

Tool 3: Conducting Interviews with Labor Brokers

This tool is designed for use by company social auditors. It can be used by companies to improve their own audit protocols by expanding the audit interview process to include labor brokers that provide workers to the company, or to a given company facility. The tool is oriented to help assess the recruitment and hiring practices of labor brokers integrated into their supply chain. It is consistent with the code provisions and benchmarks provided in this toolkit, and complementary to the corresponding management and worker interview tools.

GENERAL PROFILE OF THE LABOR BROKER AND ITS OPERATIONS

Auditors should start their labor broker audit by gathering basic information about the broker and its business. This can help to orient the rest of the interview with the labor broker and identify any potential issues that require follow-up or further discussion. It can also provide the auditor with an opportunity to explore the relationship between the labor broker and the companies and countries to which it sends labor.

- What is the name of the labor broker? Its address? The names of its owners and their nationalities? And the names and addresses of other labor agencies operated by the owners?
- Do the owners of the labor brokerage have any other businesses? What are the names, locations and nature of those businesses?
- How many years has the labor broker been in the business of supplying manpower?
- What are the main services that the labor broker provides?
- What types of migrant workers does the labor broker provide? Do these include professional, skilled, semi-skilled or low-skilled migrant workers? In what industry or industries does the labor broker place migrant workers? What countries does the labor broker supply labor to?
- Does the labor broker work with local partners in each country where it provides labor? Who are the local partners the labor broker works with for the facility in question? What are their names, addresses and complete contact information?
- Has the labor broker ever paid money to a facility to “win” a contract for labor provision?
- How many years has the labor broker provided migrant workers to this particular facility?
- Does the contract signed between the labor broker and the facility contain clauses on social compliance, such as measures to prevent forced labor and human trafficking?

GENERAL PROFILE OF THE MIGRANT WORKERS PLACED WITH THE FACILITY

It is important for the auditor to gain close insight into the migrant workers that are placed by the labor broker. This can be done by speaking with the labor broker directly, as well as by speaking with the broker’s sub-agents and local partners. However, it is essential to cross-check information gained from brokers and subagents with interviews with representative migrant workers at each facility. This triangulation will help the auditor identify each of the migrant workers placed by the labor broker, their national and personal details, and basic information about their employment contract and relationship.

- How many migrant workers has the labor broker placed with the facility?
- What are the countries of origin of the migrant workers placed with the facility? How many workers are from each country? What is the duration of contracts?
- Does the labor broker have a complete list of migrant workers placed with the facility, including the following information:
 - Names;
 - Workstation department or shift;
 - Date of hire;

- ☑ Home country address of workers and phone numbers; and
- ☑ Emergency contact information.

LEGAL HISTORY AND SOCIAL COMPLIANCE

In addition to gathering basic information about the labor broker's business and the migrant workers it has placed, it will be important for the auditor to assess the legal and social compliance of the labor broker, as well as its systems for staying up to date on new regulations or regulatory changes that affect businesses sending workers overseas. Discussions can focus on public licensing or certification for labor brokers, company policies on social responsibility and the procedures or overall management system the labor broker has in place to ensure protection of migrant workers.

- Is the labor broker legally registered and licensed to operate in each country from which it sends workers?
- What aspects of the labor broker's business are audited or inspected by local government authorities? How often does this audit or inspection occur?
- What system does the labor broker have in place to ensure that it stays up-to-date on new legal and regulatory developments concerning migrant workers in the country or countries where it places workers? Does the labor broker have an implementing structure, an accountable officer, and clear procedures to guarantee that its policies are compliant with relevant laws and regulations?
- Has the labor broker ever been cited or penalized by local or foreign authorities for any reason relating to its practices within the last five years? If yes, have these conditions been corrected to the satisfaction of the inspecting/citing authority?
- Are there any civil or criminal legal actions against the owner(s) pending? If yes, what are the details of this action?
- Does the labor broker have a code of conduct that explicitly prohibits forced labor and human trafficking, and sets out protective measures for migrant workers?

RECRUITMENT AND HIRING PROCESS

A focus on the details of the recruitment and hiring process used by the labor broker will illuminate any potential risks that may face migrant workers placed by the labor broker. Auditors should seek to understand the full scope of this process, including the recruitment, selection, contracting, hiring and transportation stages. They should also be aware of the actors involved at each stage, for example whether or not sub-agents are used to recruit migrant workers from further afield. This stage of the labor broker interview also opens the door to discussing transparency in recruitment and the information that is provided to migrant workers in the pre-departure phase.

- What is the step-by-step process used by the labor broker for recruiting migrant workers, including information about recruitment and applicant selection; documents processing; the contracting process and signature of employment contracts; recruitment fees; and pre-departure briefing?
- Does the labor broker have measures in place to ensure that its representatives and sub-agents working on its behalf provide migrant workers with true and accurate details about working, employment and living conditions at the time of recruitment?
- Does the labor broker provide pre-departure orientation and training to migrant workers in order to review:
 - ☑ Contractual obligations;
 - ☑ Employee and employer rights and obligations;
 - ☑ Terms and conditions of work;
 - ☑ Living conditions;
 - ☑ Company policies; and
 - ☑ Grievance mechanisms in place for workers?



RECRUITMENT FEES AND EXPENSES

The fees and expenses charged to migrant workers by labor brokers that recruit, hire, send and receive them overseas can create grave vulnerability to debt bondage and forced labor. Auditors will need to probe for this carefully and with a variety of questions and interview techniques.

Fees can be charged by the labor broker, its sub-agents or local partners. Fees might be deducted from migrant workers' wages or paid up-front by the migrant worker. The facility may or may not know about the extent of the fees that have been charged.

It is the auditor's responsibility to uncover this complexity and to cross-check the information with statements made by facility managers and migrant workers.

The following issues should be included in the audit of a facility that is host to migrant workers.

- Do migrant workers pay a fee in their country of origin or the receiving country for labor-broker services? How much do they have to pay, and what do these fees cover?
 - ☑ **Reservation or Commitment Fee**
Is this amount returned or refunded to the worker if he or she is not selected for employment?
 - ☑ **Service, Placement or Recruitment fee**
Is this fee paid up-front and directly to the labor broker, or is it deducted from the worker's salary at the facility?
 - ☑ **Processing of Travel documents, Visas and Work Permits**
Is a separate fee charged for this or is this included in the recruitment fee?
 - ☑ **Registration for Skills Testing or Certification**
Is this charge included in the recruitment fee or do workers pay for this directly to the government labor broker providing the service?
 - ☑ **Mandatory Physical, Health or Medical Tests Required by Sending and Receiving Country**
 - ☑ **Language Training or Pre-departure Orientation or Seminar**
 - ☑ **Air Travel or Other Transportation Costs**
Are such costs included in the recruitment fee, paid by the worker up-front, or paid by the facility?
 - ☑ **Surety Bond or Deposit**
 - ☑ **Other Fees**
- Does the labor broker provide workers with a written itemized breakdown of the fees and expenses they pay?
- Upon arrival at the place of employment, are workers charged further fees by the labor broker or its local partners, for example a labor brokerage fee or surety bond that is paid on-site?
- Does the labor broker or facility deduct a portion of the recruitment fee from migrant workers' salaries? If yes, how much is deducted per month, and for how many months?
- Are migrant workers required to pay a deposit to hold a contract? How much is the deposit, and is it paid to the labor broker, facility or both? Under what circumstances and how do workers get their deposit back?

EMPLOYMENT CONTRACTS

Auditors will also want to discuss the contracting process and the nature of employment contracts with labor brokers. The key question here concerns contract substitution, a process whereby an original contract that has been signed by a migrant worker is replaced by another – or supplemented with additional pages – that worsen the conditions agreed to. However, there are other issues at play that the auditor should also seek to address. These include how and where the contract was signed, and the language in which it was written. To verify the information provided by brokers, the auditor may wish to review copies of employment contracts provided to migrant workers during the document review process.

- Who are migrant workers under contract to: the labor broker, the facility, or both?
- Are employment contracts with migrant workers signed in the country of origin, upon arrival at the location of employment, or both?



- How does the labor broker guarantee that migrant workers understand the contents of the employment contract before they sign it?
- Is the contract written in a language that migrant workers understand?
- Are migrant workers given a copy of their signed contract?
- What measures does the labor broker have in place to ensure that its representatives and sub-agents do not misrepresent the nature of the job offered at the time of recruitment or hiring?
- Does the labor broker have measures in place to ensure that the original contracts signed by migrant workers are not amended in any way by the facility, representatives of the labor broker itself, or its local partner in the receiving country, unless to improve upon the migrant worker's originally anticipated employment conditions? Are such changes made only with the full knowledge and consent of the migrant worker concerned?

DOCUMENT RETENTION

Auditors should also discuss the issue of document retention with labor brokers. This will be particularly important in cases where labor brokers act as the on-site managers of the workers they place and where they are responsible for general human resources management. It will also be important in those cases where migrant workers reside in labor broker-operated dormitories. If the facility operates in a jurisdiction where employers are required to maintain migrant workers' travel documents, the auditor will also want to discuss any mechanisms the labor broker has in place to allow workers free access to their documents.

- Does the labor broker, its local partner or facility ever hold migrant workers' passports or other valuable items (e.g. bank books or ATM cards)? If yes, is this legally required?
- If the labor broker, its local partner or facility holds passports for legal reasons or by request of the worker:
 - ☑ Do workers have unrestricted access to them at any time?
 - ☑ Are workers provided with an exact copy of the documentation when it is not in their possession?
 - ☑ Has the labor broker, local partner or facility nominated a responsible person to ensure that workers have free access to their documents upon demand?
 - ☑ Does the labor broker notify workers of these conditions and procedures in advance?

DEPOSITS

Security deposits are sometimes charged by labor brokers to prevent migrant workers from leaving the employer and finding a new job. They are frequently referred to as "runaway insurance". It is important for the auditor to review this issue to determine whether such a charge has been made, who made it, and the conditions under which workers get it back.

- Are migrant workers ever required to pay a deposit or bond of any kind to the labor broker, its local partner or the facility during the recruitment process or at any other time during employment?
- How much is this deposit or bond? When and how is this money returned to workers?

WAGES AND WAGE DEDUCTIONS

The auditor should discuss wage payment practices and deductions with labor brokers when they act as the formal employer of migrant workers at the facility. If this is not the case, the labor broker will have little to provide at this stage of the interview. Auditors should also speak with labor brokers about any advances or loans they provide to workers, for example to cover recruitment fees or expenses. This should address loan conditions, interest rates and financing periods to ensure worker consent, transparency and ethical behavior.

- Does the labor broker, its local partner or facility pay migrant workers?
- If the labor broker or its partner pays workers, when and at what frequency are they paid?
- Are wage payments ever delayed or withheld? If yes, under what circumstances has this occurred?



- Are migrant workers given a pay slip or wage statement on payday? Does this pay slip clearly indicate wage calculations and any deductions made from their salary?
- How does the labor broker ensure that migrant workers are paid at the same basic rate as local workers?
- Does the labor broker make any deductions or withholdings from workers' pay? If yes, how much is deducted, and what do these deductions cover? Are these deductions stipulated in workers' contracts? Are they made with workers' knowledge and consent?
- Does the labor broker or its local partner deduct for meals or housing? If yes, do migrant workers have the option to withdraw from food and housing provisions?
- Does the labor broker ever provide loans to migrant workers for recruitment fees? What amount is provided? What is the interest rate on the loan and the financing period? Are loan agreements or advances concluded with the full knowledge and consent of workers?
- If migrant workers borrow money from the labor broker, how do they pay the loan back? Is it paid in cash to the labor broker or facility, deducted from paychecks, or another method? How much do workers pay monthly, and how many months do they have to pay for the loan?
- Does the labor broker, local partner or facility deduct any amount from workers' salaries as part of a savings program? How much is deducted? Is this deduction voluntary? Are savings kept at a bank account in the country of origin or the receiving country? Do workers have full control and access to their savings at all times? Does anyone else have access to workers' savings or authority to withdraw money? When do workers get their savings back?

COMPULSORY OR INVOLUNTARY OVERTIME

A key form of forced labor that all workers, including migrant workers, can face is compulsory or involuntary overtime beyond the limits established by national law. If the labor broker is responsible for the general management of the workers it places with the facility (including hours of work and overtime), the auditor should discuss this in order to determine what labor broker policies and procedures are and the measures the labor broker has in place to guarantee overtime is always voluntary.

- Are workers ever required by the labor broker, its local partner or the facility to work more overtime than allowed by national law? What are the circumstances of such requirements?
- When overtime is necessary, are workers free to refuse it? Does the labor broker or facility ever punish workers for refusing to work overtime?

FREEDOM OF MOVEMENT AND PERSONAL FREEDOM

Restrictions on the freedom of movement and personal freedom of migrant workers can occur in the workplace and in labor broker- or employer-operated residences. When speaking with labor brokers about this, auditors should determine whether such restrictions exist and, if so, why and can they be considered reasonable? Auditors should also discuss in detail any labor broker-operated dormitories, if they exist, and the living conditions that face workers there.

- Does the labor broker or its local partner place any restrictions on migrant workers' freedom of movement in the workplace? What are these restrictions and the reasons for them?
- Does the labor broker provide residence to migrant workers as part of its service? What is the name and address of the dormitory or hostel?
- Are migrant workers required to live in such facilities or are they free to reside elsewhere?
- Do migrant workers pay for this accommodation? How much do they pay per month? Is the amount they pay commensurate to or lower than market rates? How do workers pay for this accommodation?
- Are there any restrictions on movement for migrant workers within such accommodation or outside working hours? Does the residence have a curfew? Are workers allowed to receive guests or visitors?



WORKPLACE DISCIPLINE

Disciplinary procedures in the workplace will only be the responsibility of labor brokers if they manage workers directly. If this is the case, auditors should assess whether monetary fines are ever levied for workplace misconduct and, if so, under what circumstances; and whether the labor brokers' sanctions ever result in compulsory labor. Information gathered at this stage of the labor broker interview can be cross checked with disciplinary records and statements from workers.

- Who is responsible for workplace discipline in the facility? Are there any parties aside from the facility involved in disciplining workers, for example the labor broker or its local partner, or a dormitory representative?
- What steps are taken for disciplining a worker? Are monetary fines ever levied for misconduct? If so, under what circumstances, for what types of offense, how much is charged, and how are these payments made?
- Do disciplinary sanctions ever involve compulsory work? If they do, under what circumstances does this occur?
- What types of misconduct carry the penalty of dismissal and repatriation? Does the labor broker have a clear process that includes credible investigation before workers are terminated and repatriated?
- Are there any penalties for migrant workers who quit before their contract expires? In such cases, who pays for their return airfare or transportation?
- Are there any penalties for migrant workers who are terminated or fired before their contract expires? In such cases, who pays for their return airfare or transportation?

THREAT OF VIOLENCE AND INTIMIDATION

Threats of violence, harassment and intimidation of any kind should be strictly prohibited by the labor broker. Auditors can use this opportunity to discuss company policy, awareness raising efforts, sensitization and training for labor brokers and sub-agents, and any specific procedures the labor broker has in place to address instances of such abuse if they occur.

- Does the labor broker have a clear policy that strictly prohibits the following:
 - ☑ Verbal abuse, harassment or intimidation?
 - ☑ Physical abuse, corporal punishment?
 - ☑ Sexual harassment or abuse?
- Have there been any instances of such abuse involving a labor broker representative or local partner?

GRIEVANCE PROCEDURE

An effective and trustworthy grievance procedure or complaints mechanism for migrant workers is an important part of taking preventive and corrective action against abuse in the workplace and in the recruitment and hiring process. Auditors should seek to assess the labor broker's procedure for receiving complaints and determine whether workers are free to raise the issues they have, whether these pertain to the employment practices of the facility or conditions related to the labor broker, its sub-agents or local partners.

- Has the labor broker nominated a representative to receive and process complaints from migrant workers? Does this representative speak the language(s) of migrant workers?
- Does the labor broker have an assigned unit or staff representative to receive and process workers' reports of harassment or abuse?
- What are the labor broker's procedures for dealing with harassment and abuse? Do these include reporting, investigation, follow-up and sanctions?

TERMINATION OF EMPLOYMENT

In discussing termination of employment with labor brokers, auditors may wish to assess resignation procedures, notice periods and policies regarding repatriation under such circumstances. The key in this case is to ensure that workers suffer no penalty or threat of penalty in resigning or terminating their contract, as long as they do so with reasonable notice as required by law.



- What is the labor broker's policy and procedure for resignation? Are migrant workers free to resign at any time, given reasonable notice?
- Are there any penalties for migrant workers who terminate their contract before its end-date? What are those penalties?
- Does the labor broker or its local partner use any deceptive or coercive means to restrict workers' freedom to terminate employment?

