

PROTECTIONS AGAINST TRAFFICKING IN PERSONS**Conducting Migrant Worker Interviews**

This tool provides a set of sample interview questions to use when conducting targeted migrant and foreign contract worker interviews. It is consistent with the Code of Conduct provisions and benchmarks provided in Tools 1 and 1a, but is not intended to ensure compliance with specific legal requirements, such as the Federal Acquisition Regulation (FAR).. Companies can use this tool to help shape their own worker interview questionnaires, thus improving their auditors' ability to identify possible cases of abuse or recruiter-induced human trafficking at company, supplier and subcontractor facilities.

Note: When planning migrant worker interviews, companies need to understand that migrants are a particularly vulnerable class of workers due to their migrant status. This means that they are in insecure positions, likely do not speak the local language, may lack the social and legal protection of local workers, and may be in a situation of human trafficking because of indebtedness or lack of access to their identity documents. Because of this, migrant workers may be reluctant to talk openly about how they were recruited or their current situation. In order to increase the likelihood of gaining the trust of migrant workers, companies should consider using independent, specially trained local language interviewers and conducting interviews away from the work site, when feasible. Additionally, the following considerations should be taken for all worker interviews:

- Clearly explain the purpose of the interview
- Assure the workers that any information they provide will be kept confidential and that they will be not suffer any retaliation for participating in the interview.
- Also assure workers that they will be paid in full for interviews conducted during working hours
- Explain to workers that the interview is not a means to resolve their individual grievances or to improve general workplace conditions. The grievance process should be used for that purpose.

The following is a very exhaustive list of potential questions that could be asked. Auditors need to select those questions most appropriate for the situation being evaluated.

RECRUITMENT AND HIRING

There are many stages in the recruitment and hiring process for migrant workers, and there may be many labor recruiters involved along the way. It is important to discuss the recruitment and hiring process with migrant workers in order to better

understand the process, actors, and circumstances involved in placing them at the work site. With every new recruiter's involvement, another door is opened to the potential for abuse and malpractice. It is also important to discuss labor recruiter and facility orientation procedures to determine whether migrant workers are aware of key policies and procedures in the workplace and terms and condition of work before they start their job.

The following are some of the issues an interviewer should discuss with migrant workers.

- How many labor recruiters were involved in your recruitment in the country of origin?
- What is the name of each labor recruiter or agency involved in the country of origin?
- At the time of recruitment, were you given accurate details about the job location, contract duration, anticipated earnings, working and employment conditions on the job, and living conditions?
- Did you participate in a pre-departure orientation?
- If yes, do you remember what that orientation included? Did it review:
 - ✓ Contractual obligations;
 - ✓ Terms and conditions of work;
 - ✓ Rights and responsibilities on the job, and those of your employer;
 - ✓ Living conditions;
 - ✓ Company policies; and/or
 - ✓ Grievance mechanisms that are in place for the worker on the job?
- Was the orientation given in your native language?
- Upon arrival in the destination country, did you:
 - ✓ Receive accommodation;
 - ✓ Receive an orientation session at the facility;
 - ✓ Undergo a medical examination; and/or
 - ✓ Open a bank account?
- Did you receive orientation on the facility's personnel policies? If yes, what was addressed during the orientation?
 - ✓ Personnel policies;
 - ✓ Regular wages and hours;
 - ✓ Vacations, sick and personal leave;
 - ✓ Overtime hours and rates;
 - ✓ Grievance procedures;
 - ✓ Health and safety policies;
 - ✓ Benefits and deductions;
 - ✓ Discipline and termination; and/or
 - ✓ Harassment and abuse.
- Were you given a copy of the facility personnel policies or employee handbook? If yes, was this handbook written in a language that you understand?
- Are the facility policies, procedures and work instructions communicated to you in language you understand?

RECRUITMENT FEES AND EXPENSES

In assessing risk factors for debt bondage of migrant workers, it is essential to obtain a thorough picture of all expenses incurred by the migrant worker in obtaining the job overseas, as well as the manner in which the worker financed these fees. Fees are referred to in various ways and serve various functions.

The questions below will help you determine the full array of fees and expenses that migrant workers may have incurred in obtaining their job abroad, and the terms of any financing arrangements into which the worker may have entered. The interviewer should be sure that the following issues are included in any assessment:

- Were you told by the recruiter that you would be required to pay any recruitment fees or other costs to obtain your job?
- Did you pay a service, placement, or recruitment fee to the recruitment agency in the sending country? If yes, how much was this fee? Did you pay a fee to an individual or sub-agent of the agency? If yes, what was it for and how much did you pay?
- Did you pay a reservation or commitment fee? If yes, how much was this fee? Is the amount refundable and, if yes, when is it refunded? If no, is the amount deducted from the total cost of the recruitment fees charged to you?
- Did the labor recruiter provide you with a written itemized breakdown of the fees and expenses paid? If yes, what did the fees and expenses cover? How much was each fee or expense?
- Who arranged for the processing of your required travel documents, such as work permit, visa, and passport? Was a fee charged for this service? If so, how much was this fee?
- Did you pay fees for any of the following:
 - ✓ To register for a skills test or certification;
 - ✓ For language-training;
 - ✓ For medical or physical examination; and/or
 - ✓ For a pre-departure briefing?
- How much did you pay for travel costs (airfare or another mode of travel)? Was this cost included in service or recruitment fees charged by the labor recruiter, or paid directly to a travel agency? Will return travel be paid by the employer or by you?
- Were you required to pay a labor recruiter's fee in the receiving country? If yes, how much was this fee? Was it paid up-front, or is it deducted from your pay?
- Did you pay a deposit or bond of any kind, such as a surety bond? If yes, how much did you pay? What was this deposit or bond for? To whom was it paid?
- Were you required to pay any sort of levy or tax to obtain the job? If yes, how much and to whom?
- Were any fees, expenses, levies, deposits or bonds charged to you paid up-front, or are these deducted from your pay?
- Did you have to borrow any money to pay for recruitment fees and expenses? If yes, how much was borrowed? From whom did the money come? Is there an associated interest rate and, if yes, how much is this? How do you repay the loan? What is the repayment schedule?
- Were you given receipts for all of the fees and expenses you paid to get your job?
- Have you been paid back for any fees or expenses you paid to the recruiter or others to get your job? If yes, who reimbursed you and when did that happen?

CONTRACTS OF EMPLOYMENT

Formal and signed contracts of employment between the worker and facility or labor recruiter are legally binding agreements and necessary to provide employment protection to migrant or foreign contract workers. They are a cornerstone to monitoring social compliance and essential to clarifying the employment relationship and its terms and conditions. For companies, when assessing the recruitment and hiring of migrant workers, it is necessary not only to examine copies of these contracts to determine wage levels and other entitlements under the contract; it is also necessary to understand how and when the contract was signed, and under what conditions. Consider discussing these issues with workers as an important part of your worker interview process:

- Did you sign an employment contract for the job? If yes, with whom was the contract signed: the company/employer or the labor recruiter?
- Were the terms of the employment contract explained to you? If yes, who explained these terms to you? Do you fully understand the terms and conditions of the contract? If no, what parts are not understood?
- When and where was the contract signed (e.g. prior to departure or upon arrival at the worksite)?
- In what language is the contract written and do you understand that language?
- Were you given a copy of the contract to review prior to signing? Once signed, were you given a copy of the signed contract?
- Was the contract provided to you at least 5 days before departure from your home country to the site of the work?
- Did you have to sign two sets of employment contracts? If yes, were both sets the same in content and, if no, how were they different? Were these differences explained to you, and what was the reason given?
- Are the details contained in your employment contract consistent with the details that were provided at the time of recruitment? If not, what has changed?
- Are the actual terms and conditions on the job consistent with those that are described in the employment contract?
- Was your original contract amended in any way following signature? If yes, do these amendments improve or worsen your employment conditions? Were these amendments made with your prior knowledge and informed, written consent?
- Were you pressured or threatened in any way into accepting the job or any of the terms included in the employment contract?
- Does the contract clearly describe the process for early contract termination, including the minimum notice period and any financial penalties involved?
- Under what conditions can the contract be renewed?

DOCUMENT RETENTION

Confiscating, destroying, withholding or otherwise denying access to personal documents can be a form of coercion that leaves migrant workers highly vulnerable to trafficking. When labor recruiters or company or supplier/subcontractor facilities take away workers' passports, residency or work permits, personal identity documents, or even ATM cards, this not only limits their freedom of movement and personal freedom; it effectively binds them to that employer or labor recruiter, restricting their ability

to terminate employment or leave the job without the threat of losing this valuable property. In many cases, it also means that the worker is not able to take up a new job, access social benefits to which he or she may be entitled and is vulnerable to deportation or detention by immigration authorities. It is essential that the company address these issues in their interviews with migrant workers:

- Did you submit any original copies of your government-issued identification, passports or work permits to the facility or receiving country labor recruiter? If yes, what did you submit (e.g., passport, residency permit, work authorization, identity documents, ATM or bank card, or other travel documents, for example the return portion of travel tickets)? Do you know the reason for this?
- Are your personal documents being withheld due to legal requirements or did you request that the facility or labor recruiter hold them?
 - ✓ Do workers have free and unhindered access to their documents?
 - ✓ What is the procedure for getting the documents back?
 - ✓ Are workers given an exact copy of the document when it is not in their possession?
 - ✓ Does the facility or labor recruiter nominate a responsible person to ensure that workers have free access to their documents upon demand?
 - ✓ Were workers given advanced notice of these requirements and procedures?
 - ✓ Have workers ever encountered lengthy or otherwise burdensome prerequisites when accessing their passport or other personal documentation?
- Do you have free access to a locked, secure storage space for your personal documents and valuables?
- Where is your locked storage located (accommodation, work location, both)?

DEPOSITS

So-called “security deposits” or “runaway insurance” are sometimes used by labor recruiters or employers to limit migrant workers’ ability to terminate employment and find a new job. This “fee” is typically paid up-front at the time of recruitment, and is kept until the contract has been fulfilled. If the worker terminates their employment prior to the contract’s end date, they run the risk of losing their money. Auditors should be aware of this abuse, and discuss it directly with workers. Here are some of the issues a company may want to consider:

- Did you pay a deposit or bond of any kind during the recruitment process?
- Did you pay a fee or bond at any other time during the employment relationship?
- Are there any deductions from your pay for deposits, bonds or other payments that you do not understand?
- If yes is answered to any of those questions:
 - ✓ How much was the fee? Did you pay it all at once or is it being deducted from your pay?
 - ✓ Who did you pay?
 - ✓ When do you expect to get the deposit back?
 - ✓ What are the conditions under which the amount will be returned to you?

WAGES AND WAGE DEDUCTIONS

Auditing wage and salary payments can be one of the most complex and challenging aspects of a social audit. This is no less the case when assessing wage conditions facing migrant and foreign contract workers who are highly vulnerable to debt bondage resulting from withheld wage payments, excessive deductions from wages, or fraudulent practices with regard to advances and loans provided by the facility or labor recruiter. To address this complexity and establish a clear picture of migrant worker wage conditions, companies may wish to consider discussing the following with workers:

- Who pays your wages? Are you paid by the facility/work site or the labor recruiter?
- How are you paid (e.g. hourly, daily or piece rate; in cash, check or direct deposit), and do you know if you are paid at the same rate as local workers?
- Do you receive your pay on time? Have wage payments, or any portion of wages, ever been delayed or withheld? If yes, what were the circumstances of this?
- Do you receive a pay slip or wage statement on payday? If yes, is this pay slip in a language you understand, and does it clearly indicate wage calculations and any deductions that are made from your salary?
- Are any deductions made from your wages? If yes, how much is deducted and what for (e.g. meals, transportation, lodging, utilities, uniform, tools, other)? Were you made aware of these deductions when you signed your contract and did you approve of them? Were you requested to sign a document to authorize the deduction(s)?
- Do you ever receive wages in the form of non-cash or “in-kind” payments? If yes, what percentage of the wage has been paid in this way?
- Have you ever received an advance on your wages or a loan from the facility or labor recruiter? If yes, what were the terms of this loan, including the interest rate and financing period? Have the terms of the loan ever been changed without your consent?
- Do you participate in a savings program sponsored by the labor recruiter or facility? If yes, is this program voluntary? Did you sign a written consent form to authorize deductions for voluntary savings? Where are your savings kept? If savings are kept in a bank, do you have free access to your bank account? When do you get their savings back? Have you had any difficulties in accessing your savings or getting them back?
- Is there anyone else, apart from yourself who has access to your bank account, for example through an ATM card or power of attorney? Have you ever authorized another person to access your account to make a withdrawal? If yes, who else has such access?
- Does the facility or labor recruiter limit in any way your freedom to use your wages as you see fit?

COMPULSORY OR INVOLUNTARY OVERTIME

Unless specified in the employment contract or collective bargaining agreement, compulsory overtime can create a situation of trafficked labor to which all workers can be subject, not only migrant and foreign contract workers. However, the latter may be at greater risk of this abuse because of their heightened vulnerability, and the many pressure points that brand or supplier facilities, or labor recruiters, may have to exploit their vulnerability. Addressing this issue should be central to all worker

interviews; it is even more important for discussions with migrant workers.

- How often do you have to work overtime, and for what reasons?
- Is overtime at the facility always voluntary? If no, what are the circumstances involving involuntary overtime?
- Are you free to refuse overtime without threat or fear of punishment? What happens if you refuse to work overtime?
- Are you given advance notice by the facility or labor recruiter when overtime is required?

FREEDOM OF MOVEMENT AND PERSONAL FREEDOM

Restrictions on freedom of movement for migrant workers can exist in the workplace or in the ability to freely come and go from the dormitories where they live. Restrictions can be built into facility or labor recruiter policies; and in rules and regulations governing worker residences. In some cases there may be legal and regulatory restrictions to workers' ability to freely leave the facility or housing premises during non-work hours. While in other, the restrictions may result from the security environment; cultural norms or considerations; active threats, intimidation and harassment by a manager, labor recruiter, or security guard; and deceptive or hidden forms of coercion such as passport confiscation, which is addressed above.

Most forms of restrictions on freedom of movement are wholly unreasonable and highly abusive. To make sense of this complex issue, here are some of the topics that can be included in interviews with workers concerning their freedom of movement and personal freedom:

- Are there any restrictions on your freedom of movement in the workplace during working hours? If yes, what are these restrictions? Do you think they are reasonable?
- Do security personnel ever restrict your freedom of movement in the workplace for reasons other than workplace security?
- Are you ever restricted from or monitored when using the toilet facilities? Are you free to get drinking water whenever they wish?
- Are you free to perform religious obligations without restriction?
- Are you free to leave the workplace immediately after your shift? Are you able to get permission to leave the facility during work hours under reasonable circumstances? What is the procedure for requesting this permission (e.g. how many signatures are required to request a gate pass)?
- If you live in a dormitory provided or operated by the facility or labor recruiter, are you required to live there as a condition of recruitment or continued employment? Are you free to leave the dormitory and reside elsewhere? Are you free to come and go as you please during non-working hours? If not, what are the restrictions on freedom of movement?
- Does the dormitory have a curfew? Are there any dormitory rules and regulations that you believe unreasonably restrict your personal freedom?

WORKPLACE DISCIPLINE

Disciplinary measures and, in particular, the penalty of dismissal and repatriation can be abused to threaten, take advantage of,

and apply pressure on migrant workers. While some measures may be justified in reacting to misconduct, disciplinary measure should not result in compulsory labor or an obligation to work. It is important for the auditor to discuss disciplinary measures and determine that they are fair, objective, transparent, and communicated to workers in language they understand. Here are some of the issues auditors may wish to discuss:

- What steps are taken for disciplining a worker?
- What types of misconduct carry the penalty of dismissal and repatriation?
- Is there a clear process that includes investigation before workers are terminated and repatriated?
- Have you ever been disciplined at work? If not, do you know of others that have? Do you feel that disciplinary practices are fair?
- Have you even been given a fine or wage deduction as a disciplinary measure? If yes, could you describe the circumstances?
- Do deductions for tardiness or time missed ever exceed the wage equivalent of the time missed?
- Do disciplinary measures ever involve forced or compulsory work as punishment for a workplace infraction?
- Do you know if workers are ever forced to sign a letter of resignation?

THREATS OF VIOLENCE AND INTIMIDATION

Harassment, intimidation, and threats or use of violence can take many forms in the workplace or in facility - or labor recruiter-operated residences. They can be perpetrated by a supervisor, facility manager, recruiter representative, dormitory manager, security guard, or even a fellow worker at almost any stage of the employment relationship, including recruitment and hiring. The aim may be to frighten the worker or pressure them into accepting certain terms and conditions of employment or living conditions; or it may be to force them to work overtime or perform hazardous or life-threatening tasks. Whatever the case, there should be a strong policy in place to prevent such behavior, and migrant workers are a key potential source of information in determining facility or recruiter compliance with that policy. Auditors should consider discussing the following:

- Have you ever been subject to or witnessed verbal abuse, psychological harassment, intimidation, physical abuse, or sexual harassment? If yes, what happened, when and where did it happen, and who was involved? Is this abuse on-going? Was the incident(s) reported to facility management or the labor recruiter? What actions were taken to correct the abuse?
- Are you aware of facility policies and procedures for dealing with harassment and abuse complaints (e.g. reporting, investigation, follow-up, and sanctions)?
- Does the facility conduct regular anti-harassment and abuse training for workers?

WORKER COMMUNICATION AND GRIEVANCE PROCEDURE

An effective grievance procedure and complaints mechanism in the workplace that allows migrant workers to confidentially raise issues about labor recruiter or facility practices or the conditions they face in the workplace or dormitory is an important

element in taking corrective action against abuse and exploitation. It is a key first step in remediating existing problems, and doing so at the level where problems exist. However, in many cases, grievance procedures may not even exist; they may not be effective, trusted or used by migrant workers; or they may only apply to the facility and not to labor recruiters, where significant forms of abuse may occur. In this case, it is important for auditors to investigate fully, and discuss with workers the options they have available to them to raise questions and complaints.

- How would you bring issues or complaints to the attention of the facility or labor recruiter?
- Is there someone available at all times to receive and process grievances and other complaints? If yes, do you know the position of this representative (works for the company, an independent 3rd party, etc.)? Does this person speak your language and that of other migrant workers? Are you and the other workers comfortable bringing your complaints to this person?
- Is there a mechanism in place for you to raise a grievance with someone other than your direct supervisor?
- Is there an anonymous way for you to report grievance (without giving your name)? What means are in place to protect your identity when reporting a grievance?
- Are the responses to grievances and actions taken to address them communicated to the workers? If so, what is the main method of communication?
- What can you do if you disagree with the way a grievance is resolved? Have you or anyone you know ever appealed a grievance finding? If so, what happened?
- Do you and other workers feel that grievance process is effective? If not, why not?
- Are you free to join or form a trade union? Has the facility done anything, including interference or penalties, to prevent you or others from joining or forming a union?



Once they have begun work, the ability of migrant workers to terminate their employment at any time without penalty and with reasonable notice is central to ensuring that they work in a free employment relationship. In speaking with migrants, companies may wish to probe this issue, and seek to identify whether any limitations exist that prevent workers from terminating their contracts before they are finished.

- Are you and other migrant workers free to resign from your position without penalty prior to the end of your contract? If no, what are the penalties you face? Who pays for your return travel if you quit before your contract is completed?
- What is the required notice period for terminating a contract early?
- Can you describe the procedure you would need to follow in order to terminate your contract early? How did you learn about the process?
- Do you know what would happen if there is an emergency back home and you couldn't give the required notice?
- If you participate in a voluntary savings program arranged by your employer or labor recruiter, do you have free access to all savings and monies owed at the time of contract termination?