

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

19 Jul 2021



Factory Information

FLA Affiliates	WinCraft Inc.
Country	China
Number of Workers	216

Understanding this Report

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

FLA Code Element

Number of Violations

Compensation (C)

4

Employment Relationship (ER)

8

Freedom Of Association And Collective Bargaining (FOA)

1

Health, Safety And Environment (HSE)

12

Hours Of Work (HOW)

4

Assessment Information

Assessor

Openview- China Shenzhen

Assessment Date

19 Jul 2021

Assessment Purpose

Factory Assessment (In-Person)

ASSESSMENT RESULTS

Compensation (C)

Benchmark ID	C.12.1
Benchmark Details	All legally mandated deductions for taxes, social insurance, or other purposes shall be deposited each pay period in the legally defined account or transmitted to the legally defined agency. This includes any lawful garnishments for back taxes, etc.
Finding Details	The contribution base of the two types of social insurance is not in line with the legal requirements. The factory contributes to pension and unemployment insurances based on the local minimum requirement of CNY 3,409 (USD 524) per month, which is not in line with the legal requirement of contribution based on worker's average monthly wage of the previous year. 60% of workers' average monthly wages of the previous year were higher than the local minimum contribution base, ranging from CNY 3,500 (USD 538) to CNY 6,000 (USD 923).
Recommendation for Immediate Action	Contribute to social insurance based on worker's average monthly wage of the previous year.
Compliance Classifications	Immediate Action Required
Local Law	Social Insurance Law of the PRC, Article 12 and Article 60
Benchmark ID	C.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning the payment of compensation to workers.

Finding Details	The factory does not provide social insurance to all eligible workers. There is a total of 131 workers working in the factory, including 4 retired but re-recruited workers. 127 workers are eligible for social insurance contributions. The factory has provided 126 out of 127 eligible workers (99.2%) with pension, maternity, and medical insurances, all 127 eligible workers (100%) with work-related and unemployment insurances. As a supplement, the factory has provided commercial accidental injury insurance to 4 workers, which is valid from March 3, 2021, to March 2, 2022, and has a maximum benefit amount of CNY 200,000 (USD 30,769) per worker.
Recommendation for Immediate Action	Provide social insurance to all eligible workers.
Compliance Classifications	Immediate Action Required
Local Law	The China Labor Law, Article 72
Benchmark ID	C.21.1
Benchmark Details	Employers shall provide all legally mandated benefits, including holidays, leave, bonuses, severance payments and 13th month payments to all eligible workers within legally defined time periods.
Finding Details	1. The factory pays final payouts on the regular payment date on the 15th day of the following month, rather than within five days upon contract termination as per legal requirements. 2. The factory does not contribute to the Housing Provident Fund for any of the 127 eligible workers.
Recommendation for Immediate Action	1. Pay final payout in a timely manner as per legal requirements. 2. Provide all eligible workers with the legally required Housing Provident Fund.
Compliance Classifications	Immediate Action Required
Local Law	Measures of Zhejiang Province on the Administration of Enterprise Wage Payment, Article 19; Regulations on Management of Housing Provident Fund, Article 15

Benchmark ID	C.13.1
Benchmark Details	Voluntary wage deductions, including for savings clubs, loan payments, union membership dues, or any other union fees, can only be made with the express and written consent of individual workers unless (in the case of union dues and fees) specified otherwise in freely negotiated and valid collective bargaining agreements. In all cases, voluntary wage deductions must fall within the limits and conditions specified by law
Finding Details	The factory has not obtained written consent from individual workers for the union dues deduction of CNY 9 (USD 1.39) per month from workers' wages.
Recommendation for Immediate Action	Obtain written consent from individual workers for the deduction of union dues.
Compliance Classifications	Immediate Action Required
Local Law	Nil

Employment Relationship (ER)

Benchmark ID	ER.14.1
Benchmark Details	Employers shall use standard contract language with employment agencies or intermediaries that specifically imparts power to employers to directly pay wages to migrant/ contract/ contingent/ temporary workers and ensures equality of compensation and workplace standards as set under the FLA Workplace Code and national laws and regulations.
Finding Details	The factory does not directly pay wages to 13 dispatched workers hired through the employment agency. The factory pays a service fee to the employment agency, and the employment agency pays the dispatched workers instead.
Recommendation for Immediate Action	Directly pay wages to the dispatched workers hired through employment agency.

Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	ER.11.2
Benchmark Details	Employers must ensure the following minimum terms and conditions are met in the employment of contract/contingent/migrant/temporary workers: Contract/contingent/migrant/temporary workers shall be provided an employment agreement in their native language setting out the employment terms and conditions. for migrant workers, a copy of their employment contract in their native language shall be provided prior to departure from their country of origin;
Finding Details	13 dispatched workers have not been provided with an employment agreement setting out the employment terms and conditions.
Recommendation for Immediate Action	Provide employment agreement to the dispatched workers.
Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	ER.2
Benchmark Details	Employers shall ensure that all legally mandated requirements for the protection or management of special categories of workers, including migrant, juvenile, contract/contingent/temporary, probationary workers, home workers, and pregnant or disabled workers, are implemented. Where local laws and FLA standards differ, the employer is expected to follow the highest applicable standard.
Finding Details	The factory does not keep the dispatched workers' payroll documents.
Recommendation for Immediate Action	Keep the dispatched workers' payroll documents onsite and provide for review upon request by assessors.

Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	ER.1.1
Benchmark Details	Employers shall have in place written policies and practices and maintain proper and accurate records governing all aspects of employment from recruitment, hiring and probation, including written terms and conditions of employment, job descriptions, administration of compensation, and working hours for all positions, through to retrenchment and termination processes.
Finding Details	The factory does not have policies or procedures managing retrenchment. The termination procedure does not include the method to calculate the final payout.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.6.1
Benchmark Details	Employers shall have written policies and procedures and implement practices that encourage ongoing training of all categories of workers with the goal of raising or broadening skills in order to advance in their careers within the factory or beyond.
Finding Details	The factory does not have written procedures that encourage ongoing training of all categories of workers with the goal of raising or broadening skills in order to advance in their careers within the factory and beyond.
Recommendation for Immediate Action	

Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.4
Benchmark Details	Employers shall inform workers about workplace rules, environmental protection systems, health and safety information, and laws regarding workers' rights with respect to freedom of association, compensation, working hours, and any other legally required information, and the FLA Code through appropriate means, including posted in local language(s) throughout the workplace's common areas.
Finding Details	The factory does not communicate FLA Code to its workers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.19.1
Benchmark Details	Employers shall maintain on file all documentation needed to demonstrate compliance with the FLA Workplace Code and required laws.
Finding Details	The factory does not communicate the FLA-affiliate Code of Conduct to its workers, supervisors or managers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

Benchmark ID	ER.1.3
Benchmark Details	Employers should implement an annual, review process with input from workers of all policies, procedures and their implementation to ensure they meet legal requirements and the FLA Workplace Code.
Finding Details	The worker integration component is missing across all Employment Functions. This indicates that the factory has not established procedures to request and receive workers' input and feedback regarding the creation, implementation, and updates of its policies and procedures. Workers are neither systematically integrated nor consulted in decision-making processes.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

Freedom Of Association And Collective Bargaining (FOA)

Benchmark ID	FOA.10
Benchmark Details	Employers shall refrain from any acts of interference with the formation or operation of workers' organizations, including acts which are designed to establish or promote the domination, financing or control of workers' organizations by employers.

Finding Details	<p>FLA Comment: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All-China Federation of Trade Unions (ACFTU). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations’ mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members’ assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements.</p>
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

Health, Safety And Environment (HSE)

Benchmark ID	HSE.5.1
Benchmark Details	<p>All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all of the following elements: posting evacuation plans; the installation and maintenance of fire alarms; the installation and maintenance of emergency lighting; ensuring aisles/exits are not blocked and that workers are not blocked within their workstations; employee education and training; and evacuation procedures and fire drills.</p>

Finding Details	All the emergency evacuation plans in the workshops do not include the location of fire alarms and “You are here”.
Recommendation for Immediate Action	Mark the location of fire alarms and “You are here” in the emergency evacuation plans.
Compliance Classifications	Immediate Action Required
Local Law	Escape and Evacuation-Principles and Requirements, Article 7.3
Benchmark ID	HSE.5.1.2
Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following elements: installation and maintenance of fire alarms;
Finding Details	The fire alarms throughout the factory, except those in the three chemical warehouses, are not connected to the electrical power and are without backup battery power.
Recommendation for Immediate Action	Connect all fire alarms to the electrical power and install backup battery power for all fire alarms.
Compliance Classifications	Immediate Action Required
Local Law	The Code of Design on Building Fire Protection and Prevention, Article 10.1.6
Benchmark ID	HSE.19
Benchmark Details	All facilities including workplace buildings, toilets, canteens, kitchens, and clinics, shall be kept clean and safe and be in compliance with all applicable laws, including relevant sanitation, medical, and safety and health regulations.
Finding Details	The factory does not provide hand drying facilities in the toilets in the production area.

Recommendation for Immediate Action	Provide hand drying facilities in all toilets in the production area.
Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	HSE.13
Benchmark Details	All necessary ventilation, plumbing, electrical, noise and lighting services shall be installed and maintained to conform to applicable laws and to prevent or minimize hazardous conditions to workers in the facility.
Finding Details	One electrical switch does not have an insulation cover in the plating workshop.
Recommendation for Immediate Action	Install insulation covers on all electrical switches in the plating workshop.
Compliance Classifications	Immediate Action Required
Local Law	Electricity Safety Guidelines, Article 5.1.1
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	All five gas cylinders do not have anti-tipping devices in the gas cylinder warehouse.
Recommendation for Immediate Action	Install anti-tipping devices for all five gas cylinders in the gas cylinder warehouse.
Compliance Classifications	Immediate Action Required
Local Law	Regulation on Safety Supervision of Gas Cylinders (2000), Article 79

Benchmark ID	HSE.6.1
Benchmark Details	All safety and medical equipment (e.g. fire fighting equipment, first aid kits) shall be available in sufficient numbers throughout the workplace, maintained and stocked as prescribed, and easily accessible to workers.
Finding Details	1. The factory places two fire extinguishers directly on the ground near the security guard room, which is not in compliance with the legal requirement that the height from the bottom of the extinguisher to the floor should be no less than 0.08 meters. 2. The factory has never conducted a comprehensive inspection of the firefighting equipment. 3. All eyewash equipment does not have protective covers on the spray heads. In addition, the spray head on one eyewash equipment is malfunctioning near the plating workshop.
Recommendation for Immediate Action	1. Place fire extinguishers at the height of no less than 0.08 meters from the bottom of the extinguisher to the floor. 2. Conduct a comprehensive inspection of the firefighting equipment at least once a year. 3. Install protective covers on the spray heads of all eyewash equipment. Conduct regular inspections to ensure all eyewash equipment is in good condition.
Compliance Classifications	Immediate Action Required
Local Law	Law of the China on Work Safety, Article 42; China Fire Prevention Law, Article 16 (3); China Law of Prevention and Control of Occupational Diseases, Article 25
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.

Finding Details	1. The factory does not provide post-job occupational health examinations to workers with hazardous exposure to chemicals, dust, and noise. There have been around five resigned workers eligible for post-job occupational health examinations during the past 12 months. 2. The occupational hazards test in August 2020 indicates that the noise level at two test points in the punching section and one test point in the casting section exceeds the legal limit of 85 dB and up to 90.7dB.
Recommendation for Immediate Action	1. Provide post-job occupational health examinations to workers with hazardous exposure to chemicals, dust, and noise. 2. Reduce noise level to achieve full compliance with the legal requirements.
Compliance Classifications	Immediate Action Required
Local Law	China Law of Prevention and Control of Occupational Diseases, Article 26 and Article 35
Benchmark ID	HSE.28
Benchmark Details	Employers shall create a system to ensure that all necessary Health and Safety protections are provided for external contractors; including protection when working within , confined spaces, maintenance issues, and general Health and Safety Issues.
Finding Details	The factory does not provide safety information to contractors.
Recommendation for Immediate Action	Provide safety information to contractors.
Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	HSE.29
Benchmark Details	Employers shall provide all necessary protection for workers when working at heights, confined spaces, and other high-risk areas.

Finding Details	The factory does not have procedures for entering confined spaces, including a safe atmosphere, rescue equipment ready to use, and trained observer present.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	HSE.7
Benchmark Details	Workers shall be provided at no cost with all the appropriate and necessary personal protective equipment (e.g. gloves, eye protection, hearing protection, respiratory protection) to effectively prevent unsafe exposure (e.g. inhalation or contact with solvent vapors, noise, dust) to health and safety hazards, including medical waste.
Finding Details	All eight workers in the plating workshop with exposure to hazardous chemicals are wearing activated carbon masks, rather than respirators as per legal requirements.
Recommendation for Immediate Action	Provide workers in the plating workshop with respirators, train and monitor these workers to wear respirators correctly and consistently during working hours.
Compliance Classifications	Immediate Action Required
Local Law	Law of the China on Work Safety, Article 42
Benchmark ID	HSE.8
Benchmark Details	Workers shall be provided with training on the use and maintenance of personal protective equipment. Training shall be upon hire with periodic refresher training offered to all workers. Management will ensure use of PPE as necessary.

Finding Details	Two out of eight workers in the polishing section with hazardous exposure to dust are not wearing the provided masks during working hours.
Recommendation for Immediate Action	Train and monitor workers in the polishing section to wear masks correctly and consistently during working hours.
Compliance Classifications	Immediate Action Required
Local Law	Law of the China on Work Safety, Article 42
Benchmark ID	HSE.17.1
Benchmark Details	Workstations, including seating and standing arrangements and reach required to obtain tools, shall be designed and set-up in such a manner as to minimize bodily strains.
Finding Details	The factory does not take steps to reduce repetitive-motion stress or injuries. The factory does not provide chairs with armrests and backrests to workers working with the sitting position, or anti-fatigue mats to workers working with the standing position.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

Hours Of Work (HOW)

Benchmark ID	HOW.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning hours of work, public holidays and leave.

Finding Details	Overtime hours exceed the legal limit of 36 hours per month. Time records for the period from July 2020 to July 2021 and worker interviews indicate that the monthly overtime for about 70% of workers exceeded 36 hours in all reviewed months, with a maximum of 88 overtime hours in June 2021.
Recommendation for Immediate Action	Control overtime hours to achieve full compliance with the legal requirements.
Compliance Classifications	Immediate Action Required
Local Law	The China Labor Law, Article 41
Benchmark ID	HOW.20
Benchmark Details	Employers shall have in place practices that conduct regular analysis of hours of work in their workplaces and procedures that demonstrate a commitment to progressively reducing excessive hours of work.
Finding Details	The factory production plan is based on 63 hours per week. Factory management sets production targets and the production system at a level that workers need to work 23 overtime hours per week.
Recommendation for Immediate Action	Set production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	HOW.21
Benchmark Details	Other than in exceptional circumstances, the total weekly work hours (regular work hours plus overtime including any alternative shifts such as 4x4 or 3x3) shall not exceed 60 hours per week.

Finding Details	Total working hours exceed 60 per week. Time records for the period from July 2020 to July 2021 and worker interviews indicate that weekly working hours for 70% of workers exceeded 60 in one to two weeks per month in December 2020, January, and April 2021, with a maximum of 68 hours in the week of April 19 to 25, 2021.
Recommendation for Immediate Action	Make sure the total working hours do not exceed 60 in a week.
Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	HOW.2
Benchmark Details	Workers shall be entitled to at least 24 consecutive hours of rest in every seven- day period. If workers must work on a rest day, an alternative consecutive 24 hours must be provided within that same seven-day period or immediately following.
Finding Details	Workers are not always provided with one day off for every seven-day work period. Time records for the period from July 2020 to July 2021 and worker interviews indicate that around 70% of workers worked ten consecutive days for once from April 19 to April 28, 2021.
Recommendation for Immediate Action	Provide workers with at least one day off (24-consecutive hours of rest) for every seven-day work period.
Compliance Classifications	Immediate Action Required
Local Law	Nil

