



FAIR LABOR
ASSOCIATION[®]

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: arena Group
COUNTRY: Malaysia
ASSESSMENT DATE: 12/23/16
ASSESSOR: Donny Triwandhani
PRODUCTS: Apparel
NUMBER OF WORKERS: 330

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

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. Four local male outsourced security guards are hired and paid through a security agency. The outsourced security guards are not paid the legal minimum wage of MYR 1,000 per month (USD 224). Their gross basic wage of MYR 950 (USD 214) per month consist of a basic wage of MYR 450 (USD 102), allowance guardhouse MYR 400 (USD 90) and a allowance key MYR 100 (USD 23). Moreover, the outsourced security guards work 12 hours per day for each shift and 6 days per week, which is equal to 72 hours per week, this is more than the legal hours of 8 hours per day and 48 hours per week without overtime compensation.
2. The calculation for annual leave, sick leave, EPF (Employee Provident Fund) and SOCSO (Social Security) is based on basic wage MYR 450 (USD 102) per month instead of the legal minimum wage of MYR 1,000 (USD 224) for all outsourced security guards.
3. Based on the employment contract between the security agency and outsourced security guards, a monetary disciplinary deduction is implemented for violations such as not wearing shoes (MYR 10), not wearing uniform (MYR 10), being late for work (MYR 10), sleeping on duty (MYR 20), leaving before the security guard for the next shift arrives (MYR 50), absentee without notice (MYR 30), sick leave without a doctor letter (MYR 30), not locking the clock during patrol which is used evidence (MYR 20), not recording their patrol (MYR 20), allowing family or friends to enter the workplace during their shift (MYR 20). The outsourced security guards must submit four weeks of notice if they want to resign, if this procedure is not followed, they do not get paid four weeks worth of wages.
4. There are no worker signatures on the pay slips to confirm accuracy.
5. The deduction for unpaid leave or absences is not clearly reflected on pay slips. In addition, the overtime rate is also not reflected in the pay slip.

Local Law or Code Requirement

Minimum Wages Order 2016; Employment Act (1955), Sec. 60A(3a), Sec. 12(1)-(2); Employees' Social Security Act (1969), Art. 7; Employment Act (1995), Sec. 60E(3); Employment Act (1995), Sec. 60F(3); Employees Provident Fund Rules (1991), Sec. 23; Sec. 42(1); Employment Regulations (1957), Sec. 5(c); FLA Workplace Code (Employment Relationship Benchmarks ER.22; Compensation Benchmarks C.1, C.2, C.3, C.5, C.7, C.13 and C.14, Hours of Work Benchmarks HOW.8, HOW.11, and HOW.14; Harassment or Abuse Benchmark H/A.2; Nondiscrimination Benchmarks ND.5, ND.7, and ND.10)

Recommendations for Immediate Action

1. Ensure the outsourced security guards are paid legal minimum wage and overtime compensation; retroactively reimburse the deficient wages to outsourced security guards over the last 12 months.
2. Ensure all legally mandated fringe benefits for outsourced security guards are calculated correctly from legal minimum wage.
3. Cease the practice of using monetary fines and penalties to maintain labor discipline.
4. All compensation records must be confirmed by the relevant worker in writing (e.g. signature).
5. Ensure the amount of deduction for unpaid leave and overtime rate (for example the 1.5 rate for regular overtime and 2.0 for rest day overtime) are clearly reflected on workers' pay slips.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Ensure the outsourced security guards are paid legal minimum wage and overtime compensation; retroactively reimburse the deficient wages to outsourced security guards over the last 12 months. Review the internal compensation policy and procedure and ensure all the payroll employees are properly trained.
2. Ensure all legally mandated fringe benefits for outsourced security guards are calculated correctly from legal minimum wage. Review the internal compensation policy and procedure and ensure all the payroll employees are properly trained.
3. Cease the practice of using monetary fines and penalties to maintain labor discipline. Then, ensure the disciplinary procedures will be reviewed following the FLA Benchmarks.
4. All compensation records must be confirmed by the relevant worker in writing (e.g. signature) indicating the amount they have received. For this reason, a record for each worker will be kept.
5. Ensure the amount of deduction for unpaid leave and overtime rate (for example the 1.5 rate for regular overtime and 2.0 for rest day overtime) are clearly reflected on workers' pay slips. Explain to workers the review of pay slips (e.g.: write a communication and distribute it to all workers).

Planned completion date

07/15/17

Company Action Plan Update

07/27/18 : 1. The facility found engaged new security firm to conduct security activity within the facility. Documents review (pay slip, time management records and employments contract), evidenced that they are paid based on the latest minimum wages of RM 1,000 per month. Documented procedure and policy on minimum wages is in place and communicated to all employees and contractors. The security guards found working 8 hours per day (48 hours per week) for normal working hours, any additional hours worked is counted as overtime. 2. The calculation for annual leaves and sick leaves for the newly hired security guards found in line with Employment Act of Malaysia. The calculation ratio for the EPF (Employee Provident Fund) and SOCSO (Social Security) found based on the minimum wages of RM 1000.00. Employment contract, wages slip, time management records, policy & procedure and workers interview evidenced the compliances. 3. There is no monetary disciplinary deduction was imposed for any violations made by the security guards. Presented employment contract, pay slips, time management record, disciplinary records, procedure review evidenced that there is no illegal deduction made. The security firm implement a standard disciplinary action for any workers that fail in their daily job respect to legal requirement. 4. Facility management is recommended to ensure workers wages slips were acknowledge by the respective owner accordingly

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The time records and attendance sheet for outsourced security guards were not provided by the labor agency for review. The available attendance sheet was reviewed for the current month (December 2016) which was found in the guardhouse. In addition, outsourced security guards are not provided with reliable time record system. The time in and time out of hours worked of outsourced security guards is written down manually.
2. All four outsourced security guards work regular 12 hours day shifts, 6 days per week or they work up to 72 hours per week on regular basis.
3. The working-hours records do not identify pregnant or lactating women.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.2.1, ER.23; Hours of Work Benchmarks HOW.1, HOW.5.1, and HOW.8.3)

Recommendations for Immediate Action

1. Ensure time worked by outsourced security guards is fully documented by time cards or other mechanical or electronic recording systems.
2. Limit the total weekly hours including overtime to 60 hours per week, as per FLA requirements.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Ensure time worked by outsourced security guards is fully documented by time cards or other mechanical or electronic recording systems. Review the internal compensation policy and procedure and ensure all the payroll employees are properly trained.
2. Limit the total weekly hours including overtime to 60 hours per week, as per FLA requirements. Revise the hours of work/overtime policy and then distribute it to the security guards in order to inform them.
3. Ensure the identification of pregnant or lactating women on time record register. Implement a procedure to ensure that this process is effective and identify the process owner.

Planned completion date

07/15/17

Company Action Plan Update

07/27/18 : 1. Factory ensure time worked by outsourced security guards is fully documented by time cards. 2. Factory limited the total weekly hours including overtime to 60 hours per week, as per FLA requirements. Revised the hours of work/overtime policy and then distributed it to the security guards in order to inform them. 3. Factory ensured the identification of pregnant and/or lactating women on time record register.

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. There is a locker that contains passports in each dormitory for migrant workers. The locker has two padlocks and the key of one padlock is kept by the the production team leader, the other key for the other padlock is kept by a worker representative. These two individuals who hold the keys are also staying in the dormitory. However, migrant workers do not have the locker keys; migrant workers have to get approval from these two people in order to retrieve their passport.
2. There is an upper age limit and gender preference during the recruitment process. Manpower request forms from the production department to the HR department showed gender preference (female for sewing operator) with ages up to 40 years. The employment contract for migrant workers also indicate 21 to 35 years old. In addition, the worker demand letter sent to labor agencies in sourcing countries also indicate the age requirements between 18 to 35 years old.
3. The factory does not have written contract extension signed by both parties (employer and migrant worker) when the first 3-year employment contract expires. The only available records are the notification letters from factory to migrant workers that their working permit has been approved by Malaysia Immigration for another one year but the letter is only in English, not in the native language of the migrant workers.
4. Some documents signed by migrant workers, such as disciplinary declaration letters, orientation sheets, and employee job descriptions are only in English, not in the native language of migrant workers.
5. Section B of the employment handbook, Service Term and Condition, states that all employees shall serve a probationary period of three months to six months.

Local Law or Code Requirement

Constitution of Malaysia (1957), Sec. 8(2); Employment Act (1995), Sec. 10(1); FLA Workplace Code (Employment Relationship Benchmarks ER.3, and ER.5.7, Nondiscrimination Benchmarks ND.1, ND.2.1; Forced Labor Benchmarks F.9 and F.10; Compensation Benchmarks C.3)

Recommendations for Immediate Action

1. Ensure original passports of foreign migrant workers are kept by the workers themselves. Workers shall retain possession and control of their passports, identity papers, travel documents, and other personal legal documents. Employer shall provide, at employees' request, a secure storage for employees' documents such as passports, identity papers, travel documents, and other personal legal documents. Such storage shall be freely accessible to workers.
2. Provide opportunities for all applicants, independent of gender or age, to obtain jobs. Revise the manpower requisition form and the demand letter for labor agencies to ensure that they are not discriminatory; exclude any discriminatory clauses.
3. Provide a written contract extension for migrant workers who agree to work longer at the factory, in the native language of the workers.
4. Ensure all documents related to migrant workers are available in their native language.
5. Change the term of employment in the employment handbook to 3 months probation periods; sign contracts with new workers with a maximum 3-month probation period.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Ensure original passports of foreign migrant workers are kept by the workers themselves. Workers shall retain possession and control of their passports, identity papers, travel documents, and other personal legal documents. Employer shall provide, at employees' request, a secure storage for employees' documents such as passports, identity papers, travel documents, and other personal legal documents. Such storage shall be freely accessible to workers. Implement a procedure to ensure that this process is effective.
 2. Provide opportunities for all applicants, independent of gender or age, to obtain jobs. Revise the manpower requisition form and the demand letter for labor agencies to ensure that they are not discriminatory; exclude any discriminatory clauses. Include this review on recruitment and hiring policy and procedures.
 3. Provide a written contract extension for migrant workers who agree to work longer at the factory, in the native language of the workers.
 4. Ensure all documents related to migrant workers are available in their native language. Identify a responsible person in the factory to follow-up this process regularly. Once translated, distribute these documents to the migrant workers to keep them informed.
 5. Change the term of employment in the employment handbook to 3 months probation periods; sign contracts with new workers with a maximum 3-month probation period.
- Planned Completion Date
12/31/17

Planned completion date

07/15/17

Company Action Plan Update

07/27/18 : 3.1 Facility management is going to install lockers within the dormitory and only the passport owner shall hold the key (IN PROGRESS, to be completed by 31/8/2018). 3.2 Facility revised the manpower requisition form and the demand letter for labor agencies to ensure that they are not discriminatory. Furthermore, this was included on recruitment and hiring policy and procedures. 3.3 Factory provided a written contract extension for migrant workers who agree to work longer at the factory, in the native language of the workers. 3.4 All the signed documents such as disciplinary declaration letters, orientation sheets, and employee job descriptions found in dual language (English and native). A copy of letter provided to them and they able to read and understand their own language. 3.5 Factory changed the term of employment in the employment handbook to 3 months probation periods. All new contracts will be with a maximum 3-month probation period.

08/14/17 : 3.3 and 3.5 are completed (see attachment). 3.1 is in progress. 3.2 is planned.

09/21/18: 3.1 Locker access procedure has been communicated to all workers. They can freely access the locker at anytime. Locker is monitored by CCTV for maintaining security in the locker room.
All workers keep their own passport and legal documents in a provided secure and safe location.

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

There are no review procedures for updating any of the current policies and procedures.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.31)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Create a review procedure for policies and procedures on recruitment, hiring and personnel development to be defined

Planned completion date

07/15/17

Company Action Plan Update

07/27/18 : Facility management established with review procedure action to upgrade all the procedure and policy at site. Reviewed master copy is in place and available for review.

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

1. The factory does not clearly define the responsible person for any of the Employment Functions, except for Health & Safety.
2. The factory does not have procedures on Personnel Development, Termination & Retrenchment, Industrial Relations, Freedom of Association, or Grievance Mechanism.
3. The factory conducted performance reviews for each worker. However, the policies and procedures for performance reviews do not include written feedback and do not explicitly prohibit discrimination, and therefore, no written feedback is provided to workers.
4. There are no procedures for appeal process or third-party witness in the factory disciplinary system.
5. The Environmental Protection procedures do not include clear steps that need to be taken in the event of an uncontained chemical spill or gas leakage. There is no definitive action to be taken if the emergency team is unable to contain the emergency. Procedures and responsibilities for accidents such as chemical spills and gas leakages have not been determined.
6. The Environmental Protection procedures do not include the following: (a) a review period of the policies and procedures, (b) designation of responsibilities, (c) a comprehensive environmental management system within which employers' responsibilities, workers' rights and duties are regularly tested and reviewed, (d) procedures that enable workers to raise environmental concerns, report death, injury, illness and other environmental issues, as well as protections for workers who allege environmental violations, (d) a commitment to minimize impacts with respect to air emission, waste, hazardous materials and other environmental risks and (e) how environmental impact is managed.
7. The Health & Safety procedures do not include protection for workers who allege concerns or violations, including non-retaliation.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.16.1, ER.25, ER.27.2, ER.27.3, ER.27.4, ER.29, ER.30, ER.31, and ER.32; Health, Safety and Environment Benchmark HSE.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Assign roles and responsibilities for all internal functions and ensure workers receive communication and training about policies and procedures. Provide job descriptions for these responsible management personnel.
2. Create written policies and practices and maintain records governing all aspects of employment system.
3. Policies and procedures to be created must include: 1) written feedback to be provided to workers; 2) a statement concerning the prohibition of any discriminations. 3) training sessions and related records.
4. The disciplinary system shall include a third party witness during imposition, and an appeal process.
5. Define procedures and responsibilities for environmental emergencies following the ER.31 of the FLA "Workplace code of conduct and compliance benchmarks" and include training sessions and related records to relevant personnel.
6. Define procedures and responsibilities for environmental emergencies following the ER.31 of the FLA "Workplace code of conduct and compliance benchmarks"
7. Include in the HSE procedure a non-retaliation policy for those workers who allege concerns or violations.

Planned completion date

07/15/17

Company Action Plan Update

07/27/18 : The facility found established with procedure on Personnel Development, Termination & Retrenchment, Industrial Relations, Freedom of Association (Doc. No: PS/HR/PC/69, rev: 00, date: N/A). The procedure content communicated to all relevant parties. The facility management upgrade the performance review procedure and policy by adding the written feedback and prohibit discrimination. The policy and procedure made available to relevant department. Procedure on appeal process found documented in the disciplinary procedure that include the third party witness requirement. The facility found include the spillage clean up instruction, control and other relevant requirement in the procedure. The action is clearly identified as when the emergency response team fail to control the situation, the commander will call the local fire and rescue department. The responsibilities during emergency such as chemical spills and gas leakages is clearly determined and documented as well as communicated.

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The factory does not provide ongoing training to workers on all Employment Functions, except for Health & Safety.
2. The factory does not provide specific training for relevant supervisors on all Employment Functions.
3. Training for new workers does not include Wage Calculation, Industrial Relation, Freedom of Association, Grievance Mechanisms, HR policies, Workplace Conduct & Discipline, Health & Safety and Environmental Protection. The training for new workers only last about 20 to 25 minutes. In addition, new workers do not receive written documentation that substantiates all the issues covered in orientation. The interviewed workers could not recall the trainings covered.
4. Based on document review, the factory does not provide training on Environmental Protection to all workers and supervisors.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.2, ER.15, ER.17, ER.25, and ER.27.3)

COMPANY ACTION PLANS

Action Plan no 1.

Description

- 1- Create training material and provide training sections to be periodically refreshed to all workers on employment functions.
- 2- Create training material and provide training sections to be periodically refreshed to all supervisors on employment functions.
- 3- Include in the orientation training the following aspects: Wage Calculation, Industrial Relation, Freedom of Association, Grievance Mechanisms, HR policies, Workplace Conduct & Discipline, Health & Safety and Environmental Protection. Furthermore new workers must receive a written documentation of all the aspects covered during the orientation training.
- 4- Create training material and provide training sections to be periodically refreshed to all workers and supervisors on environmental aspects.

Planned completion date

07/15/17

Company Action Plan Update

07/27/18 : The facility management implement a training program for HR members on the all employments functions and other relevant aspects. All the supervisors, head of department and senior supervisors are subjected for yearly refresher training. Documented training planner and schedule clearly shows, the training program for employments functions are clearly identified. The new training material for orientation sessions found with all minimum compliance requirement that inclusive of wage calculation, industrial relation, freedom of association, grievance mechanisms, HR policies, workplace conduct & discipline, health & safety and environmental protection. Relevant training records and evaluation records are in place and available for review. The facility found established with environmental training program that inclusive of all elements on environmental for all workers and supervisor and senior supervisor. The relevant material, records and planner is in place and available for review.

FINDING NO.7

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

1. 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 decision-making processes. Therefore, there is no worker integration component across all Employment Functions.
2. The factory does not communicate the following Employment Functions: Recruitment, Hiring, Termination & Retrenchment, Industrial Relations, Grievance System and Environmental Protection.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.3, ER.16.1, ER.25, ER.27.2, and ER.32.5; Compensation Benchmark C.17)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Provide a system for receiving feedback and seeks from employees. Distribute the revised procedures to the workers in order to keep them informed.
2. Include in the Recruitment, Hiring, Termination & Retrenchment, Industrial Relations, Grievance System and Environmental Protection procedures roles and functions.

Planned completion date

07/15/17

Company Action Plan Update

07/27/18 : Workers feedback on creation, implementation, and updates found indicated in the facility grievance procedure and communicated to all employees. The procedure clearly shows the involvement of workers in decision making. The facility found established with training materials that inclusive of employment functions, recruitment, hiring, termination & retrenchment, industrial relations, grievance system and environmental protection. The latest refresher training shows, the facility used the new materials as well as workers interview evidenced the practice.

FINDING NO.8

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Grievance System

Finding Explanation

There is no record of suggestions or grievance available for review. Based on the suggestion box policy, the suggestion box only aims to provide an opportunity for all workers to participate in continuous improvement by sharing their innovative and creative ideas, and for them to implement these to achieve business excellence. Therefore, there is no purpose in providing a suggestion box for receiving complaint.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.25)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Include in the Grievance procedure the possibility for all workers to use the "suggestion box" also for raising concerns/grievances. Include in the procedure a statement related to the non-retaliation and confidentiality policy. Organize training sessions to inform workers about the importance of sharing concerns to factory management. Keep records of these training sessions.

Planned completion date

07/15/17

Company Action Plan Update

07/27/18 : Suggestion records that relevant to grievance from workers are in place gathered from suggestion box. The amended policy shows, improvement and grievance that inclusive of complaint using the same box and the box is fully handle by HR manager.

FINDING NO.9

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

Two empty large chemical drums are stored outside without shelter near the water tank.

Local Law or Code Requirement

Environmental Quality (Scheduled Wastes) Regulations (2005), Art. 15; Environment Quality (Scheduled Wastes) Regulations (1989), Sec.

Recommendations for Immediate Action

Ensure all empty large chemical drums are not exposed to sun and rain.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Ensure all empty large chemical drums are not exposed to sun and rain. Create a procedure concerning the correct storage of chemical waste and train the relevant personnel.

Planned completion date

07/15/17

Company Action Plan Update

07/27/18 : Empty drum and rags Proper Stored in schedule waste storage room

FINDING NO.10

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The mesh metal cutting glove used by one cutting operator was damaged due to a hole on the finger side of the glove.
2. Two binding operators who are exposed to dust from materials do not wear masks when working.
3. The screen printing operators are not provided with aprons.
4. The warehouse, loading and packing workers are not provided with lifting belts.
5. The factory does not have walking paths for pedestrians or traffic lanes for vehicles on its premises.

Local Law or Code Requirement

Factories and Machinery (Safety, Health & Welfare) Regulations (1970), Sec. 32(e); Occupational Safety and Health Act (1994), Sec. 24(1)(c); FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.7, HSE.8, and HSE.17.2)

Recommendations for Immediate Action

1. Provide new mesh metal cutting gloves free of charge once they are damaged.
2. Ensure all workers are wearing the required PPE when working.
3. Provide aprons to printing operators.
4. Provide lifting belts to workers who are lifting heavy materials.
5. Mark walking paths for pedestrians on factory premises.

COMPANY ACTION PLANS

Action Plan no 1.

Description

- 1- Provide new mesh metal cutting gloves free of charge once they are damaged.
- 2- Ensure all workers are wearing the required PPE when working.
- 3- Provide aprons to printing operators.
- 4- Provide lifting belts to workers who are lifting heavy materials.
- 5- Mark walking paths for pedestrians on factory premises.

Planned completion date

07/15/17

Company Action Plan Update

Previous Progress Update

08/14/17 : Actions n°1-2-3-4 have been already completed. Regarding action n°5, the supplier will mark indication path on factory premises.

FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Confined spaces are not marked. There is appointed maintenance staff in charge of confined spaces; however, there is no training for this staff, nor rescue equipment for the confined spaces, such as gloves, boots, and respirator/breathing apparatus.
2. There is no list of machines and equipment that require lock-out/tag-out (LOTO) and LOTO equipment is not available. Moreover, LOTO training is not conducted for maintenance and mechanic staff.
3. Training is not conducted for maintenance staff that work with welding machines, and for workers that work with hot press machines.
4. Proper lifting techniques training is not conducted for unloading, loading, packing, and warehouse employees.
5. The factory does not document evacuation trainings, how many visitors and contractor are at the factory, and who is not at the assembly point when the training is conducted.
6. There are no Standard Operating Procedures for any position in the procedures on Health & Safety.

Local Law or Code Requirement

Factories and Machinery (Safety, Health & Welfare) Regulations (1970), Sec. 32(g); Factories and Machinery (Fencing of Machinery and Safety) Regulations (1970), Sec. 10 (3); Factories and Machinery Act (Act 139) (1967), Sec. 26; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.5, HSE.6, HSE.7, HSE.14, and HSE.17.2)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Define and mark confined spaces; furthermore the staff appointed must be trained and ppe must be provided to them. Confirm procedures on working on confined spaces is established.
2. Maintenance staff must be trained on the use of the LOTO equipments and their possible risks. Furthermore, include a process to identify machines for LOTO, and make updated list (identify a person in charge to update that list).
3. Maintenance staff must be trained on the use of the welding/hot press machines and their possible risks. Confirm procedures on working with welding machines is established.
4. Provide training for unloading, loading, packing, and warehouse employees.
5. Report evacuation training date, presences and absences. Establish procedures on emergency evacuation and post them in accessible spaces in the factory for workers knowledge.
6. Create Standard Operating Procedures for all position involved in the HS procedures

Planned completion date

07/15/17

Company Action Plan Update

07/27/18 : Confine space safety training was conducted for all the relevant workers. Relevant confine space identification and safety equipment's such as gloves, boots, and respirator/breathing apparatus are in place and in good condition, (The facility management found conduct a training program for confine space safety on 22nd July 2017. Documented training records, materials and certificate is in place and available for review. The confine space found clearly been identified and the required rescue equipment's are in place and in good conditions. Documents review and workers interview evidenced the practice and implementation). The facility management found conduct a training program for welding machine safety on 20th July 2017. The hot press training was conducted on 21st July 2017. Documented training records, materials and certificate is in place and available for review.

08/14/17 : 11.4 and 11.6 are completed (see attachment). 11.1 11.2 11.3 11.5 are in progress.

FINDING NO.12

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The MSDS in the printing department is only in English for several chemicals such as TSC cleaning solvent, rubber white MS-70 and stretch clear 701B, and are not provided in the local language or the native language of the migrant workers. The majority of migrant workers in the printing department are from Nepal. In addition, chemical safety and handling procedures in the printing department are only available in English.
2. Two small tubes containing emulsion (kind of glue) do not have labels.
3. There is no medical examination for local workers who work with chemicals.
4. There is no first aid kit box provided in the canteen.

Local Law or Code Requirement

Factories and Machinery Act (Act 1939) (1967), Sec. 25(1) - (c); Occupational Safety and Health (Use and Standards of Exposure of Chemicals Hazardous to Health) Regulations (2000), Sec. 21; Occupational Safety & Health (Classification, Packaging, and Labeling) Regulations (1997), Sec. 9(4); FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.2, HSE.6.1, HSE.9.1, and HSE.10)

Recommendations for Immediate Action

1. Ensure all Chemical Safety Data Sheets (MSDS) and safety procedures are maintained in both the local language and the native languages of migrant workers.
2. Provide labels to all chemical containers for easy identification and safety.
3. Provide medical examinations to local workers who work with chemicals.
4. Provide a complete first aid kit box in the canteen.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Ensure all Chemical Safety Data Sheets (MSDS) and safety procedures are maintained in both the local language and the native languages of migrant workers. Identify a responsible person in the factory to follow-up this process regularly. Once translated, distribute these documents to both the local and the migrant workers to keep them informed.
2. Provide labels to all chemical containers for easy identification and safety. Establish a process to ensure that all chemical containers are labelled (while in storage or production use). Identify a responsible person in the factory to follow-up this process regularly.
3. Provide medical examinations to local workers who work with chemicals.
4. Provide a complete first aid kit box in the canteen.

Establish a detailed process to monitor first aid kits availability (and related functioning) in production areas (including emergency lights, fire extinguisher, fire alarm, etc.). Identify a responsible person in the factory to follow-up this process regularly.

Planned completion date

07/15/17

Company Action Plan Update

07/27/18 : The facility found conduct chemical health risk assessment and personal exposure monitoring to gauge the exposure limits at individual workstation. Selected workers are subjected for medical surveillance. Relevant medical surveillance report are in place and as per legal requirement. The facility found established with a first aid box in the canteen kitchen. The first aid box found in line with legal requirement.

FINDING NO.13

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. According to Malaysian government regulations, migrant workers headed to the country are required to undergo a medical examination before departing their countries of origin, and are to be re-examined within one month of their arrival in Malaysia, including tests for pregnancy as well as tuberculosis, hepatitis B, syphilis, HIV, malaria and leprosy. A private firm, the Foreign Workers Medical Examination Monitoring Agency (FOMEMA), which oversees the administration of the medical examinations under a contract with the Malaysian Ministry of Health, provides a list of physicians from which employers can choose a provider to examine their migrant employees. The examination involves recording of the worker's medical history, physical examination, blood tests, urine tests and X-rays. Subsequently, migrant workers are subject to annual medical examinations for the first three years of employment on an annual

basis.

2. If the migrant worker tests positive in the abovementioned tests, including pregnancy, during the first three years of employment, the Immigration Department will not renew their work permit and the factory will be required to send the worker back to the country of origin. If the employer continues to employ the migrant worker, the employer is charged with a penalty of MYR 10,000 (USD 2241) or 6 months of jail term. An employer, who does not report any of these conditions, including pregnancy, of a migrant worker to the authorities, will also have their security bond confiscated, for which the employer pays between MYR 250 (USD 56) and MYR1500 (USD 336) depending on the nationality of the migrant worker. The security bond is a legally required bank guarantee for the issuance of the visa for the migrant worker.

3. Based on this law, the factory has sent a number of migrant workers, who failed the medical examination, back to their country of origin. While legal, this practice is in violation of FLA Benchmarks stating that employers shall not, on the basis of a person's health or pregnancy status, make any employment decisions that negatively affect the person's employment status. As a general principle, in cases where the local law and the FLA standard conflict, the stricter of the two standards apply. Therefore, the employer, in collaboration with the buyer and other stakeholders, is recommended to lobby the Malaysian government to change the regulations so that work permit is not contingent on the medical examination of the migrant worker.

Local Law or Code Requirement

FLA Workplace Code (Discrimination Benchmarks ND.5, ND.7, ND.9, and ND.10)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1-2-3 Medical testing should not be used as a screening mechanism to determine which migrants are allowed to work; it should be used to improve migrants' health by acting as a gateway to access health services and treatment.

For example; in situations where receiving country law requires that pregnant migrant workers return to their sending country to give birth, Supplier shall provide transportation to the sending country and such protections to pregnant workers provided for by receiving country laws and regulations.

Supplier, in collaboration with local NGOs, brands and stakeholders in general, should try to lobby the Malaysian government to change the regulations so that work permit is not contingent on the medical examination of the migrant worker.

Planned completion date

07/15/17

Company Action Plan Update

07/27/18 : The facility found strictly follow the legal requirement that medical checkup before and after arrival is must in order to get approval to bring foreign workers from sending country to Malaysia. However, as per finding requirement, the facility do provide a request statement on above matter to the Malaysian Labour Department. The labour agency agree to borne the cost to bring the workers to the sending country during pregnant case. A copy request for above requirement already submitted to Malaysian labor Department for approval A copy of request already submitted to Malaysian Labor Department for approval