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INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Yee Tung Garment Co., Ltd
COUNTRY: China
ASSESSMENT DATE: 08/14/20
ASSESSOR: Openview
PRODUCTS: Apparel
NUMBER OF WORKERS: 400

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	2
Health, Safety, and Environment	4
Nondiscrimination	1

Findings and Action Plans

FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. The job application form used for all positions includes information regarding nationality, marital status and health status, which might lead to discriminatory practice during recruitment process. [ND.2.1]

Local Law or Code Requirement

The China Labor Law, Article 12. FLA Workplace Code (Non-discrimination Benchmark ND.2)

Recommendations for Immediate Action

1. <!--[endif]-->Remove the information regarding applicant's nationality, marital status and health status from the job application form. Employment decisions are to be made solely on the basis of a person's qualifications and abilities.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Corrective Action

Factory will removed the information regarding applicant's nationality, marital status and health status from the job application form.

Preventive Plan

Factory will check the others application form and ensure it comply with the legal and customers' requirement.

Company Action Plan Update

Corrective Action

Factory has removed the information regarding applicant's nationality, marital status and health status from the job application form.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. Overtime hours exceed legal limit of three overtime hours per day and 36 overtime hours per month. Time records for the period from August 2019 to August 13, 2020 and worker interview indicate that:

-The daily overtime for about 80% of workers exceeded three hours in six to fifteen workdays per month in January and June 2020, August, September and December 2019, with a maximum up to 3.9 hours on January 8, 2020 and December 25, 2019.

-The monthly overtime for 80% of workers exceeded 36 hours in all reviewed months except April 2020 and October 2019, with a maximum of 109 overtime hours in July 2020. [HOW.8.1]

2. Total working hours exceed 60 per week. Time records for the period from August 2019 to August 13, 2020 and worker interviews indicate that about 80% of workers worked up to 62 to 66 hours per week in one to three weeks per month in all reviewed months, except April 2020 and October 2019, with a maximum of 66 hours per week in August and September 2019 respectively. [HOW.1.3]

Local Law or Code Requirement

The China Labor Law Article 41. FLA Workplace Code (Hours of Work Benchmark HOW.1)

Recommendations for Immediate Action

1. <!--[endif]-->Ensure overtime hours do not exceed legal limit of three hours per day and 36 hours per month.

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

COMPANY ACTION PLANS

Action Plan no 1.

Description

Corrective Action

1. Factory will communicate with the merchandising department and the product planning department about order arrangement to ensure factory's capacity is considered during order arrangement.

2. Factory will hire more workers to response these emergency orders.

3. For the mothly overtime hours, it is difficult to achieve the requirement of local labor law . But factory will control the daily OT within 3 hrs in current stage, and hope to achieve the requirement of local labor law in the future.

Preventive Action

Factory will train workers' skills in order to improve working efficiency.

Action Plan no 2.

Description

Corrective Action

1. Factory will communicate with the merchandising department and the product planning department about order arrangement to ensure factory's capacity is considered during order arrangement.

2. Factory will hire more workers to response these emergency orders.

3. Factory will control the weekly working hours within 60 hrs.

Preventive Action

Factory will train workers' skills in order to improve working efficiency.

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)

Recommendations for Immediate Action

Nil

COMPANY ACTION PLANS

Action Plan no 1.

Description

Factory will comply with the local laws and keep the operation currently.

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory has never conducted inspection for the lightning protection system in both production and dormitory buildings. [HSE.13]
2. The factory has not installed emergency lights in the evacuation passages in cutting section on the 2nd floor of Production Building A. [HSE.5.1]
3. The workplace safety management workers have never received relevant mandatory training as per legal requirement. [HSE.1]

Local Law or Code Requirement

Technical Specifications for Inspection of Lightning Protection System in Building, Article 6; The Code of Design on Building Fire Protection and Prevention (GB50016-2014), Article 10.3.1; Work Safety Law of the People's Republic of China, Article 20. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.5 and HSE.13)

Recommendations for Immediate Action

1. <!--[endif]-->Conduct annual inspection for the lightning protection system and maintain inspection reports.
2. <!--[endif]-->Install emergency lights in all evacuation passages in the production buildings.
3. <!--[endif]-->Ensure the workplace safety management personnel receive mandatory training.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Corrective Action

Will arrange the maintainence personnel to cover the lightening protection system during their daily inspection.

Company Action Plan Update

Corrective Action

Have arrange the maintainence personnel to cover the lightening protection system during their daily inspection.

Action Plan no 2.

Description

Factory will installed emergency lights in the evacuation passages.

Company Action Plan Update

Corrective Action

Factory has installed emergency lights in the evacuation passages.

Preventative Plan

Will arrange the maintainence personnel and security to conduct a checking for all emergency lights every day and every month.

Action Plan no 3.

Description

Factory will ensure the workplace safety management personnel receive
mandatory training.

Company Action Plan Update

Corrective Action

The workplace safety management personnel has received mandatory training.

Start from Aug 26, 2020, the workplace safety management certificate has been cancelled legally.

Preventative Plan

Factory would arrange the designative safety personnel to conduct the daily checking.

FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. There are total 498 workers including 19 retired but re-recruited workers in the factory. The factory provides social insurance to all 479 eligible workers. However, the contribution base of the five types of social insurances is not in line with legal requirement. The factory

contributes to pension and work-related injury insurances based on CNY 3,413.64 (USD 497) per month, contributes to maternity and unemployment insurances based on CNY 3,413.79 (USD 497) per month, and contributes to medical insurance based on CNY 5,305.5 (USD 773) per month, which is not in line with legal requirement of contribution based on worker's average monthly wage of previous year. About 60% of workers' average monthly wages of previous year were higher than CNY 3,414 (USD 497), ranging from CNY 3,500 (USD 510) to CNY 5,500 (USD 801). [C.10.1]

2. The factory does not contribute to Housing Provident Fund for eligible workers. [ER.22.1]

Local Law or Code Requirement

Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 15. FLA Workplace Code (Compensation Benchmark C.10; Employment Relationship Benchmark ER.22)

Recommendations for Immediate Action

1. <!--[endif]-->Contribute to social insurance based on worker's average monthly wage of previous year.

2. <!--[endif]-->Provide all workers with legally required Housing Provident Fund.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Root cause:

Factory paid the social insurance contribution based on the local average wage which is compliant with the law.

Corrective Action

Factory will keep current practice, and keep 100% social insurance coverage.

Preventive Action

In future, the social insurance contribution will be paid as per the requirements of local Tax Bureau and will comply with this requirement of contributing worker's average monthly wage of pervious year.

Action Plan no 2.

Description

Root cause:

As the self-payment part of the housing provident fund would affect workers' final income in hand significantly, and it really hard to afford the high house price in China, so some workers prefer not pay the fund and get the money in hand instead.

Corrective action:

1. Factory would not contribute the housing provident fund currently. But factory will enhance housing provident fund training and plan to consider this matter in future.

2. Factory would continue contribute the social insurance for all employees as per local legal.