



COMPANIES: Herff Jones Inc

COUNTRY: China

ASSESSMENT DATE: 11/11/16

ASSESSOR: Social Compliance Services Asia

PRODUCTS: Apparel

NUMBER OF WORKERS: 50

FLA Comments

This report was submitted to the FLA and the FLA affiliated company by the assessor. Despite deadline reminders and extensions for submission of a corrective action plan, the FLA has not received a plan to address the risks and noncompliances raised in the report. Therefore, the report is posted in its current state and will be updated once a corrective action plan has been submitted to and reviewed by the FLA.

Summary of Code Violations

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.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

Findings and Action Plans

FINDING NO.1

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

1. The factory does not have written policies on the following Employment Functions: Personnel Development; Compensation; Hours of Work; Termination & Retrenchment; Industrial Relations; Workplace Conduct & Discipline; Grievance System; and Environmental Protection. There are, however, some documents and systems in place to manage Compensation, Hours of Work, Termination & Retrenchment, Industrial Relations, and Workplace Conduct & Discipline.
2. The factory does not have formal written procedures on the following Employment Functions: Personnel Development; Compensation; Hours of Work; Termination & Retrenchment; Industrial Relations; Workplace Conduct & Discipline; Grievance System; and Environmental Protection; and Health & Safety. There are, however, some documents and systems in place to manage Compensation, Hours of Work, Industrial Relations, Workplace Conduct & Discipline, and Health & Safety.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.19, ER.23, ER.25, ER.27, ER.28, ER.29, ER.30, ER.31, and ER.32; Health, Safety & Environment Benchmark HSE.5)

FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The factory does not provide orientation training for any new workers. Workers do not receive any training material either.
2. The factory does not provide specific training for the relevant supervisors or ongoing training for workers on any of the Employment Functions.
3. The factory does not provide Human Resources (HR) staff with training on Workplace Conduct & Discipline.
4. The factory does not provide training to workers on the usage and maintenance of Personal Protective Equipment (PPE) or on the provision of first aid. Workers who lift heavy objects do not receive training on proper lifting techniques. There is also no specific workplace safety training for designated employees with special responsibilities, no specific training on maintenance safety for employees with maintenance responsibilities, and no specific training for workers with additional responsibilities in responding to an emergency.

Local Law or Code Requirement

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

1. The factory does not communicate its policies and procedures and their updates to the general workforce for any of the Employment Functions.
2. The worker integration component is missing across all Employment Functions. This indicates that the factory has not established procedures to request and/or receive workers' input or feedback regarding the creation, implementation, and updating of its policies and procedures. Workers are neither systematically integrated nor consulted in the decision-making process.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.2, ER.16.1, ER.25, ER.27.3, ER.29.1.1, and ER.30.2; Compensation Benchmark C.17)

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

The factory does not periodically review and update its policies and procedures on any of the Employment Functions.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.3, ER.29.1.1, ER.30.2, and ER.31.1)

FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. The factory does not have personnel files, including employment contracts and registration forms, for two sampled probationary workers (proof of age documentation was maintained separately in the HR department). The factory reported that they had not yet signed employment contracts with these workers.
2. The factory signs fixed-term employment contracts instead of indefinite employment contracts with workers who are legally eligible to sign indefinite employment contracts.
3. The factory does not employ any disabled workers, which is a violation of legal requirements which state that at least 1.5% of the total workforce should be composed of disabled workers. The factory does not contribute to the Employment Security Fund in lieu of hiring disabled workers, either.
4. There are no written job descriptions prepared for any positions when personnel need to be hired.
5. The factory does not conduct performance reviews for any of its workers.

Local Law or Code Requirement

State Council Order No. 364 of People's Republic of China "Regulation on Prohibition of Child Labor", Article 4; Law of the People's Republic of China on Employment Contract, Articles 10 and 14; Regulation on the Employment of the Disabled (2007), Articles 8 and 9; FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.2, ER.10, and ER.29; Nondiscrimination Benchmarks ND.1, ND.2, and ND.9)

Recommendations for Immediate Action

1. Sign employment contracts and registration forms with all workers. Maintain this documentation in the workers' personnel files.

2. Sign indefinite employment contracts instead of fixed-term employment contracts with eligible workers.
3. Hire the legally required number of disabled workers.

FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The daily overtime hours for around 10% of sampled production workers exceeded the legal limit of three hours during May and August of 2016. Workers in the quality control (QC) section worked up to six hours of overtime per day; workers in other workshops worked up to four or five hours of overtime per day. In addition, monthly overtime exceeded the legal limit of 36 hours for around 32% of sampled workers in the months of January 2016 to October 2016, with an average of 60 monthly overtime hours and a maximum of 121 hours in May 2016.
2. Time records from December 2015 to October 2016 show that around 46% of sampled workers did not receive at least one rest day in every seven-day period on a regular basis. The maximum number of days worked consecutively without a rest day was 45 days, when around 10% of workers worked continuously from August 1 to September 14, 2016.
3. Time records for January 2016 to October 2016 show that weekly working hours for around 11% of sampled workers sometimes exceeded 60 hours, with a maximum of 72 hours in May and September 2016.
4. The factory's production plan always includes overtime.

Local Law or Code Requirement

Labor Law of the People's Republic of China, Articles 38 and 41; FLA Workplace Code (Hours of Work Benchmarks HOW.1, HOW.2, and HOW.8)

Recommendations for Immediate Action

1. Do not allow workers' overtime hours to exceed three hours per day or 36 hours per month.
2. Provide workers at least one rest day (24 consecutive hours) in every seven-day period.
3. Do not allow workers' total working hours to exceed 60 hours per week.
4. Do not include overtime in production planning.

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. At least two sampled production workers were not properly compensated for the overtime hours worked. They were only paid at 100% of their normal wages for rest day overtime hours instead of 200% of their normal wages, as required by law. In addition, it was noted that one resigned worker's termination payout did not include any compensation for overtime hours worked in July 2016. One sampled member of the cleaning staff, who are paid a fixed monthly wage, was also not compensated for overtime hours worked.
2. The factory does not provide the paid statutory holidays to workers during the probationary period.
3. The factory does not provide social insurance to at least two workers (both were in their probationary period), although all other eligible workers are covered under social insurance. Furthermore, the factory calculates its contributions to social insurance using the local minimum contribution base of CNY 2,697 (USD 392), instead of the workers' average earnings over the past year (CNY 2900 to CNY 3500 (USD 423.02 to 510.54)).
4. The factory halted production in September 2016 (for between one and three and a half days, depending on the department). The factory only pays workers CNY 30 (USD 4.32) per day when production has been halted, which is lower than the legally required CNY 67 (USD 9.64) per day.
5. The factory does not contribute to the legally required Housing Provident Fund for any of the workers.

Local Law or Code Requirement

Labor Law of the People's Republic of China, Articles 44, 48, and 73; Regulations on Wage Payment in Jiangsu Province, Articles 29 and 31; Regulation on the Housing Provident Fund Management, Articles 19 and 20; FLA Workplace Code (Compensation Benchmarks C.1, C.3, C.5, C.7, and C.10; Employment Relationship Benchmarks ER.19 and ER.22; Hours of Work Benchmarks HOW.1 and HOW.19)

Recommendations for Immediate Action

1. Compensate all workers, including cleaners and resigned workers, for overtime at the legally required 200% overtime premium rate. Retroactively compensate any workers who did not receive the correct overtime wages within the last 12 months.

2. Provide paid statutory holidays to all workers, including probationary workers. Retroactively compensate workers who did not receive the legally required holiday payments during the last 12 months.
3. Provide social insurance for all workers, including probationary workers, and make contributions based on workers' actual earnings.
4. Properly compensate workers when production is suspended. Retroactively compensate workers who did not receive the legally required payments while production was suspended during the last 12 months.

FINDING NO.8

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. Workers do not have the right to participate and be heard in any disciplinary procedures taken against them.
2. The factory does not keep records of disciplinary actions, including verbal warnings. At the time of the assessment, it was reported that no workers had been subject to any kind of formal disciplinary action, only verbal warnings.
3. The factory's disciplinary system does not require that a third party witness be present during the imposition of disciplinary actions, and there is no appeals process.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.27)

FINDING NO.9

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

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 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 does stipulate 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.

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmark FOA.2)

FINDING NO.10

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Grievance System

Finding Explanation

1. The factory does not have a system for handling complaints and grievances.
2. The factory does not maintain any documentation in relation to the grievance system. However, as of the assessment date, no grievances have been submitted.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.2, and ER.25)

FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

The factory does not have a system to respond to an unexpected environmental emergency such as a chemical spill.

Local Law or Code Requirement

Regulation for Chemical Usage Safety in Work Place, Article 14; Regulation for Safety of Hazardous Chemical, Article 20; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1 and HSE.5)

FINDING NO.12

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Two fire extinguishers- one in the warehouse and one in the sewing workshop- are placed directly on the floor instead of being properly mounted.
2. At least five fire extinguishers- one in the embroidery section, two in the inspection workshop, and two in the material warehouse- are blocked by materials.
3. Two exits signs- one in the embroidery section and one in the material warehouse- were not illuminated.
4. There are no illuminated evacuation signs (directional signs on the walls to guide workers during an emergency) installed in the evacuation aisle and its corner.
5. One exit on the first floor of the building could be mistaken for an emergency exit because there is no "not an exit" sign posted.
6. The evacuation maps do not indicate the emergency assembly area or the location of the firefighting equipment.
7. The factory has not conducted a fire drill in the past 12 months. The last fire drill was conducted in September 2015 and the factory maintained photographs but not the fire drill report.
8. The factory's fire alarm system does not have a backup battery.
9. The factory does not have a system in place to account for all workers during an emergency evacuation.

Local Law or Code Requirement

Code for Design of Extinguisher Distribution in Buildings, Articles 5.1.1 and 5.1.3; Design of Building Fire Protection and Prevention (GB50016-2014), Article 10.3.5; Fire Prevention Regulation for Government Offices, Organizations and Enterprises, Article 40; Code for Design of Automatic Fire Alarm System (GB 50116-13), Article 10.1.1; The Fire Control Law of the People's Republic of China, Article 16; FLA Workplace Code (Employment Relationship Benchmark ER.2; Health, Safety & Environment Benchmarks HSE.1, HSE.5, and HSE.6)

Recommendations for Immediate Action

1. Mount fire extinguishers so that the tops of the extinguishers are less than 1.50 meters above the floor, and the bottoms of the extinguishers are no less than 0.08 meter above the floor.
2. Ensure that all fire extinguishers are free of obstruction. Regularly monitor for compliance.
3. Regularly inspect and maintain exit signs to ensure they are working properly. Promptly address any issues.
4. Install lighted evacuation signs in evacuation passages and their corners.
5. Post signs above any exits which may be mistaken for emergency exits to indicate that they are not emergency exits.
6. Revise evacuation maps to include the location of emergency assembly areas and firefighting equipment.
7. Conduct fire drills annually to ensure that workers are familiar with emergency evacuation procedures. Maintain fire drill reports.
8. Install an alternate current (AC) power supply or a battery backup for the fire alarm system.
9. Establish and implement a system to account for all workers during an emergency evaluation.

FINDING NO.13

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The electrician's certificate was not re-inspected in timely manner. The due date for re-inspection was November 2015, however, the electrician was not re-inspected.
2. The factory does not have a lightning protection system in place.
3. One electrical box outside the embroidery section and one in the inspection section are blocked by materials.
4. At least one switch box in the sewing section is missing a protective cover and is obstructed by sundries.
5. The factory does not have a list of equipment that requires lockout-tagout procedures. There is no lockout-tagout system in place.

Local Law or Code Requirement

General Guide for Safety of Electric User, Articles 6.5 and 6.7; Measures for Supervision and Management of the Operating Personnel of Special Equipment, Article 22; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.4, HSE.13, and HSE.14)

Recommendations for Immediate Action

1. Ensure that electrician certificate is sent for inspection in a timely manner.
2. Install a lightning protection system.
3. Ensure that all electrical boxes are free of obstruction.
4. Install protective covers on all switch boxes. Ensure that all switch boxes are free of obstruction.
5. Establish and implement a lockout-tagout system.

FINDING NO.14

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. At least two sewing machines are not equipped with needle guards.
2. The factory has not provided workers who lift heavy objects with lifting belts.
3. The factory does not have a certificate of inspection for the construction of one two-story production building (the factory only occupies the first floor).
4. The factory does not have a system to track illnesses. As a result, they do not keep records of illnesses.
5. The factory does not keep records of all work-related injuries, fatalities, accidents, and incidents for at least 12 months. It was reported by factory management that no injuries have occurred in the past 12 months.
6. The factory does not have any guidance documents for external contractors and service providers concerning Health & Safety.

Local Law or Code Requirement

Code of Design of Manufacturing Equipment Safety and Hygiene, Article 6.1.6; Regulation on the Quality Management of Construction Projects, Article 49; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.3, HSE.4, HSE.7, HSE.14, and HSE.17)

Recommendations for Immediate Action

1. Equip all sewing machines with needle guards.
2. Provide lifting belts to workers who lift heavy objects.
3. Obtain a certificate of inspection for the completed building construction project.

FINDING NO.15

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. At least one bottle of machine oil in the pressing section does not have a hazard label.
2. One bottle of glue outside the embroidery workshop, one bottle of detergent outside the inspection section, and two bottles of machine oil in the maintenance room were not equipped with secondary containment.
3. The factory does not have the Material Safety Data Sheets (MSDS) for machine oils and detergent in use in the factory.

Local Law or Code Requirement

Regulation for Chemical Usage Safety in Work Place, Article 14; Regulation for Safety of Hazardous Chemical, Article 20; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.9, and HSE.10)

Recommendations for Immediate Action

1. Post hazard labels on all chemical containers.
2. Equip all chemical containers with secondary containment.
3. Keep MSDS for all chemicals in use in the factory on site, and make them available to workers.