



# RESPONSIBLE SOURCING TOOL

## Tool 2: Sample Code of Conduct Provisions

### PROTECTIONS AGAINST TRAFFICKING IN PERSONS Sample Code of Conduct Provisions

*A supply chain Code of Conduct establishes basic performance expectations for subcontractors, suppliers, and agents. It is important that your company sourcing policy or Code of Conduct explicitly prohibits human trafficking and sets out protections for workers. The sample provisions below can be used by any company, including federal contractors and their subcontractors, as they consider how best to create, strengthen, or revise their own supply chain policies.*

*The sample Code provisions address factors that are enablers or contributors to situations or risks of human trafficking but are not intended to ensure compliance with specific legal requirements, such as those in the Federal Acquisition Regulation (FAR). Specific compliance requirements should be detailed in the terms and conditions of contracts with subcontractors, suppliers, and agents. For example, contract clauses refer to the Model Contract Clauses prepared by the American Bar Association.<sup>1</sup>*

*The guidance in this document and the other compliance 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. For more information on international frameworks and voluntary certification standards relevant to human trafficking in all sectors, see Tool 4.*

*Companies should work to cascade and enforce their Code of Conduct throughout each tier of their supply chain as human trafficking risks, as well as risks of other labor abuses, increase in lower tiers*

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<sup>1</sup> Balancing Buyer and Supplier Responsibilities - Model Contract Clauses to Protect Workers in International Supply Chains, Version 2.0, American Bar Association, 2021:

## **HUMAN TRAFFICKING, INCLUDING FORCED LABOR**

[Company Name] strictly prohibits human trafficking in all our operations and in those of all subcontractors, suppliers, and agents in our global supply chain. Workers will not be subject to any form of forced, compulsory, bonded, or indentured labor. All work must be voluntary, and workers will have the freedom to terminate their employment at any time without penalty, upon giving reasonable notice.

## **CHILD LABOR**

Child labor is strictly prohibited. Child labor refers to work by any person under the age of 15, **or** under the legal age for completion of compulsory education, **or** under the legal minimum age for employment according to national law, whichever is higher.

No worker under the age of 18 may be hired for tasks that are hazardous to the physical, emotional, or intellectual development of the child, including night shifts, overtime work, and working with hazardous materials and equipment.

## **RECRUITMENT FEES AND TRANSPORTATION EXPENSES**

Workers shall not be charged any fees or costs for recruitment as defined by the ILO<sup>2</sup>, directly or indirectly, in whole or in part, including costs associated with travel to the receiving country and processing official job-related documents and work visas in both origin and destination countries.

Workers will be provided with return transportation to their country of origin, or compensation for the cost of return transportation, upon completion of their employment contract.

## **HEALTH, SAFETY, AND WELLBEING**

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[https://www.americanbar.org/content/dam/aba/administrative/human\\_rights/contractual-clauses-project/mccs-full-report.pdf](https://www.americanbar.org/content/dam/aba/administrative/human_rights/contractual-clauses-project/mccs-full-report.pdf)

<sup>2</sup> Fair recruitment initiative: General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs (ilo.org)

Employers shall ensure that their workers are provided with safe and hygienic working and living environments in accordance with prevailing industry standards and legal requirements. This means:

- Accidents and incidents are prevented by the identification, evaluation, and control of health and safety hazards associated both with the employer's operations and place(s) of work.
- Health and safety hazards are controlled following the control hierarchy of elimination, substitution, engineering controls, and administrative controls.
- Suitable personal protective equipment is provided and used when hazards cannot be adequately controlled by other means.
- Workers are trained on general health and safety issues and procedures and on the specific hazards associated with their jobs and those present in the place of work.
- Emergency preparedness and response plans are established to address likely emergency situations.
- Appropriate first aid and subsequent medical treatment is provided to injured or ill workers in order to allow them to effectively recover from their injuries and illnesses and return them to their original job assignments.
- Worker exposure to chemical, biological, and physical agents is routinely evaluated and controlled to prevent occupational disease.
- Worker accommodation, food storage, preparation, and dining areas shall be clean, safe, and hygienic.

## **CONTRACTS OF EMPLOYMENT**

Written contracts of employment will be provided to workers in their native language or a language the workers understand, clearly indicating their rights, responsibilities, and conditions of employment, including wages and rates of pay, benefits, working hours, locations of the work, transportation to and from the work site (if applicable), living conditions, housing and associated costs, work-related hazards, and other working and employment conditions.

Migrant workers will be provided with a copy of their employment contract in their native language or a language they understand for their review at least five days prior to deployment.

If workers are employed as day laborers, they shall receive a notice outlining the conditions of the day's job each day they start a new job in advance of beginning the work.

Workers with difficulty understanding the written contract will be given a verbal explanation of the contract's terms and conditions.

The practice of contract substitution or use of supplemental agreements by the employer to replace an original contract or any of its provisions with a new contract or terms that are less favorable to the worker is prohibited.

The required notice period for workers to terminate their contracts early will not exceed one month or what the law requires, whichever is less.

After beginning work, workers will not be penalized for early termination of their employment contract upon giving the required notice.

The notice period will be waived in situations where the worker has suffered harassment or abuse or is a victim of trafficking in persons. In such cases, the employer will also be responsible for paying the cost of return transportation for the affected worker.

### **RETENTION OF PERSONAL DOCUMENTS**

Confiscating, destroying, withholding, or otherwise denying workers' access to their identity or immigration documents, including work permits and travel documentation (e.g., passports), is prohibited.

Workers must be in possession of their personal documents at all times or be provided with individual secure and lockable storage facilities for their identification documents and other valuables that they may access at any time of their choosing and are protected against unauthorized access.

### **BONDS, DEPOSITS AND FORCED SAVINGS**

Workers will not be required to lodge monetary deposits or security payments, pay levies, post bonds, or have a portion of their pay withheld at any time as a condition of obtaining or retaining employment.

Workers will not be required to participate in savings programs. If a worker voluntarily participates in a savings program, the worker will retain full control of his or her account at all times.

### **HUMANE TREATMENT**

The workplace will be free of any form of harassment or inhumane treatment.

Disciplinary policies and procedures will be clearly defined and communicated to all workers, and will not include any inhumane disciplinary measures, including corporal punishment, mental or physical coercion, or verbal abuse of workers.

The use or threat of physical or sexual violence, harassment, denunciation to authorities, and intimidation against a worker, his or her family, or friends and associates, is prohibited.

Disciplinary procedures must not include sanctions that result in wage deductions, reductions in benefits, or compulsory labor.

### **WORKPLACE EQUALITY**

All workers, irrespective of their nationality, ethnicity, race, gender, gender identity, or legal status, will be treated fairly and equally.

Migrant workers will be provided conditions of work no less favorable than those available to country nationals (including but not limited to wages, benefits, and accommodation).

### **WAGES AND BENEFITS**

All workers will be paid at least the minimum wage required by applicable laws for all hours worked, and will be provided all legally mandated leave, social insurance and other benefits.

Wage payments will be made at regular intervals and directly to workers, in accordance with applicable law, if any, and will not be delayed, deferred, or withheld. Wage deductions must not be used to keep workers tied to the employer or their jobs.

Only deductions, advances, and loans authorized by law are permitted and, if made or provided, will only be taken with the full consent and understanding of workers.

Information will be provided to workers at the time of their hire about hours worked, rates of pay, and the calculation of legal deductions.

If wages are determined based on production quotas or piece rates, the pay rate will allow workers to earn at least minimum wage within the normal working hours without having to work overtime or unpaid extra hours.

Workers must retain full and complete control over their earnings.

Deception in wage commitments, payment, advances, and loans is prohibited.

## **WORKING HOURS**

Workers will not be required to work in excess of the number of hours permitted by national law. Where the law is silent, normal working hours will not exceed eight hours per day and 48 hours per week, and total working hours including overtime will not exceed 60 hours.

All overtime must be purely voluntary, unless part of a legally recognized collective bargaining agreement.

No worker will be made to work overtime under the threat of penalty, dismissal, or denunciation to authorities.

No worker will be made to work overtime as a disciplinary measure, or for failure to meet production quotas.

All workers shall be given at least one full day of rest (24 continuous hours) after every six days of work.

Mandatory meetings, trainings, or other required activities that occur before, during, or after normal working hours, shall be compensated as time worked.

## **FREEDOM OF MOVEMENT AND PERSONAL FREEDOM**

Workers' freedom of movement shall not be unreasonably restricted.

Workers will have unrestricted access to basic necessities such as potable drinking water and toilets during both work and non-work hours at the work site, or in employer or labor agent-provided or arranged housing.

Workers will not be physically confined to the workplace or employer-provided or arranged housing; nor will any other coercive means be used to restrict workers' freedom of movement or personal freedom.

Mandatory residence in employer-provided or arranged facilities will not be a condition of employment unless required by law.

Migrant workers may change employers without requiring permission from their employer or, if applicable, their recruiter, subject to restrictions of local law.

## **GRIEVANCE MECHANISMS**

An effective, confidential grievance mechanism will be established to ensure that any worker, acting individually or with other workers, can submit a grievance without suffering any prejudice or retaliation of any kind.

The grievance procedure will include an appeal process for workers who disagree with how a grievance is resolved.

The grievance mechanism will be available from the point of recruitment.

Grievance mechanisms will be available in workers' native language or a language the workers understand.

Grievance mechanisms will include the ability to report grievances anonymously.

## **PRIVATE EMPLOYMENT AGENCIES AND LABOR RECRUITERS**

Workers will be hired directly whenever possible.

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When recruitment and hiring is subcontracted to a third party, due diligence will be performed for all private employment agencies and labor recruiters to ensure they comply with the local labor laws of the country in which recruiting takes place, use only trained employees, and that they do not use misleading or fraudulent practices during the recruitment of workers or offering of employment, such as failing to disclose basic information or making material misrepresentations regarding the key terms and conditions of employment.

The employer shall monitor 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 takes place.

The recruitment of workers in one country for employment in another country must respect all applicable international human rights and labor standards and adhere to national laws, regulations, and collective agreements of the origin, transit, and destination countries.

Workers must be made aware of their rights and responsibilities at the point of recruitment, including the provisions of this Code, and all applicable laws and regulations of their home country and the country where the work is performed.

**WORKER TRAINING AND AWARENESS**

Workers must be made aware of their rights and responsibilities both verbally and in writing at the time of hire, in their native language or a language they understand.

The information provided to workers must include the terms and conditions of their employment, the provisions of this Code 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.

Workers must be trained upon arrival in the receiving country on the company's workplace rules and procedures, the grievance mechanism, 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.

Workers should also be informed that the procurement of commercial sex is prohibited.

**FREEDOM OF ASSOCIATION**



In accordance with national law, workers will not face retaliation for exercising their right to freely associate or bargain collectively, and employers must have a policy of neutrality towards these efforts.

Employers may not ask about union affiliation during the recruitment process.

When national law prohibits or limits freedom of association and collective bargaining, workers shall have the freedom to form or join alternative worker representative organizations.

## HOUSING

When housing is provided or arranged by the employer or recruiter, it must meet the minimum housing standards set by local competent authorities; this applies to all types of workers, including migrant workers.

If no minimum housing standards are specified by the country of employment, housing provided or arranged by an employer or recruiter must meet the standards specified in the International Labour Organizations Workers' Housing Recommendation.<sup>3</sup>

Costs for employer- or recruiter-provided or arranged housing must be comparable with local market rates and must not cause or contribute to the debt burden of workers.

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<sup>3</sup> R115 – Workers' Housing Recommendation, 1961 (No. 115), International Labor Organization: [Recommendation R115 - Workers' Housing Recommendation, 1961 \(No. 115\) \(ilo.org\)](https://www.ilo.org/public/libdoc/iloorg/1961/115.pdf)