



FAIR LABOR
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INDEPENDENT EXTERNAL ASSESSMENT REPORT



Verification Assessment

COMPANIES: 47 Brand, LLC
Top of the World by Fanatics
COUNTRY: China
ASSESSMENT DATE: 07/25/19
ASSESSOR: Openview
PRODUCTS: Headwear
NUMBER OF WORKERS: 20

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.

FLA Code Element	Number of Violations
Compensation	1
Hours of Work	2
Employment Relationship	6
Health, Safety, and Environment	5

Previous Report Findings and Verification Results

PREVIOUS FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. There are no written policies and procedures in place regarding workers' career paths and Personnel Development. The factory does not have specific career paths or skills development training for all categories of workers with the goal of broadening and raising their skills to advance their careers within the factory.
2. The factory does not have written policies and procedures for conducting performance reviews. In addition, there are no written policies and procedures for the promotion, demotion, and job reassignment.
3. There are no written policies and procedures regulating the recruitment and hiring of contract/contingent/temporary workers. The factory used temporary workers for loading materials; however, there are no written guidance documents for this practice.
4. Two to four temporary workers are hired once a week by the factory to load materials for approximately for 2.5 hours per day. However, there are no personnel files with proof of age documentation, proof of employment, working hours, and wage records for these employees. Hence, the factory could not demonstrate that these aspects were in compliance with legal and FLA requirements.
5. The factory has not hired any disabled workers and has not contributed to the Employment Security Fund in lieu of employing disabled workers, as required by local regulations.
6. The factory does not have written job descriptions for any positions.

Local Law or Code Requirement

The Regulations of Banning Child Labor Recruitment, Article 4; The PRC Employment Contract Law, Article 10; Regulations on the Employment of Persons with Disabilities, Article 8; FLA Workplace Code (Employment Relationship Benchmarks ER.1.1, ER.4.1, ER.7.2, ER.11.3, ER.11.5, ER.11.6, ER.28.1, ER.29.1, ER.30.1, and ER.32.1; Nondiscrimination Benchmarks ND.1 and ND.2.1)

Recommendations for Immediate Action

1. Set up personnel files with proof of age and proof of employment documentation for all temporary workers. Maintain all age documents, working hours, and wage records for temporary workers and provide them for assessment.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Factory will set-up simplified HR functions to house all candidate interview documents, new hire documents, existing employee documents (employee folder), proof of age tracking process as well as working hours. A structured process for annual reviews needs to be created and communicated to all workers. This will begin with documentation that lays out the full process. The creation of job descriptions for all of the 15 positions at the factory needs to be completed, communicated and reviewed with the employees and then stored in a binder with the other human resource documents/procedures.

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. (Not Remediated) There are no written policies or procedures in place regarding workers' career paths and Personnel Development. The factory does not have specific career paths or skills development training for all categories of workers with the goal of broadening and raising their skills to advance their careers within the factory. [ER.28.1]

2. (Not Remediated) The factory does not have written policies or procedures for conducting performance reviews. In addition, there are no written policies or procedures for the promotion, demotion, and job reassignment. [ER.29.1 and ER.30.1]

3. (Not Remediated) There are no written policies or procedures regulating the recruitment and hiring of contract/contingent/temporary workers. The factory employs temporary workers for loading materials. However, there are no written guidance documents for this practice. [ER.7.2]

4. (Not Remediated) Two to four temporary workers are hired once or twice a week to load materials for approximately one to two hours per day. However, there are no personnel files with proof of age or proof of employment documentation for these workers. [ER.7.1]

5. (Not Remediated) The factory has not hired any disabled workers, which is a violation of legal requirements that state at least 1.5% of the total workforce should be composed of disabled workers. According to the latest legal requirement, small factories with workforce of less than 30 do not need to contribute to the Employment Security Fund in lieu of employing disabled workers. [ND.2]

6. (Not Remediated) The factory has no written job descriptions for any production positions. [ER.1.1]

Local Law or Code Requirement

The China Labor Contract Law, Article 10; The Regulation on Banning Child Labor, Article 4; Regulations on the Employment of Persons with Disabilities, Article 8. FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.7, ER.28, ER.29 and ER.30; Non-discrimination Benchmark ND.2)

Recommendations for Immediate Action

1. Set up personnel files with proof of age and proof of employment documentation for all temporary workers.

PREVIOUS FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The wages (CNY 200 to CNY 350) for temporary workers, hired by the factory to load materials once a week, are paid in total to the person who manages these workers, instead of directly to each worker. Furthermore, there is no letter signed by each worker, authorizing the factory to use this pay scheme.

2. The factory does not maintain payroll records for temporary workers with detailed information, including the amount of wages paid,

working hours, date of the payment, and the names and signatures of persons, who receive wages on behalf of the temporary workers.

3. The factory provides all workers with all five types of social insurance. However, the social insurance contribution is not based on workers' actual wages. A review of the social insurance payment receipt for October 2014, showed that 5 out of 14 employees (36%) in the factory received social insurance based on CNY 1794, while the actual monthly wage for these five employees ranged from CNY 1800 to CNY 2800. Additionally, 9 out of 14 employees (64%) received social insurance based on CNY 2500, while the actual monthly wage for all nine employees ranged from CNY 2100 to CNY 5200.

4. The factory does not pay into the legally required Housing Provident Fund for workers.

5. The annual leave provided to employees is based on their length of service in the factory, instead of their working age.

Local Law or Code Requirement

The Provisional Regulations for the Payment of Wages, Article 6; The PRC Labor Law, Articles 72 and 73; Housing Fund Management Regulation, Articles 15 and 17; FLA Workplace Code (Employment Relationship Benchmark ER.22.1; Nondiscrimination Benchmark ND.3.1.3; Hours of Work Benchmark HOW.11; Compensation Benchmarks C.1, C.2, C.5, C.6, C.10.1 C.14.1, C.14.2, and C.15)

Recommendations for Immediate Action

1. Pay compensation directly to temporary workers, and set up complete and accurate payroll records for temporary workers.

2. Provide annual leave to employees based on their working age, instead of the length of service in the factory.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. The payment to temporary workers will be reviewed and changed so that they are paid directly from the factory. Records for all temporary workers such as hours worked, hours paid, wages paid, dates of payment, signature when payment was collected etc need to be set-up. These records will then be kept with the other HR procedures, policies, manuals location. These will all be maintained in a way that is easily accessible to auditors and company. New action plans need to be created to address social insurance contribution base, the housing fund and annual leave. These areas need to be documented, explained to all workers and become a part of new hire training as well as the qtrly trainings. The documentation and record keeping needs to be done electronically and kept in a manner which is easily accessible for auditors, management and companies to review.

VERIFICATION RESULT

Finding Status

Partially Remediated

Remediation Details

1. (Not Remediated) The factory pays to the labor contractor who manages temporary workers instead of paying to those workers directly. Moreover, there is no letter signed by each temporary worker, authorizing the factory to use this pay scheme.

According to worker interview, each temporary worker is paid at same rate as CNY 100 (USD 14.5) per hour. A total of two to four temporary workers usually work for one to two hours on one or two days in a week to load materials. Temporary workers assigned to work in the factory may not be the same workers on different days. [C.14.2]

2. (Not Remediated) The factory does not maintain the payroll records for temporary workers. In addition, the factory pays to the labor contractor by cash every month and does not maintain payment receipts with signature. According to worker interview, temporary workers get paid from the labor contractor once they finish the loading job on the same day. [C.15]

3. (Remediated) The factory has provided five types of social insurance to all workers and the contribution base is worker's average monthly wage of previous year, which is in compliance with local law requirement.

4. (Remediated) The factory has contributed to the legally required Housing Provident Fund for all workers and the contribution base is worker's average monthly wage of previous year, which is in compliance with local law requirement.

5. (Not Remediated) The factory does not take workers' external seniority (previous job experience prior to factory employment) into

account when calculating annual leave, as required by law. [C.6]

Local Law or Code Requirement

The Provisional Regulations for the Payment of Wages, Article 6; The Implementation Measures for Employee Paid Annual Leave, Article 4. FLA Workplace Code (Compensation Benchmarks C.6, C.14 and C.15)

Recommendations for Immediate Action

1. Pay compensation directly to temporary workers.
2. Set up complete and accurate payroll records for temporary workers.
3. Calculate annual leave based on worker's cumulative working experience (working age).

PREVIOUS FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The factory does not record working hours for all temporary workers.

Local Law or Code Requirement

The Provisional Regulations for the Payment of Wages, Article 6; FLA Workplace Code (Employment Relationship Benchmarks ER.2.1.1, ER.11.1, ER.23.2, ER.23.3, and ER.23.5; Hours of Work Benchmarks HOW.1.1 and HOW.1.2)

Recommendations for Immediate Action

1. Adopt a reliable and effective time keeping system to record working hours for temporary workers. Ensure that all hours of work are accurately recorded.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. The factory will implement a time keeping system that is electronic so that records of hours worked, hours paid, wages paid can be maintained at all times. This will be utilized for all workers at the factory including temporary.

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. (Not Remediated) The attendance system is incomplete. The factory does not record working hours for temporary workers, including two to four loading workers who usually work for one to two hours several day a week. [ER.23.3]

Local Law or Code Requirement

The Provisional Regulations for the Payment of Wages, Article 6. FLA Workplace Code (Employment Relationship Benchmark ER.23)

Recommendations for Immediate Action

1. Adopt a reliable and effective time recording system to record working hours for temporary workers.

PREVIOUS FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. An embroidery worker and one knitting worker, who are exposed to noise in the factory, do not wear the earplugs provided by the factory during their working time.
2. The chairs provided for production workers are not adjustable and do not have backrests.

Local Law or Code Requirement

The Safety Manufacturing Law, Article 37; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.7, and HSE.17.1)

Recommendations for Immediate Action

1. Ensure that all employees who are exposed to noise in the knitting and embroidery process wear earplugs during working time.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. There needs to be a review of PPE use by all employees in the factory. Training sessions will be implemented to address the importance and safety of utilizing PPE. Chairs will be replaced or back rests will be added.

VERIFICATION RESULT

Finding Status

Partially Remediated

Remediation Details

1. (Not Remediated) While no workers were operating embroidery machines during the assessment, one knitting worker exposed to high noise does not wear the earplugs provided by the factory during work hours. [HSE.8]
2. (Partially Remediated) The factory has provided chairs with backrests to workers working in sitting position. However, the chairs are still not adjustable. Additionally, the factory does not provide lifting belts to loading workers. [HSE.17.1]

Local Law or Code Requirement

The Law of the China on Work Safety, Article 42. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.8 and HSE.17)

Recommendations for Immediate Action

1. Train and supervise all workers to use personal protective equipment (PPE) properly during work hours.

PREVIOUS FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory installed an isolated fire alarm in the shared production building, rather than a centralized fire alarm.

Local Law or Code Requirement

Fire Control Law of the People's Republic of China Article 16; FLA Workplace Code (Health, Safety & Environment Benchmark HSE.5.1)

Recommendations for Immediate Action

1. Install a centralized fire alarm system in the shared production building.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. The factory manager, HR Manager and Safety Manager need to walk the entire factory and conduct a review of the building layout so they can implement a centralized fire alarm system. Upon completion of this walkthrough, consultation with local fire officials and alarm system companies should take place so a well thought out plan is put together and then implemented. Once the fire alarm system is installed, local fire officials should come back to inspect and sign off on the system. Training and Education of this new centralized system needs to take place with all employees and be incorporated with new hire training as well as quarterly trainings.

VERIFICATION RESULT

Finding Status

Partially Remediated

Remediation Details

1. (Partially Remediated) The factory has installed eight centralized fire alarms in the area of the building that they lease (part of the first floor in one 4-floor building). However, these fire alarms are not connected with other fire alarms in the building. [HSE.5.1]

Local Law or Code Requirement

The Code for Design of Automatic Fire Alarm System (GB50116-2013), Article 4.8.5. FLA Workplace Code (Health, Safety and Environment Benchmark HSE.5)

Recommendations for Immediate Action

1. Install a centralized fire alarm system in the shared production building.

New Findings and Action Plans

NEW FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. Workers do not get one day off for every seven-day period. The review of time records for the period from July 2018 to July 2019 and worker interview notes that three out of twenty workers (15% of total workforce) did not receive one-day off for every seven-day period in February and May 2019. They worked a maximum of twelve consecutive days in February 2019 (from February 18 to March 1, 2019). Additionally the factory did not provide these workers with a compensatory rest day. [HOW.2]

Local Law or Code Requirement

FLA Workplace Code (Hours of Work Benchmark HOW.2)

Recommendations for Immediate Action

1. Provide one day off in every seven-day period.

NEW FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory has not installed full pulley guards for the transmission belts on either button machine in the workshop. [HSE.14.1]

2. Two of five exit signs do not light when electrical power goes out. [HSE.5.1]

3. The factory is located on the first floor of one 4-floor building. However, factory management does not coordinate the fire safety concerns/risks with other companies with different owners in the same building. [HSE.5]

Local Law or Code Requirement

Code of Design of Manufacturing Equipment Safety and Hygiene, Article 6.1.6; Code of Design on Building Fire Protection and Prevention, Article 10.3.5. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.5 and HSE.14)

Recommendations for Immediate Action

1. Keep transmission belts on button machines fully enclosed with pulley guards.
2. Ensure exit signs are well maintained and lighted when electrical power goes out.
3. Coordinate the fire safety concerns/risks with other companies with different owners in the shared building.