



Fair Labor Association: Independent External Factory Assessment

Assessment Date :

27 Sep 2021



Factory Information

FLA Affiliates	MBI, Inc.
Country	China
Number of Workers	

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)	3
Employment Relationship (ER)	6
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	11
Hours Of Work (HOW)	4
Nondiscrimination (ND)	1

Assessment Information

Assessor	Openview- China Shenzhen
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Assessment Date	27 Sep 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 factory does not calculate its contribution to the five types of social insurance in accordance with the legal requirements. The factory contributes to pension insurance based on a wage of CNY 3,800 (USD 585) per month and contributes to medical, work-related injury, unemployment, and maternity insurances based on a wage of CNY 1,410 (USD 217) per month. This contribution is not in line with the legal requirement to base contributions on workers' average monthly wage for the previous year. In the previous year, 100% of workers averaged monthly wages higher than CNY 1,410 (USD 217) and 40% of workers averaged higher than CNY 3,800 (USD 588.21). Actual average monthly wages ranged from CNY 3,801 (USD 588.36) to CNY 6,000 (USD 923).
Recommendation for Immediate Action	Contribute to social insurance based on the previous year's accurate average monthly wages for each worker.
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 are a total of 189 workers in the factory, including 14 retired but re-recruited workers and three new hires. 172 workers are eligible for social insurance contributions. The factory provides 115 out of these 172 eligible workers (66.86%) with the five types of social insurances (pension, work-related injury, medical, maternity, and unemployment). As a supplement, the factory has provided workplace accident and injury insurance to 61 workers. This supplemental insurance is valid from March 29, 2021 to March 28, 2022 and has a maximum benefit of CNY 200,000 (USD 30,769) per worker.
Recommendation for Immediate Action	Provide the full employer contribution to social insurance programs for all eligible workers.
Compliance Classifications	Immediate Action Required
Local Law	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	The factory does not contribute to the Housing Provident Fund for any of the 172 eligible workers.
Recommendation for Immediate Action	Contribute to the Housing Provident Fund for all eligible workers, as legally required.
Compliance Classifications	Immediate Action Required
Local Law	Regulations on Management of Housing Provident Fund, Article 15
Employment Relationship (ER)	
Benchmark ID	ER.17.5

Benchmark Details	Employers shall have in place procedures to track the number, types, and timing and resolution of grievances, and to communicate the resolution of grievances to the workforce.
Finding Details	The factory does not maintain grievance records. Management does not record grievances that workers raise verbally to their supervisors, and no grievances have been lodged through the suggestion box. None of the interviewed workers have raised a grievance before.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.17.1
Benchmark Details	Employers shall have a clear and transparent system of worker and management communication that enables workers to consult with and provide input to management. This might include suggestion boxes, worker committees, designated spaces for worker meetings, union representatives, and meetings between management and workers' representatives.
Finding Details	The factory has not established a grievance procedure. Currently, the factory provides two channels for workers to lodge complaints: a suggestion box and speaking directly with their supervisors and the Human Resources department. Worker interviews indicate that workers are aware of the grievance channels, but do not fully understand the grievance resolution process.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

Benchmark ID	ER.7.1
Benchmark Details	Employers shall have written policies and procedures with regard to performance reviews that outline the review steps and process, demonstrate linkages to job grading, prohibit discrimination, are provided in writing and seek feedback and agreement/disagreement from employees in writing, and that follow all local legal requirements.
Finding Details	The factory does not have procedures for performance reviews and has not conducted reviews for any workers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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's policy on employment contracts does not include the legal requirement that after two consecutive fixed-term employment contracts or after ten or more years of service, workers are eligible to choose between an employment contract of indefinite duration (permanent contract) or a fixed-term employment contract. As a result, the factory has not informed eligible workers of this right or signed an employment contract of indefinite duration (permanent contract) with any eligible workers. Instead, the factory has signed only one-year fixed-term employment contracts with eligible workers.
Recommendation for Immediate Action	Enhance current policy on employment contract to include all the legal requirement. Inform eligible workers of their legal right and sign an employment contract of indefinite duration (permanent contract) with eligible workers.

Compliance Classifications	Immediate Action Required
Local Law	The China Labor Contract Law, Article 14
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	<ol style="list-style-type: none"> 1. The factory has neither reviewed nor updated its policies and procedures on the FLA Code and Employment Functions since 2014. 2. The worker integration component is missing across all Employment Functions. The factory has not established any procedures to solicit input and feedback from workers regarding the creation, implementation, and updating of its policies and procedures. Factory management does not systematically integrate or consult workers in decision-making processes.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.18.4
Benchmark Details	The disciplinary system shall include a third party witness during imposition, and an appeal process.
Finding Details	The disciplinary system does not include the right to have a third party present during the imposition of disciplinary action.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required

Local Law	
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	

Health, Safety And Environment (HSE)

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	1. The factory has not installed fire alarms in the office building. 2. The fire alarm system in the production building is not automatic or equipped with a centralized control panel. There is no backup battery power for the fire alarm system.
Recommendation for Immediate Action	1. Install fire alarms in the office building. 2. Install an automatic and centralized fire alarm system with backup battery power in the production building.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	HSE.5.1.4
Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following: ensuring aisles/exits are not blocked and that workers are not blocked within their workstations
Finding Details	The factory stores materials flush against the wall with no clearance in the packing material storage area, whereas local law requires at least 0.5m clearance from the wall. Some materials are placed against the wall while others are placed on racks that are against the wall. The racks are not fixed to the wall.
Recommendation for Immediate Action	Store all materials with at least 0.5m clearance from the wall, as per legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	Rules for Warehouse Fire Prevention Safety Management, Article 18

Benchmark ID	HSE.9.1
Benchmark Details	All chemicals and hazardous substances shall be properly labeled and stored in secure and ventilated areas and disposed of in a safe and legal manner, in accordance with applicable laws and international standards.
Finding Details	The diesel oil tank, which has about three cubic meters of storage capacity, has no secondary containment.
Recommendation for Immediate Action	Install secondary containment for the diesel oil tank.
Compliance Classifications	Immediate Action Required
Local Law	The Regulation for Safety of Dangerous Chemical, Article 20
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	The electrical installations in the paint mixing room, including switches, sockets, and exit signs, are not explosion-proof.
Recommendation for Immediate Action	Install explosion-proof electrical equipment in the paint mixing room.
Compliance Classifications	Immediate Action Required
Local Law	The Regulation for Safety of Dangerous Chemical, Article 20
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.

Finding Details	The factory has not conducted an inspection on the lightning protection system at the liquefied petroleum gas station.
Recommendation for Immediate Action	Hire a qualified service provider to inspect the lightning protection system on an annual basis.
Compliance Classifications	Immediate Action Required
Local Law	Technical Specifications for Inspection of Lightning Protection System in Building, Article 6
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 does not provide fire specific personal protective equipment (PPE), including fire-proof suits and breathing apparatuses, to the fire brigade. 2. The factory has never conducted a comprehensive inspection of the firefighting equipment, including the fire alarms, fire hydrants, fire extinguishers, sprinkler system, fire pool, and fire control room.
Recommendation for Immediate Action	1. Provide all necessary personal protective equipment (PPE) to the fire brigade. 2. Hire a qualified third party to conduct a comprehensive annual inspection of the firefighting equipment.
Compliance Classifications	Immediate Action Required
Local Law	The Fire Prevention Law of the People's Republic of China, Article 16
Benchmark ID	HSE.4.1

Benchmark Details	Employers shall at all times be in possession of all legally required and valid permits and certificates related to health, safety, and environmental issues, such as: Purchase and storage of chemicals; Fire safety inspections; Machinery inspections; Waste disposal; Environmental licenses/permits; Sanitation permits, including those required for canteens; and Vehicle inspection and driver permits for all employer provided transportation.
Finding Details	The air storage tank has no nameplate or instruction manual to verify the year of manufacture. The factory does not have valid inspection reports for the air storage tank, its pressure meter, or its safety valve.
Recommendation for Immediate Action	Conduct annual inspections for the air tank and safety valve and a semi-annual inspection for the pressure meter, as per legal requirements. Keep inspections reports on file.
Compliance Classifications	Immediate Action Required
Local Law	Special Appliance Quality Safety Monitoring Regulation, Article 28; Supervision Regulation on Safety Technology for Stationary Pressure Vessel, Article 7.1.7
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.

Finding Details	<p>1. The factory handles hazardous waste, including chemical waste and empty chemical containers. However, the factory could not provide a service contract with a licensed hazardous waste dealer or disposal records in 2021 for review. 2. The factory has no plan for phasing out the use of equipment containing ozone depleting substances (ODSs) such as CFCs, Halon, HCFCs, HBFCs, Carbon Tetrachloride, Methyl Chloroform, Methyl Bromides, or Bromochloromethane. 3. The factory does not provide pre-employment or post-employment occupational health examinations to workers with hazardous exposure to chemicals, dust, and noise. In addition, the report issued in November 2020 regarding on-job occupational health examinations indicates that a recheck would be required for 10 workers. However, the factory could not provide the recheck report for review. 4. The factory hired a service provider to conduct the annual occupational hazards test in October 2020. However, the service provider in question does not have the proper certification to conduct the occupational hazards test.</p>
Recommendation for Immediate Action	<p>1. Hire a licensed service provider to dispose of the hazardous waste and maintain the disposal records, as per legal requirement. 2. Set up the plan for phasing-out the use of the equipment containing ozone depleting substances (ODSs). 3. Provide pre-job and post-job occupational health examination to workers with hazardous exposure to chemicals, dust and noise, and arrange recheck for eligible workers as per legal requirements. 4. Hire an authorized service provider to conduct the annual occupational hazards test.</p>
Compliance Classifications	Immediate Action Required
Local Law	<p>Law of the People’s Republic of China on the Prevention and Control of Environmental Pollution by Solid Wastes (2016 Amendment), Article 55 & 57; China Law of Prevention and Control of Occupational Diseases, Article 35; Provisions on the Supervision and Administration of Occupational Health at Work Sites, Article 20</p>
Benchmark ID	HSE.29
Benchmark Details	<p>Employers shall provide all necessary protection for workers when working at heights, confined spaces, and other high-risk areas.</p>

Finding Details	The stairs to the storage platforms have handrails that are 300 mm in height, which is not in line with the legal requirement that handrails be at least 860 mm tall.
Recommendation for Immediate Action	Ensure the handrails on the stairs to the storage platforms are no less than 860 mm in height, as per legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	Safety Requirements for Fixed Steel Ladders and Platform - Part 2: Steel Inclined Ladders (GB 4053.2-2009), Article 5.6.6
Benchmark ID	HSE.17.2
Benchmark Details	Employers shall train workers in proper lifting techniques, and items such as lifting belts shall be provided.
Finding Details	The factory does not train workers on ergonomics, including lifting techniques.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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 provide adjustable seats with back support to employees who work in a sitting position, including workers in the repair, coloring, assembly, and packing sections.
Recommendation for Immediate Action	Provide adjustable seats with back support to employees who work in a sitting position.

Compliance Classifications	Immediate Action Required
Local Law	
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. Worker interviews and time records for the period from September 2020 to September 2021 indicate that about 60% of workers worked more than 36 overtime hours every month during this period, with the exceptions of September 2020 and February 2021. The maximum number of overtime hours observed was a case of 94 overtime hours worked in April 2021.
Recommendation for Immediate Action	Control overtime hours to achieve full compliance with legal requirements and the FLA Code.
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 a 63-hour workweek. Factory management has established the production system and set production targets with an expectation that workers will work 23 overtime hours per week (three overtime hours per day on five workdays and eight overtime hours on Saturday).

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	
Benchmark ID	HOW.11.1
Benchmark Details	Employers shall provide workers with paid annual leave as required under national laws, regulations and procedures.
Finding Details	The factory does not provide annual leave to eligible workers.
Recommendation for Immediate Action	Provide all eligible workers with annual leave, as per legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	Regulations on Annual Leave for Employees, Article 2
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 hours per week. Worker interviews and time records indicate that from November 2020 to September 2021, 60% of workers worked more than 60 hours (up to 63 hours) a week in two to three weeks per month, except during February 2021.
Recommendation for Immediate Action	Control total working hours so that they do not exceed 60 hours in any given week.
Compliance Classifications	Immediate Action Required

Local Law	
Nondiscrimination (ND)	
Benchmark ID	ND.3
Benchmark Details	Recruitment and employment policies and practices, including job advertisements, job descriptions, application and interview questions and job performance/evaluation policies and practices shall be free from any type of discriminatory bias.
Finding Details	The factory's recruitment process poses a risk of discrimination. The job advertisement states that all applicants should be 18 to 45 years old, which is consistent with the factory's actual employment practice. In addition, the job application form used for all positions requires applicants to provide information regarding marital and nationality status.
Recommendation for Immediate Action	Remove age requirement from the job advertisement and questions about marital and nationality status from the job application form. Employment decisions are to be made solely on the basis of a person's qualifications and abilities.
Compliance Classifications	Immediate Action Required
Local Law	

