language each worker understands.
- The employer provides workers with appropriate and fully functional personal protective equipment, at no cost to the worker, as well as instruction on how to properly wear, use, and maintain it.
- All activities, machinery, equipment, chemicals, tools, and processes used are safe and comply with applicable safety and health standards.
- Workers participate in the development and review of health and safety measures, and where national law allows, select representatives for health and safety committees.
- Chemicals used and handled in construction and equipment maintenance work comply with applicable health and safety standards.
- Workers who prepare, handle, use and/or apply chemicals (e.g., adhesives, paints, wood finishes) are provided adequate information to protect themselves.
- Workers have unrestricted access to clean, potable drinking water and to toilet facilities at all times within a reasonable distance from where they are working on the jobsite.
- In hot climates, or when there is a high heat index, all construction workers have access to shaded areas to rest.
- Workers have the right to remove themselves from workplace activities in which they believe there is an imminent and serious risk to health and safety, without fear of retaliation.

⁴ International Labor Organization, WCMS861584, Safety and Health in Construction, 2022: [ILO Code of practice: Safety and health in construction \(Revised edition\)](#)

Hazardous Work

Construction workers face higher risk of injury and illness than most other industry sectors. Construction laborers and trades are exposed to a wide range of potentially life-threatening hazards, including falls from heights; work in trenches and confined spaces; electrocution; and many others.

In many parts of the world, construction workers are often subject to prolonged heat exposure as a result of working outdoors in hot climates. It is imperative that employers establish and maintain programs to prevent heat stress, including access to shade, frequent breaks in the shade or a cool rest area, and adequate drinking water.

CONTRACTS OF EMPLOYMENT

- The employer or the labor agent informs all job candidates of the terms and conditions of employment in their native language or a language they understand and has a means to verify that the terms are clearly understood.
- Employment contracts clearly specify the rights and responsibilities of workers regarding wages, benefits, hours of work (including regular hours and overtime requirements), days off and annual leave, location of the work, living conditions, housing arrangements, work related hazards, and disciplinary and other procedures that can lead to termination, as well as appeal procedures and grievance mechanisms consistent with applicable law.
- The details of working conditions described at the point of recruitment are consistent with the details contained in the employment contract at the time of hiring, and with actual job conditions and responsibilities.
- Successful candidates are provided a signed copy of their employment contract written in their native language or a language they understand.
- Subcontractor and supplier procedures ensure there is no substitution of original contract provisions with those that are less favorable to the workers. Any amendments made to improve conditions are made with the knowledge and the informed, written consent of the worker.
- Changes to working conditions are made with the knowledge and consent of the workers. Consent is obtained voluntarily and without the threat of penalty. No changes are made that in any way diminish the workers' originally anticipated

wages, benefits, or other conditions of work; place the workers in a position of physical or mental risk or peril or result in any other form of disadvantage or vulnerability.

- Employment contracts clearly specify the circumstances in which workers can terminate their contract without penalty, given reasonable notice (not to exceed 30 days or as specified by law, whichever is shortest).
- The notice period is waived in situations where the worker has suffered harassment or abuse, other severe labor rights abuses, or is a victim of forced labor. In such cases the subcontractor or supplier shall also be responsible for paying the cost of return transportation for the affected worker.

DOCUMENT RETENTION

- Applicants' or workers' identity or immigration documents, including passports, residency or work permits, or other personal documents, such as bank books or automatic teller machine (ATM) cards, are not destroyed, concealed, confiscated, or otherwise denied access by the workers, for any reason.
- In the event that personal documents are held by the employer or labor agent due to legal requirements, such as for renewal of visas and work permits, these are immediately returned to the workers upon demand and without any preconditions. In such circumstances, the employer or labor agent:
 - provides workers with an identical copy of personal documentation when not in their possession;
 - develops written policies and procedures to prevent abuse;
 - nominates a responsible person to ensure workers have unhindered access to their documents upon demand; and
 - notifies workers of these procedures.
- There are no burdensome prerequisites for accessing workers' passport or other personal documents, such as written requests, monetary deposits, or waiting periods.
- Workers are provided, at no cost, individual, locked, secure storage space for personal documents and valuables at both their employer-provided accommodation and at the construction site or facility where they work.
- Where either worker housing or the workplace does not allow each worker to have their own secure place to store or safeguard personal documents, such as

when laborers travel to different jobsites each day, there is a process to collectively safeguard workers' personal documents and provide them to workers immediately upon request. This service is clearly explained in workers' contracts and agreed upon by workers in advance of employment.

Absence of Legal Documentation

Some migrant workers in the construction industry may not have legal documentation. Regardless of documentation status, if an individual is working, they should be treated ethically and fairly. ILO Convention 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers states that workers with irregular status who cannot be regularized shall "enjoy equality of treatment...in respect of rights arising out of past employment as regards remuneration, social security and other benefits."ⁱ

In the United States, undocumented workers are subject to the same hour and wage laws as documented workers.ⁱⁱ Depending on the national context, there may be workers' centers available that maintain contact with employers and are able to clearly explain the terms and conditions to potential workers.

BONDS and DEPOSITS

- Workers are not required to post a bond at the time of recruitment or at any other time during the employment relationship.
- The subcontractor or supplier does not collect monetary deposits or security payments.
- The employer, or labor agent, does not withhold portions of workers' pay unless it is legally required.
- In those cases where workers have opted to participate in voluntary savings schemes facilitated by their employer, such workers have full access to and control over their savings accounts.

HUMANE TREATMENT

- The employer does not use wage deductions, or reductions in benefits as a means to discipline workers.

- The employer, or labor agent, strictly prohibits the use or threat of physical or sexual violence, harassment and intimidation, and senior management has formally expressed commitment to this policy.
- The employer monitors and ensures company-wide compliance with this policy.
- There is no evidence of complaints, grievances, or actions taken against the employer, its managers or supervisors, or its suppliers and agents, with respect to violence, intimidation, or harassment in the workplace. In cases where a complaint or grievance has been raised, documented evidence shows that swift and transparent action was taken to address it.

WORKPLACE EQUALITY

- All workers, regardless of their national origin, ethnicity, race, gender, or legal status, are treated equally in the workplace.
- Migrant workers are treated no less favorably than country nationals with respect to:
 - Remuneration, hours of work, overtime arrangements, and holidays with pay;
 - Access to training;
 - Eligibility for promotion and wage increases;
 - Membership in labor unions or other worker organizations, where allowed by law;
 - Accommodation; and
 - Benefits and social insurance, including social security, maternity and sick leave, disability, and employment injury insurance.
- The employer, or labor agent, does not abuse the vulnerability of migrant workers, including the threat of denunciation to authorities as a means of coercion.

WAGES AND BENEFITS

- Workers are free to dispose of their wages as they choose.
- Wages specified in employment contracts meet the legal minimum wage. In the absence of a legal minimum wage, wage calculations are equitable, objective,

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and comparable to the prevailing industry wage for similar work in the immediate area and country of employment.

- Wage payments are not deferred, delayed, or withheld as a means of binding workers to employment.
- Wage rates and payments are calculated with full transparency.
- The calculation and payment of wages, including legal wage deductions, are clearly explained to and understood by all workers.
- No unlawful or unauthorized deductions are made from workers' wages. Any deductions from wages are clearly described in the employment contract and undertaken with written worker consent.
- Wage deductions levied for tardiness or absence are not excessive and do not exceed the time missed on the job, (for example 10 minutes of pay for 10 minutes tardiness.)
- Wage advances or loans provided to workers, along with related interest rates, comply with the law, at a minimum. Additionally:
 - Loan payments do not exceed 10 percent of a worker's monthly wage, such that loans can be repaid in a reasonable amount of time not exceeding six months;
 - The calculation of interest rates for loans and advances, and wage deductions made for their repayment are made with complete transparency to the workers;
 - Interest rates do not exceed the local prevailing local market bank rates; and
 - The terms of wage advances and their repayment are agreed to by both parties in advance and in written form.
- Jobseekers, applicants, or workers are not required to participate in any form of forced or mandatory savings in order to recoup costs associated with recruitment or other services.
- If workers pay for employer-provided or -arranged housing and food, such charges:
 - Do not exceed market rates or the rate paid by local workers;
 - Do not aid companies or subcontractors in earning a profit at workers' expense; and

- Are not part of efforts to reclaim placement fees or other fees paid by employers for recruiting workers.

WORKING HOURS

- Workers are not forced to work more than the number of hours allowed by national law; or, where the law is silent, working hours do not exceed eight per day and 48 per week, and total working hours including overtime does not exceed 60 in a week.
- The employer conducts continuous monitoring of hours worked to identify workers at risk of exceeding the limit.
- The employer conducts manpower planning to ensure adequate capacity to meet quotas, deadlines, or other production needs and project commitments.
- All overtime work is purely voluntary, unless specifically stated otherwise in a legally recognized collective bargaining agreement.
- Workers track their own working hours using an electronic or other objective, verifiable timekeeping system.
- Workers are free to refuse overtime work without threat or fear of punishment or reprisal.
- For those that agree to work overtime, a system is in place to obtain their written consent at the time of the request.
- In cases where remuneration is based on productivity targets such as piece rate systems or quotas, workers are not forced to work more overtime hours than allowed by national law in order to achieve their production quota or to meet minimum wage.
- Workers should receive at least 24 consecutive hours of rest in every seven-day period.

Overtime and Quotas

Workers should be properly compensated for the hours they work, and the wage or piecework rate for “overtime” work should be agreed upon in advance of employment.

It is important to note, however, that if workers are compensated according to the fulfilment of quotas, when those quotas are unrealistic, workers may be compelled

to work overtime, sometimes more than legal working hours, to meet those quotas to get paid. For example, bricklayers may get paid based on the number of bricks their employer has determined should be laid in a shift. If it takes longer than the predetermined time, the workers may need to work longer hours to finish their work. Workers who receive a bonus for exceeding their quotas may also be motivated to work beyond maximum working hours each week.

FREEDOM OF MOVEMENT

- Workers enjoy reasonable freedom of movement within their work and living environments. Any legitimate constraints on such movement (for example, for valid personal safety or security concerns) are specified and agreed prior to the signing of the employment contract.
- Workers have unrestricted access to basic necessities (drinking water, toilets) during both work and non-work hours.
- The presence of security personnel or other security measures in the workplace or employer- or recruiter-provided or arranged residences are not used as a means to restrict worker freedom of movement.
- Workers' freedom of movement or personal freedom is not restricted in any other way, including confiscation of personal documents, levying of financial penalties or security deposits, or use of deception in wage payment and deductions.
- Workers are not required to live in employer- or recruiter-operated residences as a condition of employment, unless required by law.
- Migrant workers are free to return to their home country during leave, without any penalty or threat of termination.

GRIEVANCE PROCEDURES

- Subcontractor, supplier, and recruiter procedures demonstrate an effective grievance procedure that aligns with Principle 31 of the UN Guiding Principles on Business and Human Rights.
- Grievance mechanisms are available in the languages workers understand.
- Workers know how to use the available mechanism(s) and feel safe and free from potential retaliation if doing so. Workers have access to sources of

information, advice and expertise as needed, to overcome any barriers to their use of the grievance procedure.

- Where grievances are raised, effective and appropriate procedures are in place to ensure a rapid and mutually agreed settlement.
- Resolution of workplace grievances are regularly reported back to all workers.
- Results of worker surveys and interviews confirm that workers both understand the means available to them to report grievances and that they trust the process to fairly address their issues.
- Staff involved in managing worker grievance mechanisms and managing worker participation mechanisms are properly trained and have clearly defined and documented responsibilities.
- An effective appeals process is in place to impartially evaluate any disputed grievance resolution.

Worker Communication and Grievance Mechanisms

All workers, especially workers with higher levels of vulnerability such as migrant workers and workers in unskilled and day laborer jobs, should be able to communicate grievances and seek resolution. Strong grievance mechanisms promote understanding and active participation and allow potential problems to be identified and resolved. Grievance mechanisms can take different forms, but any mechanism should fit benchmarks for robust grievance systems as defined by Principles 31 of the UN Guiding Principles on Business and Human Rights. Under this principle, effective grievance mechanisms should be:

- **Legitimate:** enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- **Accessible:** being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- **Predictable:** providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- **Equitable:** seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;

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- **Transparent:** keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- **Rights-compatible:** ensuring that outcomes and remedies accord with internationally recognized human rights; and
- **A source of continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms.
- **Based on engagement and dialogue:** consulting the stakeholder groups for whose use they are intended on their design and performance and focusing on dialogue as the means to address and resolve grievances.

Effective grievance mechanisms should have established, easy to understand procedures; ensure confidentiality; allow workers to report grievances against bosses or supervisors without fear of retaliation or reprisal of any kind; and include a system that provides workers with access to additional social support if needed.

For additional guidance on creating grievance mechanisms, see Tool 11.

PRIVATE EMPLOYMENT AGENCIES AND LABOR RECRUITERS

- Subcontractors and suppliers hire workers directly whenever possible.
- When the recruitment, selection and hiring of workers is undertaken by a private employment agency or other third-party, employers shall have the responsibility to ensure that the agencies operate legally, are certified or licensed by the competent authority, and do not charge recruitment fees or engage in fraudulent behavior that places workers at risk of forced labor.
- The employer signs a formal contract or service agreement with the recruitment agency and performs regular due diligence on the agency and its partners involved in the hiring and placement of workers.
- Effective measures are established by the employer to ensure the legal compliance of contracted recruitment agents in each jurisdiction in which they operate.
- The contracted agency has an up-to-date license or permit to operate in all countries of operation and any partners or agents working on its behalf also have up-to-date permits or licenses.

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- The contracted agency has not been cited, suspended, or otherwise sanctioned for noncompliance with any laws in any country of operation; or, where a citation for noncompliance exists, the agency can demonstrate that it has rectified the noncompliance.
- When recruitment happens across international borders, the contracted agency respects bilateral or multilateral migration agreements regarding human rights and workers' rights between the origin and destination countries.
- The employer monitors the performance of agents and recruiters on an ongoing basis to ensure that no deception, fraud and/or coercion in the recruitment, placement, transport, or management of workers take place.
 - The employer or labor agent provides jobseekers with accurate details of working conditions at the time of recruitment, including the nature of work, wages, benefits, and duration of contract.
 - Details of working and employment conditions are communicated to jobseekers in a language they understand.
 - False promises are not made to applicants or workers regarding employment conditions, job locations, employment or contract duration, or anticipated earnings.
- The contracted agency has an implementing structure, an accountable officer, and clear procedures to ensure that all policies are compliant with all relevant legislation and regulations. This includes a current registry of laws for all countries of operation; and a mechanism that ensures the company is regularly informed of new legislation/regulations or changes in legislation/regulations.
- The contracted agency has a code of conduct that prohibits forced labor and sets out protective measures for workers. The code covers principles and indicators of human trafficking, including forced labor, elaborated in relevant ILO Conventions and guidance, as well as standards for responsible recruitment such as the Code of Conduct of the International Confederation of Private Employment Agencies (CIETT)⁵, the International Recruitment Integrity System (IRIS) Standard⁶, and the ILO's General Principles and Operational Guidelines for

⁵ https://wecglobal.org/uploads/2019/07/2017_WEC_Code-Conduct.pdf

⁶ <https://iris.iom.int/>

Fair Recruitment (footnoted above) and applies to all parties in the chain of recruitment.

- The contracted agency has established a mechanism for confidential reporting of noncompliance, a grievance mechanism, procedures of investigation and reporting on grievances, and protection for whistleblowers.
- The contracted agency has established effective remediation procedures in case of verified reports of noncompliance, including mechanisms to ensure the prompt reimbursement of workers for any recruitment fees paid.
- The employer or labor agent does not use any means to restrict workers' freedom to terminate employment, for example, by levying excessive recruitment fees, requiring deposits, or withholding personal documentation.

Formal and Informal Labor Recruiters and Forced Labor Risk

Labor recruiters are widely used in the construction industry to obtain workers for both on-site construction and to work for suppliers of raw materials and building products. These intermediaries may be referred to as recruiters, brokers, labor agents, staffing agencies, or gangmasters depending on the country and regional context.

Because the presence of informal recruiters in some countries is a direct impediment to monitoring and remediating conditions, formalization of labor supply chains is an important step whenever possible. Where broker registration systems are weak, non-existent, and/or informal intermediaries predominate, employers can move progressively towards direct hiring and/or contracting with brokers whose performance has been determined to be responsible through ongoing monitoring. Although informal brokers are more difficult to monitor and are unlikely to have formalized systems in place, they can still be held accountable to basic standards of ethical practice. For example, informal brokers may not be able to produce copies of legal registration, but they can still commit to not charging workers fees and to adequately and accurately explaining terms and conditions of jobs to potential employees.

If formal screening processes of recruiters are not possible, the subcontractor or supplier contracting with the labor recruiter can interview newly hired workers about their recruitment experiences. For guidance on interviewing migrant workers on their experience with labor recruiters, see Tool 10.

Emerging labor recruiter certification systems and standards can support due diligence with regards to screening and selecting recruiters. For more information, see Tools 7 and 9.

FREEDOM OF ASSOCIATION

- In accordance with national law, the subcontractor and supplier respect the right of workers to organize and bargain collectively. When national law prohibits or limits freedom of association and collective bargaining, workers can access alternative, independent forms of representation and negotiation.
- Subcontractors, suppliers, and labor agents maintain a policy of neutrality towards union organizing. Workers are not discriminated against, penalized, blacklisted, or fired for membership in any worker organization or for organizing trade unions, nor are they compelled by the employer or recruiter to join any worker organization.
- Workers who exercise their rights to freedom of association do not experience any form of physical or psychological violence, threats, intimidation, retaliation, harassment, or abuse.
- Employers do not attempt to influence or control the formation of unions by incentives, misinformation, intimidation, or other means.
- Employers and labor recruiters do not hire or recruit workers for the purpose of replacing workers exercising their right to strike.

EMPLOYEE AWARENESS TRAINING

- All written information and training are provided in the native language of the workers or a language they understand.
- Pre-departure orientation is conducted to review contractual obligations, terms and conditions of work, and other matters including but not limited to living conditions, health and safety conditions and practices, company policies, and the grievance mechanisms in place for workers.
- Workers are also trained upon arrival in the destination country on the company's workplace rules and procedures, the grievance process, the housing arrangements (if provided or arranged by the company), and the conditions of

work, including any health and safety hazards and the precautions needed to ensure personal safety.

- The subcontractor or supplier evaluates the effectiveness of its training and awareness efforts by measuring employee knowledge upon completion of training and periodically thereafter using surveys, interviews, and other means.

HOUSING

- When housing is provided or arranged by an employer, housing meets the minimum housing standards set by local competent authorities. Where housing standards do not exist, housing should meet the criteria contained in the ILO Workers' Housing Recommendation, 1961 (No. 115).
- Though rare in construction, when family housing is provided, housing meets a minimum standard regarding space per person and per family.
- All housing standards, whether for collective housing or family housing, include the following considerations and meet the following standards:
 - Minimum space per person or per family;
 - Supply of adequate potable water in dwelling;
 - Sewage and waste removal;
 - Protection against elements (heat, cold, damp, noise, fire, and disease-carrying animals);
 - Adequate sanitary and washing facilities;
 - Ventilation;
 - Lighting;
 - Minimum degree of privacy; and
 - Separation of living quarters for people and animals.
- Transportation is provided for workers to and from worksites and to and from required services. Use of employer-provided transportation is optional and costs are in line with market rates.

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ⁱ International Labor Organization. Convention 143 - Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).

www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C143

ⁱⁱ "Undocumented Workers' Employment Rights." *Legal Aid*.

legalaidthatwork.org/factsheet/undocumented-workers-employment-rights/