

# Fair Labor Association: Independent External Factory Assessment

Assessment Date :

**23 Nov 2021**



## Factory Information

FLA Affiliates	Cutter and Buck
Country	China
Number of Workers	180

## 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)	7
Hours Of Work (HOW)	2

## Assessment Information

Assessor	Openview- China Shenzhen
Assessment Date	23 Nov 2021

Assessment Purpose	Factory Assessment (In-Person)
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## ASSESSMENT RESULTS

### Compensation (C)

Benchmark ID	C.21.2
Benchmark Details	All benefits shall be calculated correctly
Finding Details	Local law requires employers to contribute to the Housing Provident Fund based on workers' average monthly wages for the previous year. The factory contributes to the Housing Provident Fund based on a monthly wage of CNY 2,020 (USD 316). In reality, all workers' average monthly wages for the previous year were higher than CNY 2,020 (USD 316), ranging from CNY 3,000 (USD 469) to CNY 6,000 (USD 938).
Recommendation for Immediate Action	Contribute to the Housing Provident Fund based on workers' actual average monthly wage for the previous year.
Compliance Classifications	Immediate Action Required
Local Law	Regulations on Management of Housing Provident Fund, Article 16
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's contributions to the five major social insurance programs are not in line with legal requirements. Local law requires employers to contribute to the five programs based on workers' average monthly wages for the previous year. The factory contributes to the five programs based on a wage of CNY 2,020 (USD 316) per month. In reality, all workers' average monthly wages for the previous year were higher than CNY 2,020 (USD 316), ranging from CNY 3,000 (USD 469) to CNY 6,000 (USD 938).

Recommendation for Immediate Action	Contribute to social insurance programs based on workers' actual average monthly wages for the previous year.
Compliance Classifications	Immediate Action Required
Local Law	Social Insurance Law of the PRC, Article 12 and Article 60
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 makes contributions to the Housing Provident Fund for only 14 out of 47 eligible workers (30%).
Recommendation for Immediate Action	Make the legally required contributions to the Housing Provident Fund for all eligible workers.
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 provides four channels for workers to lodge grievances: speaking directly with supervisors, lodging grievances through worker representatives, speaking with the General Manager, and filing grievances in a suggestion box. All workers who were interviewed stated that they had never lodged grievances through the suggestion box. Worker interviews also revealed that workers are not aware of the options to lodge grievances through worker representatives or the General Manager. Workers have lodged grievances to their supervisors verbally, but the factory has not recorded any of these verbal grievances. The factory has not maintained any grievance records.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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 has not established written procedures on personnel development that encourage ongoing training with the goal of raising or broadening workers' skills so they can advance in their careers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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	(1) The factory has not established a performance review procedure. (2) The factory has not conducted performance reviews for any workers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.8
Benchmark Details	Employers shall have written policies and procedures with regard to promotion, demotion, and job reassignment that outline the criteria, demonstrate linkages to job grading, and prohibit discrimination or use of demotion or job reassignment as a form of penalty or punishment, are provided in writing and seek feedback from employees in writing, and follow all local legal requirements.
Finding Details	The factory has not established written procedures on promotion, demotion, or job reassignment.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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 absent from all employment functions in the factory. The factory has not established procedures to collect workers' feedback regarding the creation, implementation, and updating 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	
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 factory's disciplinary system does not include a third-party witness during the imposition of disciplinary action.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
<b>Freedom Of Association And Collective Bargaining (FOA)</b>	
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	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.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

## Health, Safety And Environment (HSE)

Benchmark ID	HSE.5.1.2
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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 are not centralized and lack backup battery power.
Recommendation for Immediate Action	Install a centralized fire alarm system with backup battery. The system should cover both the office and 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 flammable cardboard in one of the two evacuation stairwells on the first floor of the 3-story production building.
Recommendation for Immediate Action	Remove the flammable materials and keep the evacuation stairwells free from obstruction.
Compliance Classifications	Immediate Action Required
Local Law	Code of Design on Building Fire Protection and Prevention, Article 6.4.1
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 soap or hand drying supplies in the toilets in the production area.
Recommendation for Immediate Action	Provide soap and hand drying supplies in all toilets in the production area.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	HSE.22.1
Benchmark Details	All food made available to workers shall be prepared, stored, and served in a safe and sanitary manner in accordance with all applicable laws and international standards.
Finding Details	The two members of the factory's kitchen staff do not wear the provided face masks while preparing and serving food.
Recommendation for Immediate Action	Train and supervise all kitchen staff to wear the provided face masks while preparing and serving food.
Compliance Classifications	Immediate Action Required
Local Law	Law of the China on Work Safety, Article 33
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	None of the eight sewing machines have needle guards. All eight needle guards were either removed or damaged. Furthermore, two out of the three button machines in the cutting workshop (located on the 2nd floor of the production building) do not have pulley guards on the transmission belts.
Recommendation for Immediate Action	Install needle guards on all sewing machines and pulley guards on all button machines.

Compliance Classifications	Immediate Action Required
Local Law	Code of Design of Manufacturing Equipment Safety and Hygiene, Article 6.1.6
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 stores two fire extinguishers directly on the ground in the stairwell on the third floor of the production building, which is not in compliance with the legal requirement that the bottom of the extinguisher be no less than 0.08 meters from the ground. (2) The factory has never conducted a comprehensive inspection of the firefighting equipment. (3) The factory does not post the name and contact information of the medical response personnel.
Recommendation for Immediate Action	(1) Place fire extinguishers at a height of no less than 0.08 meter from the floor, measured from the bottom of the extinguisher. (2) Conduct a comprehensive inspection of the firefighting equipment at least once a year. (3) Post the name and contact information for medical response personnel throughout the factory.
Compliance Classifications	Immediate Action Required
Local Law	Code for Design of Extinguisher Distribution in Buildings, Article 5.1.3
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 adjustable chairs with armrests and backrests to employees who work in a sitting position, nor does it provide anti-fatigue mats to those who work in a standing position.
Recommendation for Immediate Action	Provide adjustable chairs with armrests and backrests to employees working in a sitting position and anti-fatigue mats to those who work in a standing 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 work regularly exceeds the legal limit of 36 hours per month. Worker interviews and a review of time records for the period from November 2020 to October 2021 indicate that about 90% of workers worked more than 36 overtime hours per month every month during that period, with a maximum of 94 overtime hours in July 2021.
Recommendation for Immediate Action	Control overtime hours to achieve full compliance with local law 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 assumes a 58-hour workweek for workers. Factory management sets production targets and the production system at such a level that workers need to work 18 overtime hours (two overtime hours per day on five weekdays, eight overtime hours on Saturday) per week to meet them.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

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