



Verification Assessment

COMPANIES: prAna
The s. Oliver Group
Volcom

COUNTRY: China

ASSESSMENT DATE: 11/29/18

ASSESSOR: Openview

PRODUCTS: Apparel

NUMBER OF WORKERS: 200

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 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.

Previous Report Findings and Verification Results

PREVIOUS FINDING NO.1

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. The factory does not have written policies on Personnel Development, including a policy on performance reviews that includes steps and processes, demonstrates linkages to job grading, prohibits discrimination, and provides written feedback. 2. The factory does not have written procedures on Personnel Development, including procedures on performance reviews, skill development, promotion, demotion, and job reassignment. 3. The factory does not conduct performance reviews for any of its employees, including new employees during their probation period. 4. 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 contributes to the Employment Security Fund in lieu of employing disabled workers as allowed under local law, however, this practice poses a risk of discrimination.

Local Law or Code Requirement

Regulation on the Employment of Disabled (2007), Article 8; Regulation on the Employment of the Disabled of Zhejiang Province (2009), Article 20; FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.28, ER.29.1, and ER.30.1; Non-Discrimination Benchmarks ND.1 and ND.2.1)

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status (Partially Remediated)

Explanation:

Based on document review and management interviews, the factory has established simple written policies on Personnel Development, but the policies do not include performance reviews with steps or processes, and do not link to job grading, prohibit discrimination, or provide written feedback. [ER.1, ER.28.1, ER.29]

Root Causes:

1. The internal monitoring system does not provide in-depth controls to check for possible issues in the Personnel Development process.
2. Management lacks awareness of the FLA Workplace Code and Benchmarks.
3. Due to the absence of a regular review process, there is a lack of knowledge on amendments and updates to laws and regulations.

2. Finding Status (Partially Remediated)

Explanation:

Based on document review and management interviews, the factory has simple written procedures on Personnel Development, but the procedures do not include performance reviews, skill development, promotion, demotion, or job reassignments. [ER.1, ER.28, ER.29]

Root Causes:

1. The internal monitoring system does not provide in-depth controls to check for possible issues in the Personnel Development process.
2. Management lacks awareness of the FLA Workplace Code and Benchmarks.
3. Due to the absence of a regular review process, there is a lack of knowledge regarding amendments and updates to laws and regulations.

3. Finding Status (Not Remediated)

Explanation:

Based on a review of documents and management interview, the factory has not conducted performance reviews for any employees, including new employees during their probation period. [ER.1, ER.28, ER.29]

Root Causes:

1. Lack of policies and procedures on performance reviews;
2. Management lacks awareness of the FLA Workplace Code and Benchmarks.

4. Finding Status (Remediated)

Explanation:

Based on document review and worker and management interviews, the factory employs three disabled workers, which is in line with the legal requirements which state that at least 1.5% of the total workforce should be composed of disabled workers.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.28 and ER.29)

PREVIOUS FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The factory does not provide specific training for the relevant supervisors on the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Workplace Conduct & Discipline, Industrial Relations, Grievance System, and Environmental Protection. 2. The factory does not provide ongoing training for employees on the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Workplace Conduct & Discipline, Industrial Relations, Grievance System, and Environmental Protection. In addition, workers do not receive any training material. 3. Workers do not receive written documentation of the information covered during orientation training, including a copy of the workplace rules. In addition, the orientation training is not regularly updated.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.2, ER.15.2, ER.15.3, ER.16.1, ER.17, ER.26, and ER.27.2)

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status (Not Remediated)

Explanation:

Based on a review of documents and management interviews, the factory does not provide specific training for relevant supervisors on Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Workplace Conduct & Discipline, Industrial Relations, Grievance System, or Environmental Protection. [ER.1.2, ER.17.1, ER.17.2, ER.27.2]

Root Causes:

1. Factory management is unfamiliar with the FLA Workplace Code and Benchmarks and benefits of effective training.
2. Factory has not created a training plan and developed the relevant training materials.
3. Factory has not seen the need to expand the list of topics already covered by the current training activities, which are sporadic.
4. This issue has not been identified during previous internal and external audits.

2. Finding Status (Not Remediated)

Explanation:

Based on a review of documents and worker and management interviews, the factory does not provide ongoing training for employees on Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Workplace Conduct & Discipline, Industrial Relations, Grievance System, and Environmental Protection. In addition, workers do not receive any training material. [ER.1.2, ER.15.2, ER.28.1, ER.29.1.1, ER.30.2]

Root Causes:

1. Factory management is unfamiliar with the FLA Workplace Code and Benchmarks.
2. The factory's current HR resources are inadequate to manage ongoing training for all employees.
3. Factory management thinks ad-hoc communication to production workers by supervisors is sufficient.
4. This issue has not been identified during previous internal and external audits.

3. Finding Status (Not Remediated)

Explanation:

Based on a review of documents and worker and management interviews, workers do not receive written documentation of the information covered during orientation training, including a copy of the workplace rules. In addition, the orientation training is not regularly updated. [ER.15.3]

Root Causes:

1. The factory management is unfamiliar with the FLA Workplace Code and Benchmarks.
2. The factory thinks communication with workers is enough, and it is not necessary to provide written documents to workers.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15, ER.17, ER.27, ER.28, ER.29, and ER.30)

PREVIOUS 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/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.25.1, ER.27.3, ER.29.1.1, ER.30.2, and ER.32.5; Compensation Benchmark C.17)

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status (Not Remediated)

Explanation:

Based on a review of documents and worker and management interviews, the factory does not communicate its policies and procedures or related updates to the general workforce. [ER.28, ER.29, ER.30, ER.32]

Root Causes:

1. Management lacks awareness of the FLA Workplace Code and Benchmarks.
2. Due to the absence of a regular review process, there is a lack of knowledge regarding amendments and updates to laws and regulations.

2. Finding Status (Not Remediated)

Explanation:

Based on a review of documents and worker and management interviews, the factory has not established procedures to request or receive worker input or feedback regarding the creation, implementation, or updating of its policies and procedures. Workers are neither systematically integrated nor consulted in the decision-making process. [ER.1, ER.25]

Root Causes:

1. Management lacks awareness of the FLA Workplace Code and Benchmarks.
2. Most management representatives do not consider worker integration to be an important issue because workers are entry-level employees

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.25, ER.28, ER.29, ER.30, and ER.32)

PREVIOUS 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 for 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)

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status (Not Remediated)

Explanation:

Based on a review of documents and management interviews, the factory does not periodically review or update its policies or procedures. [ER.1.3, ER.29.1.1, ER.30.2, ER.31.1]

Root Causes:

1. There is no effective communication among managers in different departments.
2. There is no worker integration incorporated in the document review.
3. This issue has not been identified during previous internal and external audits.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.29, ER.30, and ER.31)

PREVIOUS FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

The factory's Environmental Protection procedures do not cover the following topics: managing the factory's environmental impact on its surroundings, how workers can raise environmental concerns, protections for workers who allege environmental violations, and how workers can report environmental emergencies.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety & Environment Benchmark HSE.1)

VERIFICATION RESULT

Finding Status

Partially Remediated

Remediation Details

1. Finding Status (Partially Remediated)

Explanation:

Based on a review of documents and management interviews, the factory has updated Environmental Protection procedures and has managed the factory's environmental impact on its surroundings, but the procedures do not cover how workers can raise environmental concerns, protections for workers who allege environmental violations, or how workers can report environmental emergencies. [ER.31.1, ER.31.2, HSE.5.4]

Root Causes:

Management lacks awareness of the FLA Workplace Code and Benchmarks.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety and Environment Benchmark HSE.5)

PREVIOUS FINDING NO.6

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Grievance System

Finding Explanation

The factory's Grievance System procedures do not specify how management should handle anonymous grievances or state how workers can submit grievances or questions about Compensation.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.25.3; Compensation Benchmark C.19)

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status (Not Remediated)

Explanation:

Based on a review of documents and management interviews, the factory's Grievance System procedures do not specify how management should handle anonymous grievances or state how workers can submit grievances or questions about Compensation. [ER.1, ER.25.3, C.19]

Root Causes:

1. There is no effective internal audit procedure to periodically monitor grievance system-related issues.
2. Management has developed and established many grievance channels to improve the quality and effectiveness of current grievance and communication channels between workers and management, but has not updated the existing grievance procedures accordingly.
3. There are insufficient training opportunities for different department representatives involved in the current grievance-handling process.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.25; Compensation Benchmark C.19)

PREVIOUS FINDING NO.7

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. The factory does not have policies or procedures on how to discipline supervisors, managers, and workers who engage in any form of harassment or abuse. 2. The factory's Workplace Conduct & Discipline procedures do not require that a third-party witness be present

during the imposition of disciplinary actions, give workers the right to participate and be heard in any disciplinary procedures taken against them, or include an appeal process. At the time of the assessment, no workers had been subject to any kind of disciplinary procedures, only verbal warnings.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.27.3.2, and ER.27.4; Harassment or Abuse Benchmark H/A.11)

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status (Not Remediated)

Explanation:

Based on a review of documents and management interviews, the factory has no policies or procedures on how to discipline supervisors, managers, or workers who engage in any form of harassment or abuse. [H/A.11]

Root Causes:

Management lacks awareness of this FLA requirement.

2. Finding Status (Not Remediated)

Explanation:

Based on a review of documents and management interviews, the factory's Workplace Conduct & Discipline procedures do not require a third-party witness be present during the imposition of disciplinary actions, give workers the right to participate and be heard in any disciplinary procedures taken against them, or include an appeal process. At the time of the assessment, no workers had been subject to any kind of disciplinary procedures, only verbal warnings. [ER.1, ER.27.3.2, ER.27.4]

Root Causes:

1. There is no effective review or updated procedure in place.
2. Management lacks awareness of the potential benefits of a progressive disciplinary system and positive incentives.
3. There is no internal audit procedure to monitor workplace conduct and discipline-related issues on a periodic basis.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.27; Harassment or Abuse Benchmark H/A.11)

PREVIOUS FINDING NO.8

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. There were discrepancies between the time/payment records submitted to the assessors and information gathered from production records and worker interviews. It appeared that the records provided for the past 12 months did not reflect the workers' actual working hours and payment status. Therefore, the assessment team was not able to accurately verify the status of workers' hours of work and wages during the assessment. During the first day of the assessment, examples of discrepancies were provided to the factory management, for which the production-related records showed that at least seven workers from the sewing section were working on Apr 2, 2016 (Saturday), June 5 & 12, 2016, and Apr 3, 2016 (Sunday); however, the time and payment records reflected that the respective workers were off during the same period. According to management, workers did work on those days, but they did not record their attendance as workers can only record their attendance in the time recording system based on their pre-set schedule. In the time recording system, Sunday was set as a rest day for all workers, so workers could not record their attendance even though they worked on Sundays. 2. According to the records provided, at least 80% of production workers worked an average of approximately 60 hours of overtime per month during August and December 2015, January 2016, and March-June 2016; this exceeds the legal limit of 36 hours of overtime per month. The most overtime recorded was 68 hours in March 2016.

Local Law or Code Requirement

Labor Law of PRC (1995), Articles 36, 38, 41, 44 & 48; FLA Workplace Code (Employment Relationship Benchmarks ER.2 and ER.23; Hours of Work Benchmark HOW.1.1; Compensation Benchmark C.1, C.5, C.15, and C.16)

Recommendations for Immediate Action

1. Record working hours properly and accurately and compensate workers for all hours worked. 2. Improve production planning and do not include overtime in the plan. Ensure workers do not work more than the legal limit of 36 hours of overtime per month.

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status (Not Remediated)

Explanation:

The factory provided incomplete/inaccurate time records. There were inconsistencies between the time records the factory provided to assessors and the information assessors obtained from time records in the HR computer, payroll records, and through worker interviews. It seems the records provided for the past 12 months do not reflect workers' working hours and payment status. Therefore, the assessment team was not able to accurately verify the status of workers' hours of work and wages during the assessment. For example, during the first assessment day:

1. The time records the factory provided indicated that about 20% of workers worked 66 overtime hours on the weekends in January 2018. However, the payroll records of January 2018 indicated the workers worked only 40 overtime hours on weekends during the same month;
2. The time records the factory provided indicated that about 20% of workers worked about 86 hours to 96 overtime hours on the weekends in March 2018. However, the payroll records of March 2018 indicated the workers worked only 32 to 40 overtime hours on weekends in this month;
3. The time records the factory provided indicated that one worker worked about 44 overtime hours on weekdays in March 2018. However, the payroll records of March 2018 indicated this worker did not have any overtime work on weekdays in the whole month;
4. There were two sets of time records in the factory. The time records in October 2018 the factory provided indicated that most workers did clock-in time card between 7:45-8:00am and all workers did clock-in/clock out four to six times a day. However, the time records assessors found in the HR computer system indicated most workers did clock-in between 7:17-7:40am, and all workers did clock-in/clock-out only twice a day. [ER.1.1, ER.23]

Root Causes:

1. Lack of senior management review or commitment.
2. Workers rely on extra overtime to earn more wages.
3. Inadequate preparation to deal with current production orders means staffing levels may be out of sync with production volumes, leading to excessive hours of work.

2. Finding Status (Not Remediated)

Explanation:

According to a review of time records and worker interviews, 80% of worker monthly overtime hours exceeded 36 hours per month from November 2017 to November 28, 2018, except for the month of February 2018. The maximum number of overtime hours was 91 hours in January 2018. [HOW.1.1, HOW.8.1]

Root Causes:

1. Although Chinese law places strict limits on hours of work, the limits are not effectively enforced.
2. Chinese domestic migrant workers are generally willing to endure, or request, excessive overtime to make higher income.
3. There is not enough buyer oversight to identify and address possible reasons behind excessive overtime, such as tighter shipping & production schedules to meet in time retail.

Local Law or Code Requirement

Labor Law of the People's Republic of China, Article 41; FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.23; Hours of Work Benchmarks HOW.1 and HOW.8)

Recommendations for Immediate Action

1. Have a reliable time recording system and maintain complete and accurate time records.
2. Ensure workers' overtime hours do not exceed 36 hours per month.

PREVIOUS FINDING NO.9

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Termination & Retrenchment

Finding Explanation

The factory does not have written policies or procedures on Retrenchment.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.32)

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status (Not Remediated)

Explanation:

Based on a review of documents and management interviews, the factory does not have written policies or procedures on retrenchment. [ER.32]

Root Causes:

The factory management lacks awareness on the FLA Workplace Code & Benchmarks related to retrenchment.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.32)

PREVIOUS FINDING NO.10

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. According to factory management, there are 11 security, catering, and cleaning personnel working in the factory that were hired through an outsourced services company. However, the services company was not willing to provide their time & payment records or personnel files, including proof of age documentation and labor contracts, for the assessors to review. 2. The factory has not paid for social insurance for all workers; 54.2% of workers are not covered by pension, medical, unemployment and maternity insurance. 3. The social insurance contribution base is not aligned with workers' actual earnings. The factory calculates the contribution base according to the minimum contribution standard (CNY 2688 (USD 403.05)), while most workers' actual earnings are higher, i.e. average earnings are around CNY 3500 (USD 524.81) and the highest earning is CNY 6,000 (USD 899.67). 4. The factory provided workers with incorrect information; they told workers that contributing to social insurance is optional and at their discretion. 5. The factory does not contribute to the legally required Housing Provident Fund for 250 out of 264 (94.7%) workers. 6. Due to inconsistencies between time/payment records and production records, assessors could not verify workers' actual working hours. According to management, at least seven workers from the sewing section worked on Apr 2, 2016 (Saturday), June 5 & 12, 2016, and Apr 3, 2016 (Sunday), but were unable to record their time. Workers were not compensated for these hours.

Local Law or Code Requirement

PRC Social Insurance Law, Articles 2, 58, and 60; Regulation on the Housing Provident Fund Management (2002), Articles 15, 19 and 20; Regulation on the Housing Provident Fund Management of Zhejiang Province (1997), Articles 13, 15 and 17; Labor Law of PRC (1995), Articles 36, 38, 41, 44 & 48; State Council Order No. 364 of People's Republic of China "Regulation on Prohibition of Child Labor" (2002), Article 4; Law of the People's Republic of China on Employment Contract (2008), Article 10; FLA Workplace Code (Employment Relationship Benchmarks ER.1.1, ER.4, ER.18, and ER.22; Compensation Benchmark C.1, C.5, and C.15; Hours of Work Benchmark HOW.1.1)

Recommendations for Immediate Action

1. Maintain and review all necessary records for outsourced personnel to ensure that they comply with local law and the FLA Workplace Code and Benchmarks. 2. Provide all workers with the legally required social insurance benefits and ensure that contributions are based on workers' actual earnings. 3. Provide workers with accurate and complete information on their legally mandated benefits, including the social insurance coverage entitlement. 4. Contribute to the Housing Provident Fund for all workers as required by law. 5. Compensate workers properly for all hours worked, according to local law. Retroactively compensate workers who were not paid for all hours of work during the last 12 months.

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status (Remediated)

Explanation:

Based on a review of documents and management interviews, the factory provided the time records, payment records and personnel files including proof of age documentation and labor contracts for all 11 security, catering, and cleaning personnel working in the factory to the assessors for review.

2. Finding Status (Partially Remediated)

Explanation:

The factory does not provide employees with enough social insurance. Of the 248 employees working for the factory prior to the assessment day, including 22 employees over the retirement age, 226 employees are eligible for social insurance. According to the social insurance proof of payment for September 2018, only 140 current employees (62%) are covered by pension, unemployment, work-related injury, maternity and medical insurances. The factory bought group commercial accident injury insurance for 121 employees, valid from August 14, 2018 to October 13, 2019, with a maximum compensation of CNY 70,000/USD 10,086 per person. [ER.22, C.10]

Root Causes:

Both employer and employees are discouraged to participate in the social insurance schemes because: 1. The social insurance fee is considered an extra cost by both the employer and the employee; 2. The Chinese social insurance system is under development and as a result, the process of insurance transfer across the country is still complicated; 3. Most employees are migrant workers, but they are not provided adequate support and assurance from the local government or their employer to ensure the transfer of their pension funds back to their hometowns; 4. Local governments have not strictly monitored or enforced compliance.

3. Finding Status (Partially Remediated)

Explanation:

The social insurance contribution base is not aligned with workers' earnings. The factory calculates the contribution base according to the minimum contribution standard (CNY 3,279/ USD 472.48), while most workers' earnings are higher; the average earnings are around CNY 3,500/ USD 504.32 and the highest earning is CNY 6,000/ USD 864.55. [ER.22, C.10]

Root Causes:

Both employer and employees are discouraged from participating in the social insurance schemes because: 1. The social insurance fee is considered an extra cost by both the employer and the employee; 2. The Chinese social insurance system is under development and as a result, the process of insurance transfer across the country is still complicated; 3. Most employees are migrant workers, but they are not provided adequate support and assurance from the local government or their employer to ensure the transfer of their pension funds back to their hometowns; 4. Local governments have not strictly monitored or enforced compliance.

4. Finding Status (Remediated)

Explanation:

Based on worker and management interviews, the factory provided workers with correct information regarding social insurance program; the factory did not tell workers contributing to social insurance is optional and at their discretion.

5. Finding Status (Partially Remediated)

Explanation:

Based on a review of documents and management interviews, the factory does not contribute to the legally- required Housing Provident Fund for 198 of 248 (79.9%) workers. [ER.22, C.1, C.10]

Root Causes:

Both employer and employees are discouraged from participating in the Housing Provident Fund scheme because: a) the Housing Provident Fund contributions are considered a financial burden by both employers and employees; d) local governments have not been strictly monitoring compliance.

6. Finding Status (Not Remediated)

Explanation:

Assessors are not able to determine whether the factory complies with laws and the FLA Workplace Code and Benchmarks regarding the minimum wage, overtime premium, and paid leave because the payroll documents provided were incomplete and inaccurate time records and do not reflect workers' actual working hours. [ER.18, ER.22.2, C.5, C.15, C.16]

Root Causes:

Lack of senior management commitment

Local Law or Code Requirement

Labor Law of the People's Republic of China, Articles 44, 48, 51, 72 and 73; Regulations on Management of Housing Provident Fund, Articles 3 and 15; FLA Workplace Code (Employment Relationship Benchmarks ER.18 and ER.22; Compensation Benchmarks C1, C.5, C.10, C.15, and C.16)

Recommendations for Immediate Action

1. Provide all workers with all required social insurance.
2. Maintain complete and accurate payroll records based on workers' actual working hours. Pay workers the legal minimum wage, pay overtime work at the legal premium rate, and provide workers with all legally required paid leave.

PREVIOUS FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. The factory has a trade union under the ACFTU (All China Federation of Trade Unions) that was established on May 31, 2016. Nine union representatives were elected by all employees in each department on May 27, 2016. However, none of these nine union representatives are workers (they are all supervisors and managers) and three who were interviewed by assessors did not know that they are representatives. Although all elected worker representatives are identified in the union's records, these records were not readily available to workers or worker representatives. 2. 61 workers are union members without their consent; the factory paid union dues on behalf of these workers (the dues were not deducted from workers' wages, the factory itself paid the dues). About 95% of the workers interviewed did not know whether they were members of the trade union or were not aware of the union fee arrangement. 3. The factory does not provide the union with a meeting room or designated office with the necessary equipment for the union to conduct daily meetings and for the union representatives to perform their functions. 4. The factory has a Collective Bargaining Agreement (CBA) with the union. However, the factory does not post the CBA on a bulletin board or provide a copy to workers. None of the workers interviewed were aware of the content of the CBA. 5. 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 (Employment Relationship Benchmarks ER.16.2, ER.25.2, and ER.26; Freedom of Association Benchmarks FOA.2 and FOA.15)

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status (Partially Remediated)

Explanation:

The factory has a trade union under the ACFTU (All China Federation of Trade Unions) established on May 31, 2016. Nine union representatives were elected by all employees in each department on May 27, 2016. However, only one out of these nine union representatives is a worker; they are most supervisors and managers. All interviewed union representatives know they are representatives. All elected worker representatives are identified in the union's records and these records were readily available to workers or worker representatives. [FOA.2]

Root Causes:

1. The factory is not aware of the benefit of a sustainable industrial relations system.
2. There is no training or communication to managerial staff or workers about freedom of association.

2. Finding Status (Partially Remediated)

Explanation:

Based on a review of documents and worker and management interviews, all workers are union members with their written consent, and all interviewed workers knew that they were members of the trade union. However, the factory paid union dues on behalf all workers (the dues were not deducted from workers' wages, the factory itself paid the dues) and workers were not aware of the union fee

arrangement. [FOA.10]

Root Causes:

1. The factory is not aware of the benefit of a sustainable industrial relations system.
2. Absence of training or communication to managerial staff and workers about freedom of association.

3. Finding Status (Remediated)

Explanation:

Based on on-site observation and management and union representatives' interviews, the factory has provided the union with a meeting room and a designated office with the necessary equipment for the union to conduct daily meetings and for the union representatives to perform their functions.

4. Finding Status (Not Remediated)

Explanation:

Based on a review of documents and workers and management interviews, the factory has a Collective Bargaining Agreement (CBA) with the union. However, the factory does not post the CBA on a bulletin board or provide a copy to workers. None of the workers interviewed were aware of the content of the CBA. [ER.16.2]

Root Causes:

1. The factory is not aware of the benefit of a sustainable industrial relations system.
 2. Absence of training or communication to managerial staff and workers about freedom of association.
- It is not a legal requirement in China to provide a copy of the Collective Bargaining Agreement to employees.

5. Finding Status (Not Remediated)

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 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. Therefore, 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 labor relations mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees must 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. [FOA.2]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.16; Freedom of Association Benchmarks FOA.2 and FOA.10)

PREVIOUS FINDING NO.12

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. At least three out of approximately 80 sewing machines are not equipped with needle guards. 2. One out of five workers handling electric cutters was not wearing metal-mesh gloves. 3. There is no emergency light or exit sign installed at the emergency exits in the cotton stuffing room or on the roof of the production building. Furthermore, there is no lighted sign indicating the location of the evacuation stairwell on the left side of production building. 4. At least two fire extinguishers on the roof of the production building are inspected about every two months instead of monthly; the latest inspection date was May 24, 2016. 5. One evacuation aisle in the sewing workshop was blocked by materials. 6. The evacuation plans in the cutting workshop and the 2/F & 3/F dormitory buildings do not show the correct evacuation routes. 7. The factory does not keep food samples for 48 hours in case of food poisoning, as required by local law. 8. The factory does not provide regular occupational health checks for employees in the cutting and cotton stuffing workshops who are in contact with hazardous materials, as legally required. 9. The factory does not carry out a pre-assessment of occupational disease hazards before production begins and has not assessed the current state of occupational disease hazards. The factory has operated at the current location since December 2002. 10. The factory does not track all illnesses. Currently, there is no tracking system in place for illnesses. Factory management reported that they overlooked this and have failed to monitor workers' illness.

Local Law or Code Requirement

Code of Design of Manufacturing Equipment Safety and Hygiene (1999), Article 6.1.6; Law of the People's Republic of China on Production Safety (2002), Article 37; Code for Design of Building Fire Protection and Prevention (2014), Articles 10.3.1 & 10.3.5; Regulation on Fire-safety Management for State Organs, Organizations, Enterprises and Institutional Organizations (2002), Article 26; Fire Control Law of the

People's Republic of China (2009), Articles 16 & 28; Regulation on Hygienic of Food Industry and Delivery Unit of Group Meals (2005), Article 35; Law of the People's Republic of China on the Prevention and Treatment of Occupational Diseases (2002), Article 36; Interim Measures on Supervision and Management of "Three Simultaneities" for Occupational Health of Construction Projects (2002), Article 10; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.3, HSE.4, HSE.5.1, HSE.8, HSE.13, HSE.14.1, and HSE.22.1)

Recommendations for Immediate Action

1. Install needle guards on all sewing machines and conduct regular inspections to ensure compliance. 2. Train workers on how to properly utilize PPE. 3. Install lighted exit signs and emergency lights at the emergency exits in the cotton stuffing room and roof of the production building. Install a lighted evacuation indicator sign at the evacuation stairs passage on the left side of production building. 4. Inspect all fire extinguishers at least once per month. 5. Keep aisles clear of any obstructions at all times to facilitate easy evacuation. 6. Properly post evacuation maps in all workshops. 7. Keep food samples for 48 hours and conduct regular inspection to ensure compliance. 8. Arrange regular occupational health checks for employees in the cutting and cotton stuffing departments who are in contact with hazardous materials. 9. Arrange for a certified third party to assess the occupational health impacts of the workshop.

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status (Remediated)

Explanation:

Based on the onsite observation, the factory has equipped needle guards on all sewing machines.

2. Finding Status (Remediated)

Explanation:

Based on onsite observation, all workers handling electric cutters wear metal-mesh gloves while working in the cutting section.

3. Finding Status (Partially Remediated)

Explanation:

Based on onsite observation, the factory has installed emergency lights and exit signs on the roof of the production building and installed a lit sign in the evacuation stairwell on the left side of production building.

However, there is no emergency light or exit sign installed at the emergency exits in the cotton stuffing room. [HSE.5.1]

Root Causes:

1. Factory management lack awareness on the importance of emergency lights and exit signs.

2. The cotton stuffing room is only about 50 square meters and the room has been seldom used in the past 12 months. Management thinks it is unnecessary to install the emergency light and exit sign in the area.

4. Finding Status (Remediated)

Explanation:

Based on onsite observation, document review, and management interviews, the factory has inspected all fire extinguishers monthly.

5. Finding Status (Remediated)

Explanation:

Based on onsite observation, all aisles in the factory, including the sewing workshop, are clear and free of obstruction.

6. Finding Status (Remediated)

Explanation:

Based on onsite observation and management interviews, the evacuation plans in the cutting workshop and the 2/F & 3/F Dormitory Buildings show the correct evacuation routes.

7. Finding Status (Partially Remediated)

Explanation:

Based on onsite observation and worker interview, the factory only keeps food for 24 hours, which does not meet the legal requirement of at least 48 hours. [HSE.22]

Root Causes:

Factory management was not familiar with this legal requirement.

8. Finding Status (Remediated)

Explanation:

Based on a document review and management interviews, the factory has provided regular occupational health checks for employees in the cutting and cotton stuffing workshops in contact with hazardous materials, as legally required. The last health check was arranged for

9. Finding Status (Not Remediated)

Explanation:

Based on a document review and management interviews, the factory production buildings were completed in December 2002, but there was never a pre-assessment of occupational disease hazards, assessment of effects of occupational disease hazards control, or assessment of current conditions of occupational disease hazards. [HSE.1]

Root Causes:

1. Factory management is not aware of the importance of the reports.
2. The assessments will cost much money.

10. Finding Status (Not Remediated)

Explanation:

Based on a review of documents and management interviews, the factory does not track or conduct statistical analysis of worker illnesses. [HSE.3.2]

Root Causes:

1. Factory management is not aware of the benefits of tracking worker illnesses.
2. It is difficult for the factory to record the worker illnesses because most workers do not report to management when they get ill.

Local Law or Code Requirement

Code of Design on Building Fire Protection and Prevention (GB50016-2014), Articles 10.3.1 and 10.3.5; Provisions on the Supervision and Administration of Occupational Health at Work Sites, Article 20; The Food Safety Operation Specifications for Catering Service, Article 7.9.2; Law of the People's Republic of China on the Prevention and Control of Occupational Diseases, Articles 17 and 18; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.3, HSE.5, HSE.22)

Recommendations for Immediate Action

1. Install emergency light and exit sign at the emergency exits in the cotton stuffing room.
2. Maintain food samples for at least 48 hours per the legally required.
3. Track and conduct statistical analysis on worker illnesses.

New Findings and Action Plans

NEW FINDING NO.1

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The orientation training for new workers does not cover Industrial Relations: freedom of association, Recruitment, Hiring, Personnel Development, Termination & Retrenchment or Environmental Protection. [ER.1, ER.15]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15)

NEW FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The factory's production plan is based on a 52 to 60 hour work week. As a result, workers need to work 12 to 20 hours of overtime per week to meet production targets. [HOW.8]

Local Law or Code Requirement

FLA Workplace Code (Hours of Work Benchmark HOW.8)

NEW FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The fire alarm location is not labeled on evacuation plans posted in the production and dormitory buildings. [HSE.1, HSE.5.1]
2. The factory does not conduct ergonomics management for workers like take steps to reduce repetitive-motion stress or injuries or provide adjustable workstations for sitting workers. There are no removable armrests or proper backrests on the chairs for seated workers. There are no anti-fatigue mats provided for workers who work in a standing position. [HSE.17]
3. There are some combustible materials near one electrical panel on the third floor of the Production Building. [HSE.13]
4. The water pressure of eye washing station in the cleaning room on the first floor of the Production Building is insufficient. [HSE.6.1]
5. The factory has not obtained the Fire Permit or the Report on Inspection and Acceptance of Completed Construction Project for one flat warehouse building built in 2005. [HSE.1, HSE.4]
6. The factory does not periodically test the lightning protection system in the factory. [HSE.13]
7. The absorbent cotton in all first-aid kits expired on July 12, 2018. The eye drops in one first-aid kit on the second floor of the Production Building expired in June 2018. [HSE.6.1]
8. The occupational hazards test report provided by factory does not test the dust concentration in cotton stuffing workshop. [HSE.1]
9. The factory does not train workers with maintenance responsibilities on maintenance safety. [HSE.14.2]
10. The factory does not provide specific training on the tasks and functions of chemical tank management for those workers working with chemical tanks. [HSE.9.2]

Local Law or Code Requirement

Escape and Evacuation-Principles and Requirements (GB/T 25894-2010), Article 7.3; GB/T 13869-2017 Electricity Safety Guidelines, Article 5.1.1; Law of the People's Republic of China on Prevention and Control of Occupational Diseases, Article 25; Fire Prevention Law of the People's Republic of China, Article 11; Construction Law of the People's Republic of China, Article 61; The Standards for the Design of Industrial Enterprises (GBZ1-2010), Article 8.3.3; Provisions on the Supervision and Administration of Occupational Health at Work Sites, Article 20; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.4, HSE.5, HSE.6, HSE.9, HSE.13, HSE.14, and HSE.17)

Recommendations for Immediate Action

1. <!--[endif]-->Add the location of the fire alarm in evacuation plans.
2. Remove the combustible materials from the electrical panel.
2. Increase the water pressure of eye washing station.
3. Check and supplement first aid supplies regularly to ensure they have not expired.
4. Schedule the occupational hazards test for the cotton stuffing workshop.

NEW FINDING NO.4

NOTABLE FEATURE

FINDING TYPE: Compensation

Finding Explanation

1. The factory provides a free dormitory and three free meals per day for employees.