



FAIR LABOR
ASSOCIATION[®]

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: The Bradford Exchange

COUNTRY: Mexico

ASSESSMENT DATE: 12/17/18

ASSESSOR: VeLar

PRODUCTS: Apparel

NUMBER OF WORKERS: 45

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: Responsibility & Accountability (Macro)

Finding Explanation

The factory has not defined in writing the person responsible for the Grievance System, Termination & Retrenchment, or the person with ultimate responsibility for the factory. [ER.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

New policies and procedures are currently being written. The person responsible for termination, retrenchment / ultimately responsible for the factory will be named in the revised policies and procedures. We would like to address this finding in person next month during our visit.

Company Action Plan Update

The factory has created a Grievance system policy and procedure that includes the name of the designated person responsible for the process (please see attached).

FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

1. The factory has no written procedures for Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Industrial Relations, Workplace Conduct & Discipline, Grievance System, Environmental Protection, Health & Safety, Termination & Retrenchment, or ultimate accountability. [ER.1, ER.23, ER.25, ER.27, ER.28, ER.29, ER.30, ER.31, ER.32, ER.19; HSE.1]
2. The factory has not developed an internal Code of Conduct and the affiliate's code of conduct was not posted in the factory. [ER.1]
3. The Recruitment, Hiring & Personnel Development Procedure is general and does not include specifications for the applicants' interviewing protocol or the list of documents required during the hiring process (such as birth certificate, official ID, etc.), in addition, it does not mention who and how reviews these documents. [ER.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.1.1, ER.23, ER.25, ER.27, ER.28, ER.29, ER.30, ER.31, ER.32 and ER.19; Health, Safety & Environment Benchmark HSE.1).

COMPANY ACTION PLANS

Action Plan no 1.

Description

12.1 The factory is reviewing all of their current policies and procedures and plans on revising all of them to update them with the missing information. We will touch base with them weekly to track progress and assist with any concerns or questions. We will also address this in person during our visit next month.

12.3 . The factory has requested more time to correct this finding. They expect all revisions to be completed within 3 months. They have provided a draft of a list of documents required during the hiring process but acknowledge they have more work to do and state they are still in the process of assigning someone to review the documents.

Company Action Plan Update

12.2 The factory has provided us with a copy of their code of conduct and displayed it in areas of high employee traffic.

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The factory has not provided new workers with specific orientation training on Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Industrial Relations, Workplace Conduct & Discipline, Grievance System, Environmental Protection, Health & Safety, or Termination & Retrenchment. [ER.1, ER.15, HSE.5]
2. The factory has not provided supervisors with specific training on Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Industrial Relations, Workplace Conduct, Grievance System, Environmental Protection, Health & Safety, or Termination & Retrenchment. [ER.17, ER.27]
3. The factory has not provided workers with ongoing training on the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Industrial Relations, Workplace Conduct, Grievance System, Environmental Protection, Health & Safety, and Termination & Retrenchment. [ER.1]

Local Law or Code Requirement

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory is working to build an orientation for new employees that will include training. Additionally, they will require all supervisors and workers receive ongoing training. However they are still working on their training materials and training timelines.

The factory has set a target goal of 6 months to correct this finding.

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

The factory has not communicated the Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Industrial Relations, Workplace Conduct, Grievance System, Environmental Protection, Health & Safety, or Termination & Retrenchment policies and procedures and their updates to the general workforce. [ER.15, ER.16, ER.25, ER.27, ER.28, ER.30, C.17]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.15, ER.16, ER.25, ER.27, ER.28, ER.30, ER.32; Compensation Benchmark C.17)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory is reviewing all of their current policies and procedures and plans on revising all of them to update them with the missing information. The factory then plans to hold a meeting for all employees where new policies/ updates will be shared verbally and in written form. Additionally the factory's upper management would like to implement a process for tracking the communications. We would like to take advantage of our upcoming trip in August to help close this finding.

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

1. The factory has not revised policies and procedures for Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Industrial Relations, Workplace Conduct, Grievance System, Environmental Protection, Health & Safety, or Termination & Retrenchment. [ER.1, ER.29, ER.30, ER.31]

2. The factory has no system, protocol or responsible person to ensure policies and procedures on Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Industrial Relations, Workplace Conduct, Grievance System, Environmental Protection, Health & Safety, and Termination & Retrenchment are updated in accordance with legal modifications, the FLA code, and internal and external audit results. [ER.1, ER.29, ER.30, ER.31]

Local Law or Code Requirement

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

COMPANY ACTION PLANS

Action Plan no 1.

Description

This finding has not yet been addressed.

Action Plan no 2.

Description

The factory is reviewing all of their current policies and procedures and plans on revising all of them to update them with the missing information. The factory then plans to hold a meeting for all employees where new policies will be shared verbally and in written form. The factory has requested more time to complete the policies and plan to have them completed within 6 months.

FINDING NO.6

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. There is no procedure for skills or professional development. [ER.29.1]
2. There is no evaluation or promotion procedure in place; employees are not periodically evaluated. [ER.29.1]
3. For administrative position postings, the factory specifies that applicants must be between 24 and 35 years. [ND.1, ND.2]

Local Law or Code Requirement

Ley Federal del Trabajo Artículo 2; FLA Workplace Code (Employment Relationship Benchmark ER.29; and Nondiscrimination Benchmark ND.1 and ND.2).

COMPANY ACTION PLANS

Action Plan no 1.

Description

There was an initial conversation with the factory to address this finding. It is apparent they do not have a policy in place. While remediation for this finding has not started I am developing a list of questions to begin the process of developing a policy and procedure to address the findings.

Action Plan no 2.

Description

The factory is creating new policies and procedures for points 1, 2 and 3 of this finding. We have been working with the factory to assist with any questions or concerns they may have. I would estimate these policies can be completed within 6 months. We plan to review their progress in person in August and will continue to assist via conference call weekly.

During our last call the factory confirmed they will be removing the age range that was previously included in their position postings. Evidence will be provided at completion.

Company Action Plan Update

8.2 The factory has provided us with a draft for their promotion procedure but have requested more time to incorporate additional points to offer their employees a clear process and to create an evaluation process.

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The factory performs two bank deposits into employee accounts every week: one for the minimum legal salary and the other for any other income earned by the employee. In total, both deposits cover their weekly salary. However, only one deposit is declared to the government. Therefore, the social security and tax calculation correspond only to the declared deposit and not the complete salary. [C.5, C.16]

2. Employees' salaries are based on the production quota, which is not always met during the regular shift. If employees have to stay after the regular shift in order to cover the production quota, this time is not counted and paid as overtime, but as part of the production quota. This practice means that an employee must work overtime to meet a production quota in order to obtain their regular salary. If the production supervisor considers and authorizes overtime payment, they do not correspond to the worked hours, but depend on supervisor criteria. [ER.24, HOW.1, C.7]

3. The complete factory takes a two-week vacation at the end of the year. Discounting resting days and holidays, this equates to eight vacation days. Employees who have amassed more than eight days are not able to use them; they only receive the corresponding payment. [ER.22, HOW.1]

4. The time records of overtime payment are inconsistent, so the assessors were unable to determine if they are paid according to the legal requirement. [HOW.1, C.7]

5. The factory is missing the Profit-Sharing Commission of employer and employee representatives to develop the profit-sharing project. Instead, the employer directly develops the profit-sharing project. [ER.22]

Local Law or Code Requirement

Ley del Impuesto Sobre la Renta Artículo 99 Cláusulas I, II y III; Ley del Instituto Mexicano del Seguro Social Artículo 15 Cláusulas I, II, III y IV; Ley Federal del Trabajo Artículo 85; Ley Federal del Trabajo Artículo 76 y 79; Ley Federal del Trabajo Artículo 66, 67 y 68; Ley Federal del Trabajo Artículo 125 Cláusulas I, II, III and IV; FLA Workplace Code (Employment Relationship Benchmark ER.22 and ER.24; Compensation Benchmark C.5, C.7 and C.16; and Hours of Work Benchmark HOW.1).

Recommendations for Immediate Action

1. Declare employees' complete incomes to the government and calculate the tax and social security in correspondence with their real wages.

2. Establish production quotas (based on productivity analysis), that can be achieved during the regular shift without overtime. In addition, pay overtime as required by law.

3. Ensure that all employees enjoy their corresponding vacation period (according to seniority), within six months of their anniversary date, as established by law.

4. Maintain accurate time and payment records.

5. Follow the legal requirements for the Profit-Sharing process, which includes: conforming a Profit-Sharing Commission with employees' and employer's representatives; providing it with annual records for developing the Profit-Sharing Project; publishing the project; and allowing employees to review it and raise concerns, questions or complaints.

COMPANY ACTION PLANS

Action Plan no 1.

Description

There has been initial discussion with the factory regarding this finding. The factory has pushed back on this one.

We are meeting internally to discuss our production plans to see if we will be increasing production with this factory in the coming year in an effort to encourage the factory's willingness to make changes to some if not all of the identified violations.

Action Plan no 2.

Description

Initial discussion with the factory has been met with push back. The factory is asking for more volume to support the increase in pay and benefits. We have explained that while we understand the need for more volume in general, it should not be the driver in following local law and employee's rights. While we understand this is an urgent matter and have plans to continue our discussions via conference calls, we believe we will not have resolution one way or another until we meet with the owners in person at the end of August.

FINDING NO.8

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. The Freedom of Association Policy mentions that the factory recognizes and respects employees' rights of freedom of association and collective negotiation; however, the policy does not mention how the factory ensures this respect, how employees are protected from retaliation or discrimination, how the factory will ensure no interference on employee meetings or agreements, how the factory will ensure transparency, or what employees can do to denounce any of the previous scenarios. [ER.26]

2. Employees have not received training on the Internal Rules Handbook or received a copy of this document. [ER.27.3]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.26 and ER.27.3).

COMPANY ACTION PLANS

Action Plan no 1.

Description

6.1 The Freedom of Association Policy the factory currently has is being modified to include how the factory will ensure employees will be protected from retaliation or discrimination. The revised policy in process, I estimate it will be completed by the time of our visit at the end of August.

6.2 The factory has requested more time to create a new Internal Rules Handbook. They acknowledge what they have currently is outdated and will need revisions. We estimate this will be completed within 6 months. We will continue to communicate via conference call on a weekly basis. Additionally, we will review their progress in person during our visit in August.

Company Action Plan Update

The factory has begun the revision to the Freedom of Association Policy. They have provided a draft but have asked for more time to ensure they cover all points. The factory has expressed that while employees are never treated in a discriminatory manner they

failed to express this in writing.

FINDING NO.9

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

Disciplinary actions are recorded in employee personnel files but there is no evidence that third-party witnesses are required to observe the process for transparency. [ER.27.4]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.27.4).

COMPANY ACTION PLANS

Action Plan no 1.

Description

5 The factory has had a difficult time understanding the importance of a third party witness. I have explained to them the benefits of transparency for the employees as well as the factory. This is in process and I will likely reach out to the FLA for guidance in addressing this finding.

Action Plan no 2.

Description

This finding has been closed.

Company Action Plan Update

The factory has created a Workplace Conduct & Discipline policy and procedure to include the presence of a third party witness. The factory will always require a direct supervisor, HR rep or member of management be present along with an employee representative as witnesses in an effort remain transparent. Additionally, the factory has informed the workers of the change and its benefits verbally as well as by issuing each employee a copy of the policy.

FINDING NO.10

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Grievance System

Finding Explanation

1. There is a suggestion box located at the main entrance, reviewed by the Accountant Manager. However, there is no written procedure specifying how the factory protects employee confidentiality, how grievances will be investigated, how employees will receive feedback, or who is responsible. [ER.25]

2. The factory does not keep information from employee comments or grievances raised through the suggestion box. [ER.25]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.25).

COMPANY ACTION PLANS

Action Plan no 1.

Description

Completed

Company Action Plan Update

1. The factory has created a Grievance Policy and Procedures that outlines their grievance system. This includes specifying to employees that the factory protects employee confidentiality. This document also provides employees with a point of contact and an explanation of the process for investigating grievances and providing feedback. Please see attached.

2. The Grievance Policy provided by the factory states the designated point of contact will be responsible for logging and keeping all grievances regardless of method of communication and including those received via the suggestion box.

FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory has no records of work-related injuries, fatalities, accidents, or incidents; therefore, the Health & Safety Commission has not investigated them. [HSE.3]

2. The factory has not taken proactive steps to reduce repetitive-motion stress or injuries. [HSE.17]

Local Law or Code Requirement

Norma Oficial Mexicana NOM-019-STPS-2011 Artículo 5.9 Cláusulas (a), (b) y (c); FLA Workplace Code (Health, Safety, and Environment Benchmarks HSE.3 and HSE.17).

COMPANY ACTION PLANS

Action Plan no 1.

Description

3.1 I am currently working with the factory to develop a useful form for the factory to use when collecting data for workplace injuries. I have received their first draft, made recommendations and am waiting to review the next document.

3.2 The factory has an outdated report, they have plans of ordering a new assessment at the end of this year.

Action Plan no 2.

Description

3.1 While the factory has created a log to track work related injuries, fatalities accidents or incidents they have no yet created a policy or procedure. We have been notified that the policy and procedure is in the process of being created. I will follow up with the factory via conference call this week and in person in August.

Company Action Plan Update

3.1 The factory has worked to create a Work Related Incident and Injury Form to track any injuries on a monthly basis. While the factory acknowledged that they had been no work related injuries at the facility there was no documentation to provide as evidence of this.

3.2 The factory has implemented a daily exercise routine for employees. 6 employees attend a seminar that teaches them proprioception, isometrics and posture techniques. These techniques are meant to prevent repetitive motion stress or injuries. The employees that receive the training guide all of the factory employees through the exercises everyday at noon for 10 minutes.

In addition to the daily exercise routine employees have been taught stretched to help alleviate repetitive stress injuries and encourage employees to stretch at their workstations throughout the day.

FINDING NO.12

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The emergency exit door is incorrectly installed; it opens inward. [HSE.5.1]
2. The General Firefighting Training Program is missing, only the brigade members are trained; but the rest of the employees have not received the required training. [HSE.2]

Local Law or Code Requirement

Norma Oficial Mexicana NOM-002-STPS-2010 Artículo 7.16 Cláusula (c), y Artículo 5.8; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.2 and HSE.5).

Recommendations for Immediate Action

1. Install the Emergency exit door to ensure that it opens outwards.
2. Develop the General Firefighting Training Program and provide training to all employees.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Completed

Company Action Plan Update

- 2.1 The emergency door opens outward. Please see attached.
- 2.2 The factory acknowledges that only the brigade team is trained. However, the local fire department does provide training in fire prevention, fire safety, combat, search and rescue and first aid to all factory staff. The factory has provided training evidence, brigade attendance records, and fire drill. Please see attached.

FINDING NO.13

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory canteen is unclean and located outside by a factory garbage area. [HSE.19]
2. The position risk assessment regarding PPE has not been updated. [HSE.2]
3. The factory has no evidence of workers training to use, revise, replace, clean or understand the limitations, maintenance, shelter or final disposal of personal protective equipment. [HSE.8]
4. The factory has developed a LOTO protocol; however, the system has not been implemented. [HSE.2, HSE.13]

Local Law or Code Requirement

Recommendations for Immediate Action

1. Ensure that the canteen maintains sanitary conditions. Consider relocating the canteen away from the garbage area to ensure safe and sanitary conditions.
2. Develop the position risk assessment regarding PPE.
3. Ensure to deliver training for use, revise, replace, clean or understand the limitations, maintenance, shelter or final disposal of personal protective equipment to all required employees.
4. Implement the LOTO program.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1.1 For immediate action I am working with the factory to develop a plan to assign responsibility to maintain the cleanliness of the dining area. The factory has reached out to its neighboring factory to work out details for keeping their adjacent area clean. This area is located next to the dining area. For now we do have evidence that they are maintaining their area clean. The factory is in process of creating a written process and procedure and duty assignment.

1.2 and 1.3 The factory acknowledges that their current PPE assessment is outdated and have consulted with a local regulatory agency, CICEG. I am pushing the factory for a date and will follow up.

Company Action Plan Update

1.1 The dining area is being cleaned regularly.

Action Plan no 2.

Description

1.4 I need feedback from the FLA on which machine they are referring to. The factory has identified only sewing machines. Please advise.

Action Plan no 3.

Description

2. The factory has provided date range of May 27- May 31 for when CICEG is scheduled to conduct a risk assessment regarding PPE. Once the assessment has been conducted and a report is available it will be shared with us and with the FLA ask supporting evidence to address this finding.

3. The factory has requested training materials / courses from CICEG for its employees when CICEG conducts their assessment.

4. This finding is still outstanding as we do not have information to confirm which machines are being referred to.

Company Action Plan Update

1. The factory has provided a copy of the job description and role assignment for maintenance of the canteen. The person responsible takes on the role of ensuring the canteen remains clean and uncluttered. The role's responsibilities listed will support ongoing maintenance. This finding is completed. Please see attached.

3. The factory has shared their Health and Safety Policy and Procedure. Please see attached.