



FAIR LABOR  
ASSOCIATION<sub>®</sub>

## INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Dallas Cowboys Merchandising, Ltd.  
Outerstuff LLC

COUNTRY: China

ASSESSMENT DATE: 08/11/20

ASSESSOR: Openview

PRODUCTS: Apparel

NUMBER OF WORKERS: 268

## 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	5
Employment Relationship	2
Health, Safety, and Environment	3
Nondiscrimination	1

## Findings and Action Plans

### FINDING NO.1

#### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Compensation

##### Finding Explanation

1. 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]

2. The factory does not provide social insurance to all eligible workers. There are total 251 workers including 14 retired but re-recruited and 15 new hires in the factory. According to social insurance receipt and name list for June 2020, 90 out of 222 eligible workers (40.5%) were provided with pension, unemployment, medical, maternity and work-related injury insurances. As a supplement, the factory has bought two sets of group accidental injury insurances for workers not covered by work-related injury insurance. One is for 144 workers, valid from June 21, 2020 to June 20, 2021 and has a maximum benefit amount of CNY 20,000 (USD 2,882) per worker. The other one is for 53 workers, valid from June 12, 2020 to June 11, 2021 and has a maximum benefit amount of CNY 100,000 (USD 14,410) per worker. [C.1]

3. The contribution base of the five types of social insurances is not in line with legal requirement. The factory contributes to work-related injury, medical, maternity, unemployment and pension insurances based on local minimum requirement of CNY 3,030 (USD 441) per month, which is not in line with legal requirement of contribution based on worker's average monthly wage of previous year. About 95% of workers' average monthly wages of previous year were higher than local minimum contribution base, ranging from CNY 3,031 (USD 442) to CNY 5,200 (USD 758). [C10.1]

4. The factory does not contribute to the legally required Housing Provident Fund for eligible workers. [ER.22.1]

##### Local Law or Code Requirement

Implementation Measures of Paid Annual Leave for Employees of Enterprises, Article 4; China Social Insurance Law, Article 72; Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 15. FLA Workplace Code (Compensation Benchmarks C.1, C.6 and C.10; Employment Relationship Benchmark ER.22)

##### Recommendations for Immediate Action

1. <!--[endif]-->Calculate annual leave based on worker's cumulative working experience (working age).
2. <!--[endif]-->Provide social insurance to all eligible workers.
3. <!--[endif]-->Contribute to social insurance based on worker's average monthly wage of previous year.
4. <!--[endif]-->Provide all workers with legally required Housing Provident Fund.

## FINDING NO.2

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Hours of Work

##### Finding Explanation

1. The factory sets production plan based on 55 to 60 hours per week (two to three overtime hours per day on three to four workdays and eight overtime hours on Saturday). Factory management sets production targets and production system at a level that workers need to work 15 to 20 overtime hours per week. [ER.24]
2. Overtime hours exceed legal limit of 36 hours per month. According to time records of 16 workers for the period from July 2019 to August 10, 2020 and worker interviews indicate that the monthly overtime hours for about 90% of workers exceeded 36 in all reviewed months except January and February 2020, with a maximum of 95 hours in August 2019. [HOW.1.1]
3. Total working hours exceed 60 per week. Time records of 16 sampled workers for the period from July 2019 to August 10, 2020 and worker interviews indicate that the weekly working hours for about 90% of workers exceeded 60 in one to two weeks per month in all reviewed months except February and March 2020. About 50% of workers' weekly working hours were up to 69 in the week from July 13 to 19, 2020. [HOW.1.3]
4. Workers are not provided with one day off for every seven-day work period. Time records of sampled 16 workers for the period from July 2019 to August 10, 2020 and worker interviews indicate that about 80% of workers did not regularly receive one day off in every seven-day period once per month in all reviewed months except February and March 2020. About 80% of workers worked a maximum of 13 consecutive days from July 13 to 25, 2020. [HOW.2]

##### Local Law or Code Requirement

The China Labor Law, Articles 38 and 41. FLA Workplace Code (Employment Relationship Benchmark ER.24; Hours of Work Benchmarks HOW.1 and HOW.2)

##### Recommendations for Immediate Action

1. <!--[endif]-->Set production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
2. <!--[endif]-->Ensure overtime hours do not exceed legal limit of 36 hours per month.

3. <!--[endif]-->Control total working hours do not exceed 60 in a week.

4. <!--[endif]-->Provide workers with at least one day off (24-consecutive hours of rest) for every seven-day work period.

### FINDING NO.3

## SUSTAINABLE IMPROVEMENT REQUIRED

### FINDING TYPE: Industrial Relations

#### Finding Explanation

1. 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. 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 stipulates 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. [FOA.2]

#### Local Law or Code Requirement

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

### FINDING NO.4

## IMMEDIATE ACTION REQUIRED

### FINDING TYPE: Health & Safety

#### Finding Explanation

1. There is a canteen and kitchen in the factory. However, the risk assessment does not cover food risk. [HSE.1, HSE.22]

2. The factory does not keep food samples which is not in compliance with legal requirements. [HSE.22.1]

3. The factory has never conducted inspections for the pressure gauge and safety valve of the pressure vessel. [HSE.4]

#### Local Law or Code Requirement

The Food Safety Operation Specifications for Catering Service, Article 7.9.2; The Special Appliance Quality Safety Monitoring Regulation, Article 28. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.4 and HSE.22)

#### Recommendations for Immediate Action

1. <!--[endif]-->Conduct risk assessment for food to ensure food safety.

2. <!--[endif]-->Keep food sample for at least 48 hours as per legal requirement.

3. <!--[endif]-->Conduct annual inspection on safety valve and semi-annual inspection on pressure gauge of the pressure vessel.