



# RESPONSIBLE SOURCING TOOL

## Transportation Industry Tool 3

### PROTECTIONS AGAINST TRAFFICKING IN PERSONS:

### Sample Benchmarks of Good Practice in Recruitment and Employment in the Transportation Industry

Benchmarks of good practice are the detailed performance standards for a public or private transportation industry organization's Code of Conduct. They further clarify requirements for business partners and can be used to monitor the labor and human rights performance of suppliers. The set of sample benchmarks below is consistent with the sample Code of Conduct provisions listed in Tool 2: Sample Code of Conduct Provisions for the Transportation Industry.

This document provides a description of principles and a recommended process to follow for conducting due diligence and does not attempt to ensure compliance with any applicable legal requirements, such as Section 307 of the Tariff Act,<sup>1</sup> the Uyghur Forced Labor Prevention Act (UFLPA),<sup>2</sup> Section 1502 (Conflict Minerals) of the Dodd-Frank Act,<sup>3</sup> the EU Conflict Minerals Regulation,<sup>4</sup> the Buy American Act (BAA),<sup>5</sup> the Build America, Buy America Act (BABA),<sup>6</sup> and the Federal Acquisition Regulation (FAR): Combating Trafficking in Persons,<sup>7</sup> nor legal requirements outside of the United States.

The guidance in this document and the other due diligence tools has been designed to align with both international and voluntary standards that apply across all industry sectors, such as those created by the International Labour Organization (ILO), which is the UN agency that sets internationally recognized labor standards, the UN Guiding Principles on Business and Human Rights, and the OECD Due Diligence Guidelines for Responsible Business Conduct. Another is the UN Protocol

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<sup>1</sup> [Tariff Act of 1930 \(19 U.S.C § 1307\).](#)

<sup>2</sup> [U.S. Customs and Border Protection. "Uyghur Forced Labor Prevention Act."](#)

<sup>3</sup> [U.S. Securities and Exchange Commission. "Fact Sheet: Disclosing the Use of Conflict Minerals." June 28, 2024.](#)

<sup>4</sup> [European Commission. "Conflict Minerals Regulation: The regulation explained." 2021.](#)

<sup>5</sup> [Congress.gov. "H.R.3684 – Infrastructure Investment and Jobs Act." 2021.](#)

[Made in America Office. What Is Build America, Buy America? 2022.](#)

<sup>6</sup> [Congress.gov. "The Buy American Act and Other Federal Procurement Domestic Content Restrictions." 2022.](#)

<sup>7</sup> For guidance on complying with the Federal Acquisition Regulation (FAR): Combating Trafficking in Persons, please review Tool 12, RST's Sample Compliance Plan Template.

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to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, which is the primary international instrument centered on forced labor,<sup>8</sup> and overseen by the UN Office on Drugs and Crime (UNODC).

For more information on international frameworks and voluntary certification standards relevant to forced labor in all sectors, see Tool 4: Country-Level Review of Legal Protections Against Human Trafficking.

Organizations working in any mode of the transportation sector or its supply chains should work with their suppliers and other business partners, including labor agents, to cascade and enforce their Codes of Conduct and performance benchmarks throughout all tiers of their supply chains. This is important, because forced labor risks, as well as risk of other labor abuses, can increase in lower tiers of the supply chain, as well as in areas with less oversight. In the transportation sector, benchmarks should be cascaded across various worksites, such as OEM assembly, component and materials suppliers, and raw materials like rubber and steel. Any providers of labor, like drivers, baggage handlers, janitorial services, maritime workers, and others, should also be compliant with Code of Conduct expectations. (For more information on forced labor risks in the transportation sector, refer to the Transportation Sector Report.) For guidance on mapping complex transportation supply chains, see Tool 6: Supply Chain Mapping and Risk Assessment in the Transportation Industry.

While not explicitly stated for each of the following benchmarks, in all cases, effective implementation necessitates a formal policy commitment with senior management endorsement, detailed procedures, assignment of accountable and responsible staff, communication and training on the policy and procedures, monitoring for their effectiveness and adjustment for needed improvements.

*NOTE: "Supplier" is defined as any entity that directly or indirectly provides goods, materials, and/or services to the organization at any supply chain tier and any dollar value. This includes services and materials suppliers, contractors, subcontractors, sourcing agents, labor recruiters, and labor agents.<sup>9</sup>*

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<sup>8</sup> Note: 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.

<sup>9</sup> Note: The combination of services provided by third parties to find, place, and/or directly contract labor to work in organization owned or supplier operations are varied, as are the terms used by different industry sectors and standards organizations to describe the providers. These include: labor agents, recruiters, recruitment agents, sub-agents, labor providers, private employment agencies (PEAs), staffing agents, manpower agents, brokers, contractors, crew leaders, and gangmasters. For the purposes of these tools, "labor agent" is generally used as the umbrella term, with "recruitment agent" used as a subset.

**PROTECTIONS AGAINST TRAFFICKING IN PERSONS**

## Sample Benchmarks of Good Practice in Recruitment and Employment

**Sample benchmarks include:**

- The organization has written policies prohibiting forced, compulsory, bonded, indentured labor, or involuntary prison labor that apply to their own operations and all entities and all tiers in its supply chain, including those involved in the recruitment, selection, and hiring of workers.
- The organization has a written policy that prohibits sex trafficking and the procurement of commercial sex in their own operations and all entities in their supply chains.
- The organization and its suppliers, subcontractors, or agents acting on its behalf, comply with all relevant local laws and regulations, including those concerning the prohibition of forced labor in each jurisdiction in which they operate.
- 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 workers, particularly migrant workers;
  - Workers are not charged recruitment or 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 fully 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.

**Child Labor Benchmarks**

- The organization has written policies prohibiting child labor in its own operations and all entities in its supply chains, including those involved in the recruitment, selection, and hiring of workers.

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- 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 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 a 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.

**Child Labor and Forced Labor Risk**

Child labor is not synonymous with forced labor, but the factors for both may be similar, including the demand for cheap, exploitable, unskilled labor; poverty; lack of access to education; and discriminatory attitudes based on caste, sex, immigration status, or ethnicity. Child labor and the worst forms of child labor are widespread in informal economic sectors, including agriculture, artisanal mining, facilities services, and construction sectors.

The risk of child labor is closely tied to poverty and the economic wellbeing of parents. In some countries, children working in services may be unpaid family members working on farms or in small family-owned businesses. Relatedly, children may work alongside their parents or independently in paid positions on commercial farms and plantations, or for housekeeping and janitorial firms. Wages for adults should be sufficient, so their children do not have to work.

**Recruitment Fees and Expenses Benchmarks**

- The organization has a written policy that workers shall not pay any amount to secure a job with the organization or with their suppliers.
- The job advertisements from the organization include the statement that no fees shall be charged at any phase in the recruitment and hiring process.

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- 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 round-trip transportation.<sup>10</sup>
- The organization 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 organization only engages recruiters, agents, and sub-agents who do not charge fees or expenses to jobseekers.
- The organization has a 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.
- The organization or destination country recruiter has a verification process to ensure that workers are not charged any fees.
- 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 expenses and have reimbursed workers or made a good faith effort to repay workers in cases where departed workers could not be located.

**A Note on 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 loans with regular deductions from wages. The different types of fees charged to workers by third parties, such as labor brokers, are listed below:

- Fees covering passports, identity documentation, or visas (as well as any secondary costs associated with procuring documentation, such as for security clearance, birth certificates, or document replacement).

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<sup>10</sup> ["General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs." International Labour Organization.](#)

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- Transportation and lodging costs between the workers' home and the worksite.
- Costs of orientation and/or training either pre-departure or at the worksite.
- Costs of medical examinations and testing.
- 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, personal protective equipment (PPE), and apparel.

The Federal Acquisition Regulation prohibits all recruitment fees. For a comprehensive list of types of fees that workers may encounter, see the Responsible Recruitment Toolkit's Eliminating Recruitment and Employment Fees Charged to Workers in Supply Chains.<sup>11</sup>

**Health, Safety, and Wellbeing Benchmarks**

- 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 incidences; management of identified hazards; fire safety; emergency procedures; worker training; first aid and access to medical services; PPE; equipment and electrical safety; noise, lighting, and ventilation; chemical usage; sanitation; access to clean drinking water; and food preparation hygiene.
- Employers conduct workplace health and safety risk assessments to identify and evaluate hazards and establish corresponding controls. For guidance on health and safety hazards specific to work in the transportation sector see: Occupational Safety and Health in the Transport Equipment Manufacturing Sector (International Labour Organization);<sup>12</sup> Occupational Safety and Health in the Transport (Including Civil Aviation, Railways and Road Transport) Sector (International Labour Organization);<sup>13</sup> Occupational Safety and Health in the Shipping, Ports, Fisheries and Inland Waterways Sector (International Labour

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<sup>11</sup> ["Eliminating Recruitment and Employment Fees Charged to Workers in Supply Chains: A Practical Step-by-Step Guide for Retailers, Brands, Employers and Labour Providers." Responsible Recruitment Toolkit. 2017.](#)

<sup>12</sup> ["Occupational safety and health in the transport equipment manufacturing sector." International Labour Organization.](#)

<sup>13</sup> ["Occupational safety and health in the transport \(including civil aviation, railways and road transport\) sector." International Labour Organization.](#)

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Organization);<sup>14</sup> and Occupational Safety and Health in the Basic Metal Production Sector (International Labour Organization).<sup>15</sup>

- 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 fully understands.
- The employer provides workers with appropriate and fully functional PPE, 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 are consulted on health and safety matters, participate in the review of health and safety measures, and where law allows, select representatives for health and safety committees.
- Chemicals used and handled in equipment maintenance, repair, and overhaul work comply with applicable health and safety standards. Workers who prepare, handle, use, and/or apply chemicals (e.g., adhesives, paints, fuels, cleaners) are provided adequate information to protect themselves.
- Health and safety measures apply to temporary, part-time, and day workers in the same manner that they apply to permanent workers.
- The reproductive health of female workers is considered relating to pregnancy and breastfeeding. Hazards that can adversely affect the health of pregnant or nursing women are either controlled to safe levels or affected women are provided with alternative jobs for the duration of their pregnancy or while nursing, for the same wages.
- Workers have unrestricted access to clean, potable drinking water at all times within a reasonable distance from where they are working. In hot climates, or when there is a high heat index, workers have access to more frequent rest breaks and shaded areas to rest if working outdoors.

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<sup>14</sup> [“Occupational safety and health in the shipping, ports, fisheries and inland waterways sector.” International Labour Organization.](#)

<sup>15</sup> [“Occupational safety and health in the basic metal production sector.” International Labour Organization.](#)

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- There are no unreasonable restrictions on worker access to toilet facilities.
- Assembly, processing and/or harvesting lines move at a reasonable speed that do not require the worker to work at an unsafe pace.
- 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.

**Employment Contract Benchmarks**

- 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 fully 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.
- Migrant workers are given a copy of the contract for their review at least five days prior to deployment to provide ample time for them to decide whether to accept the job offer.
- Successful candidates are provided a signed copy of their original employment contract in their native language or a language they fully understand. The employer explains the terms and conditions of the contract in the workers' native language, or a language the workers fully understand, and has means to verify that the terms are clearly understood and fully agreed to by the workers.
- The details of working conditions described at the point of recruitment are consistent with those contained in the employment contract at the time of hiring, and with actual job conditions and responsibilities.
- Employer policy prohibits the substitution of the original contract provisions with those that are less favorable to the worker. Any amendments made to improve conditions are made with the knowledge and the informed, written consent of the worker. Workers are provided with a signed copy of any amended contract.



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- Changes to working conditions are made with the knowledge and consent of the worker. Consent is obtained voluntarily and without the threat of penalty. There are no changes made to terms of employment that could diminish the worker's originally anticipated wages, benefits, or other conditions of work; or place the worker in a position of physical or mental risk or peril, or other form of disadvantage or vulnerability.
- Employment contracts clearly stipulate the rights and responsibilities of each party regarding the termination of employment.
- Employment contracts clearly specify the circumstances in which a worker can terminate his or her contract without penalty, given reasonable notice (not to exceed 30 days or as specified by law, whichever is shortest).
- The notice requirement will not apply 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 employer will also be responsible for paying the cost of return transportation for the affected worker.

**Document Retention Benchmarks**

- Applicants' or workers' identity or immigration documents, including passports, residency, 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 worker upon demand and without any preconditions. In such circumstances, the employer or labor agent:
  - develops written policies and procedures to prevent abuse;
  - provides workers with an identical copy of personal documentation when not in their possession;
  - assigns a responsible person to ensure workers have unhindered access to their documents upon demand; and
  - notifies workers of these procedures.
- There are no lengthy or otherwise burdensome prerequisites for accessing one's passport or other personal documents, such as written requests, monetary deposits, or waiting periods.

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- Workers are provided, at no cost, individual, sufficiently-sized, locked, secure storage space for personal documents and valuables at both their employer-provided accommodation and the workplace.
- Where either worker housing or the workplace does not allow each worker to have their own secure place to store or safeguard personal documents against damage or loss due to fire or theft, the employer may keep passports and documents in a communal safe to which a single security guard or responsible individual has access. This service is clearly explained in workers' contracts and agreed upon by workers in advance of employment, and documents are returned to the workers immediately upon request.

**Absence of Legal Documentation**

*Some migrant workers in the transportation 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."<sup>16</sup>*

*In the United States, all workers are generally subject to the same hour and wage laws.<sup>17</sup> 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, Deposits, and Forced Savings Benchmarks**

- Workers are not required to post a bond at the time of recruitment or at any other time during the employment relationship. Where country law requires the posting of a security or surety bond, the employer will be solely responsible for paying or arranging for the bond.
- The organization prohibits the collection of monetary deposits, levies, or security payments.
- The employer or labor agent does not withhold a portion of workers' pay unless it is legally required.

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<sup>16</sup> "C143 - Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)." International Labour Organization, NORMLEX - Information System on International Labour Standards.

<sup>17</sup> "Employment Rights of Undocumented Workers." Legal Aid at Work.

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- In those cases where workers have opted to participate in voluntary savings schemes facilitated by their employer, workers have full access to and control over all savings and monies owed.

**Harassment, Abuse, and Discipline Benchmarks**

- Organization policies and procedures prohibit the practice of imposing wage deductions, fewer opportunities for overtime work, or reductions in benefits as a means to discipline workers.
- No form of compulsory labor is imposed on any worker, including involuntary overtime.
- The policy of the organization, or labor agent, prohibits the use or threat of physical or sexual violence, harassment and intimidation, and senior management has formally expressed commitment to this policy.
- The organization utilizes a formal system of progressive discipline consisting of written workplace rules and fair, consistent application of discipline, progressing from verbal warnings to written warnings, suspension, and ultimately dismissal. Disciplinary actions are imposed equally to all workers.
- The employer monitors and ensures organization-wide compliance with this policy.
- There is no evidence of complaints, grievances, or actions taken against the organization; its managers or supervisors; or its subcontractors, 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.

**Violence Against Women and Girls, Including Sexual Harassment and Trafficking Risks**

Sexual harassment is endemic in many countries and industry sectors. Female migrant workers may be situationally vulnerable due to power imbalances between workers and employers, dependency upon an employer, and potential isolation in employer-provided housing. Such factors may increase the likelihood of sexual harassment or exploitation that may be enacted as a form of blackmail or form of exerting control and psychological pressure over an individual.

Women and girls may face sexual harassment from their supervisors and/or colleagues as a form of threat or intimidation. Female migrant workers may be told they will receive higher wages if they perform sexual favors for supervisors and may be victims of groping and vulgar and obscene language by supervisors, employers, and others in positions of power.

**Workplace Equality Benchmarks**

**PROTECTIONS AGAINST TRAFFICKING IN PERSONS****Sample Benchmarks of Good Practice in Recruitment and Employment**

- Employers and their suppliers and subcontractors have policies and procedures in place to ensure that all workers, regardless of their national origin, ethnicity, race, religion, 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;
  - Accommodation; and
  - Benefits and social insurance, including social security, maternity and sick leave, disability and employment injury insurance.
- The employer, or labor agent, explicitly prohibits the abuse of vulnerability of migrant workers, including the threat of denunciation to authorities as a means of coercion.

**Wages and Benefits Benchmarks**

- The freedom of workers to dispose of their wages as they choose is not limited in any way by their employer or its suppliers.
- Wages specified in employment contracts meet at least the legal minimum wage. In the absence of a legal minimum wage, wages are at least the industry prevailing wage for similar work in the immediate area in the country of employment, and wage calculations are fair and objective.
- Wage payments are not deferred, delayed, or withheld as a means of binding workers to employment.
- Non-cash or “in-kind” payments in lieu of wages are not used.
- 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.

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- Wage rates, hours worked, and the calculation and payment of wages, including legal wage deductions, are clearly explained to and understood by all workers. Workers are provided with pay slips each pay period that enable workers to verify that their pay has been calculated correctly.
- 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 actual work time missed; for example, 10 minutes of pay for 10 minutes tardiness or one day's wages for one day's unexcused absence.
- Wage advances or loans provided to workers, along with related interest rates, comply with the law, at a minimum. Additionally:
  - interest rates are fair and do not exceed local prevailing market bank rates;
  - a worker's total outstanding loan balance does not exceed 50% of one-month base wages and monthly payments do not exceed 10% of a worker's monthly wage, such that loans can be repaid in a reasonable amount of time not exceeding six months; and
  - the terms of wage advances and loans and the calculation of interest rates and wage deductions made for their repayment are explained to workers verbally, provided in writing, and mutually agreed in advance.
- 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 for any other reason.
- If migrant workers are required by law to pay for room and board, such charges:
  - do not exceed market rates or the rate paid by local workers for similar accommodation;
  - 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 worker recruitment.
- When wages are based on piecework, the piece rate is objectively determined, the method of calculating the rate is clearly communicated to the worker, and the worker has agreed that the rate is fair.

## Working Hours Benchmarks

- Workers are not forced to work more than the number of hours allowed by applicable 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 hours 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 fear of threat, 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, for example piece rate, workers are not forced to work more overtime hours than allowed by applicable law in order to achieve their production quota or to meet minimum wage.

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**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. 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 legally allowed, to meet the quotas required to get paid.

There are some exemptions concerning overtime hours and pay relevant to the transportation industry. For example, in the United States, the Motor Carrier Exemption under the Fair Labor Standards Act (FLSA) provides an overtime exemption for certain transportation employees whose duties include the performance of safety-affecting activities on a motor vehicle used in transportation on public highways in interstate or foreign commerce (meaning they are not eligible for overtime pay).<sup>18</sup> Similarly, seamen who primarily perform duties directly related to a vessel's safe navigation and transportation are likewise exempt from overtime pay under the FLSA.<sup>19</sup> Working hours benchmarks should take these legal exemptions into consideration and ensure they are being followed in order to protect workers’ safety.

**Freedom of Movement Benchmarks**

- 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 prior to the signing of the employment contract.
- Workers have unrestricted access to basic liberties (e.g., drinking water, toilets) during both work and non-work hours in the workplace and in employer or labor agent-provided or arranged housing.
- 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, and there can be no retaliation for any such action.
- The presence of security personnel or other security measures in the workplace, or in employer- or recruiter-operated housing, are not used as a means to restrict workers’ freedom of movement.

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<sup>18</sup> ["Fact Sheet #19: The Motor Carrier Exemption under the Fair Labor Standards Act \(FLSA\)." U.S. Department of Labor, Wage and Hour Division. Nov 2009.](#)

<sup>19</sup> ["PART 783—APPLICATION OF THE FAIR LABOR STANDARDS ACT TO EMPLOYEES EMPLOYED AS SEAMEN." Code of Federal Regulations.](#)

**PROTECTIONS AGAINST TRAFFICKING IN PERSONS****Sample Benchmarks of Good Practice in Recruitment and Employment**

- 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 applicable law.
- Migrant workers are free to return to their country of origin during paid leave, without any penalty or threat of termination.

**Grievance Mechanisms Benchmarks**

- Suppliers and recruiters operate a grievance mechanism whose procedures meet the effectiveness criteria of Principle 31 of the UN Guiding Principles on Business and Human Rights.
- Grievance channels are available in the languages workers fully understand.
- Workers know how to use the available grievance channels and feel safe and free from potential retaliation if they do 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 procedures are in place to ensure a rapid and mutually agreed settlement.
- Resolutions 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 appeal process is in place to impartially evaluate and settle any disputed grievance resolution.



**PROTECTIONS AGAINST TRAFFICKING IN PERSONS**

## Sample Benchmarks of Good Practice in Recruitment and Employment

**Worker Communication and Grievance Mechanisms**

All workers, especially workers with higher levels of vulnerability, such as migrant workers and workers in informal sectors, 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 meet benchmarks for robust grievance systems as defined by the UN Guiding Principles on Business and Human Rights; Principle 31. Under these principles, ethical grievance mechanisms should be:<sup>20</sup>

- **Legitimate:** enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- **Accessible:** communicated 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 processes, outcomes 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;
- **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;
- **A source of continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms; and

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<sup>20</sup> [Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy Framework." United Nations, 2011.](#)

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- **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 confidentially 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: Worker Engagement: Enabling Workplace Communication, Worker Agency, and Grievance Management.

**Labor Agencies Benchmarks**

- The organization and its suppliers hire workers directly whenever possible.
- When the recruitment, selection, and hiring of workers is undertaken by third parties, employers have the responsibility to perform effective due diligence to ensure that the agencies operate legally, are certified or licensed by the competent authority, do not charge recruitment fees or engage in fraudulent behavior that places workers at risk of forced labor, and use only employees trained on applicable Code and legal requirements.
- Where informal labor agents predominate in a sector or country, the organization will have a plan for moving towards direct hiring or the use of formal agents who are held accountable for organization policies.
- The employer signs a formal contract or service agreement with the agent or agency and performs regular due diligence on the agent/agency and its partners involved in the hiring and placement of workers.
- Effective measures are established by the organization to ensure the legal compliance of labor 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.
- The contracted agency has not been cited, suspended, or otherwise sanctioned for non-compliance with any laws in any country of operation; or, where a citation for non-compliance exists, the agency can demonstrate that it has rectified the non-compliance.

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- When recruitment happens across international borders, the contracted agency respects bilateral and/or multilateral migration agreements regarding human rights and workers' rights between the origin and destination countries.
- The organization 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 migrant workers take place.
- The organization, or labor agents acting on its behalf, 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 fully 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 effective implementing structure, including 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 organization is regularly informed of new or changed legislation and regulations.
- The contracted agency has a code of conduct that prohibits forced labor and human trafficking and sets out protective measures for workers. The code covers principles elaborated in relevant ILO Conventions, as well as standards for responsible recruitment such as the Code of Conduct of the International Confederation of Private Employment Agencies (CIETT), the International Recruitment Integrity System (IRIS), and the ILO's General Principles and Operational Guidelines for Fair Recruitment 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.

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- The contracted agency has established effective remediation procedures in case of verified reports of noncompliance, including mechanisms to ensure the 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 used to obtain workers for a wide variety of worksites and types of labor in extended transportation supply chains, including automotive parts manufacturing, aviation catering, rollingstock manufacturing, seafarers, and ship building. These intermediaries may be referred to as recruiters, brokers, contractors, crew leaders, or gangmasters depending on the country and regional context.

Because the presence of informal recruiters 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, or informal intermediaries predominate, companies can move progressively towards direct hiring or contracting with brokers whose performance has been determined to be responsible through on-going monitoring.

Although informal agents 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 workers.

If formal screening processes of agents are not possible, the employer can interview newly hired workers about their recruitment experiences. For guidance on interviewing migrant workers on their experience with labor recruiters, see Tool 10: Conducting Migrant Worker Interviews in the Transportation Industry.

Emerging labor agency certification systems and standards can support due diligence regarding screening and selecting recruiters. For more information, see Tools 7: Criteria for Screening and Evaluating Labor and Recruitment Agents in the Transportation Industry, and Tool 9: Monitoring the Performance of Labor Agents in the Transportation Industry.

### Freedom of Association Benchmarks

- In accordance with national law, the organization and contracted labor agents respect the right of workers to peacefully assemble, organize and bargain collectively. When national law prohibits freedom of association and collective bargaining, workers are free to access independent forms of representation and negotiation.
- Employers and labor recruiters maintain a policy of neutrality towards trade unions and other representative worker organizations
- Workers are not discriminated against, penalized, blacklisted, or fired for membership in any worker organization or for organizing trade unions and other worker representative organizations.
- Workers are not 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 agents do not hire or recruit workers for the purpose of replacing workers who exercise their right to strike.

### Worker Training and Awareness Benchmarks

- All written information and training are provided in the workers' native language or a language the workers fully understand.
- Workers are made aware of their rights and responsibilities, both verbally and in writing in a language they fully understand, at the time of hire. This includes the provisions of the organization code of conduct, and all applicable laws and regulations of their country of origin, the country where the work is performed, and of any country and jurisdiction contracting the work.
- Pre-departure orientation is provided for migrant workers to review contractual obligations, terms and conditions of work and other matters including (but not limited to) living conditions, organization policies, and the grievance mechanisms available for workers.

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- Workers are trained upon arrival in the destination country on the organization's workplace rules and procedures, the grievance process, the housing arrangements (if provided or arranged by the organization), and the conditions of work, including any health and safety hazards and the precautions needed to ensure personal safety.
- The effectiveness of any training and communication efforts is evaluated by measuring employee knowledge upon completion of training and periodically thereafter using surveys, interviews, and other means.

**Housing Benchmarks**

- When housing is provided or arranged by an employer, housing meets the minimum housing standards set by local competent authorities; this applies to all types of workers, including seasonal and migrant workers.
- Housing shall meet local building and fire standards, or the standards specified in the ILO Workers' Housing Recommendation, 1961 (No. 115), whichever is most stringent.
- 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 ILO Recommendation 115<sup>21</sup> standards, including:
  - a separate bed for each worker;
  - adequate headroom, providing full and free movement, of not less than 203 centimeters;
  - the minimum inside dimensions of a bed should be at least 198 centimeters by 80 centimeters;
  - beds should not be arranged in tiers of more than two;
  - bedding materials should be reasonably comfortable;
  - bedding and bedframe materials should be designed to deter vermin;
  - separate accommodation of the sexes;

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<sup>21</sup> ["R115 - Workers' Housing Recommendation, 1961 \(No. 115\)." International Labour Organization, NORMLEX - Information System on International Labour Standards.](#)

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- adequate natural light during the daytime and adequate artificial light;
  - a reading lamp for each bed;
  - adequate ventilation to ensure sufficient movement of air in all conditions of weather and climate;
  - heating where appropriate;
  - adequate supply of safe potable water;
  - adequate sanitary facilities (see below);
  - adequate drainage;
  - adequate furniture for each worker to secure his or her belongings, such as a ventilated clothes locker which can be locked by the occupant to ensure privacy;
  - common dining rooms, canteens or mess rooms, located away from the sleeping areas;
  - appropriately situated and furnished laundry facilities;
  - reasonable access to telephone or other modes of communications, with any charges for the use of these services being reasonable in amount; and
  - rest and recreation rooms and health facilities, where not otherwise available in the community.
- Where workers are charged by the employer for their housing, the employer can demonstrate that the amount paid by workers does not exceed the market rate for equivalent accommodation and does not create a profit for the employer.
  - Transportation is provided at no cost to workers to and from worksites and to and from required services. Use of employer-provided transportation for other purposes is optional and costs are in line with market rates.
  - There is no exposure to workers in their accommodation from the employer's use or discharge of hazardous or toxic substances.