

## 4. Managing Labor Brokers &amp; Monitoring

## Tool 1: Sample Strategies for Managing Risk in Recruitment, Selection and Hiring

There are many proactive steps that companies can take to manage the risk of forced labor and human trafficking in recruitment, selection and hiring.

Below are some of the more common red flags for forced labor and trafficking at these stages in the job cycle. In addition to the red flags themselves, consider the following management approaches that can help to mitigate the risks or address root causes so that risk is eliminated.

### RED FLAG: WORKER DEBT DUE TO ILLEGAL OR EXCESSIVE RECRUITMENT FEES

A common source of risk in recruitment is a company's lack of visibility into the recruitment process itself, including a lack of visibility into any payment transactions that are involved. The company may be simply unaware that brokers hidden fees are being charged to jobseekers by brokers or their subcontractors. There are many steps that can be taken to mitigate this risk.

### Managing Risk during Recruitment, Selection and Hiring:

- ☑ The company can require that its labor brokers communicate an “employers pay” policy to applicants at the earliest part of the recruitment process. For example, this policy could be indicated in job vacancy ads and explained to applicants as part of a first interaction with recruiters (where applicable, this would entail informing applicants at their place of origin, before they arrive at recruitment centers).
- ☑ The company can provide (or require labor brokers to provide) successful applicants with a checklist of all expenses that employers will cover (consistent with the “employer pays” policy).

### Managing Risk during Pre-Departure Orientation and Deployment:

- ☑ The company can require all successful jobseekers to submit a list of all expenses incurred in the process of applying for the job, indicating to whom these expenses or fees were paid (e.g., transportation expenses, reservation fees, documents processing, medical tests, etc.).
- ☑ A company representative can conduct the pre-departure orientation.
- ☑ The company representative can explain the following during the pre-departure orientation:
  - The company's “employers pay” policy;
  - All expenses and fees that the company will cover;
  - The company's system for verifying the actual fees and expenses paid by workers in recruitment and hiring;
  - The company's confidential procedures for workers to report any violations to the “employer pays” policy; and
  - The company's protections and non-reprisal for workers who report violations, with an explanation of how the company guarantees this.
- ☑ The company can include in its contracts with migrant workers the “employer pays” policy and a breakdown of all expenses and fees that the company will cover.

### Managing Risk upon Arrival at the Host Facility:

- ☑ The company can require all newly hired workers to submit a list of expenses incurred prior to arrival, with the receipts if available. The company can then compare these documents with the lists that were submitted by migrant workers at the pre-departure orientation and flag any discrepancies for further investigation.

- ☑ The company can conduct validation interviews with newly hired workers upon arrival. Interviews with workers whose expense checklists were flagged should be prioritized. Independent translators should be used for these validation interviews, as opposed to translators provided or hired by the labor broker.
- ☑ The company can have in place remediation procedures to respond to verified reports of noncompliance to its “employers pay” policy, including mechanisms to ensure reimbursement of any fees charged to workers.

## **RED FLAG: DECEPTION IN RECRUITMENT – CONTRACT SUBSTITUTION**

Contract substitution that results in debt bondage, restrictions to freedom of movement, or labor trafficking is usually deliberate – it rarely stems from a mere process gap. In some cases, this risk can also stem from a labor broker’s desire to meet performance objectives. For example, if brokers are required to deploy a certain number of workers to a factory at a particular time, they may use standard government-issued contracts which do not reflect the actual terms and conditions of employment to facilitate the deployment process. Instead, the actual terms and conditions are contained in the supplemental contract which the workers sign when they commence employment. Companies can take any or all of the following steps to mitigate these risks.

### **Managing Risk during Recruitment, Selection, and Hiring:**

- ☑ The company can take full responsibility for the translation of employment contracts into a language that migrant workers understand. The labor broker should not translate the employment contracts, nor should the company hire the labor broker to manage the translation of the contracts.
- ☑ The company can directly supervise the signing of employment contracts. A company representative can be present on-site in the sending country where workers have been selected and hired when employment agreements are signed by workers.
- ☑ Before contracts are signed, the company can orient the workers on the terms and conditions of the employment contract. If there is a need to use translators, these translators should be directly engaged by the company – the company should not use translators provided by the labor broker.

### **Managing Risk during Pre-Departure Orientation and Deployment:**

- ☑ A company representative can conduct the pre-departure orientation.
- ☑ The pre-departure orientation can include the following information:
  - Contractual obligations;
  - Terms and conditions of work (wages, benefits, work hours, living accommodations, list of legal deductions, etc.);
  - Receiving country’s legal requirements; and
  - Company policies and procedures, including:
    - Mechanisms for workers to report violations by company staff, informal broker, and middlemen to company’s policies and ethical standards; and
    - Non-reprisal policy for whistleblowers.
- ☑ The company representative can advise workers not to sign any new contracts or supplemental contract clauses before departure, or upon arrival in the receiving country.
- ☑ The company representative can provide workers with a checklist and samples of documents that they will be required to sign in order to process their work permits and clear other legal requirements so that workers are aware of what to expect.

### **Managing Risk upon Arrival at the Host Facility:**

- ☑ A company representative can meet workers upon their arrival in the receiving country and supervise post-arrival procedures.
- ☑ The company can require that labor brokers provide workers and the company with copies of all documents that workers must sign as part of arrival in the receiving country.
- ☑ Upon arrival at the host facility, the company can conduct interviews with workers themselves, to inquire about the signing of any supplemental or substitute contracts. The company can also review all the documents that labor brokers required workers to sign.



- ☑ The company can have in place remediation procedures to respond to verified reports of the signing of supplemental or substitute contracts.

Throughout the recruiting and hiring process, companies can minimize the risk of forced labor associated with outsourcing recruitment and hiring by establishing and maintaining lines of direct communication with migrant workers. Whether by providing workers information of what to expect throughout the pre-deployment, deployment, and orientation process; directly supervising the contract signing process; conducting validation interviews with workers on arrival at the facility; or incorporating any of the other suggestions above; companies can ensure that aspects of recruiting and hiring conform with their commitment to ending forced labor.

