



FAIR LABOR  
ASSOCIATION®

## INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: SanMar Corporation

COUNTRY: China

ASSESSMENT DATE: 09/17/20

ASSESSOR: Openview

PRODUCTS: Apparel

NUMBER OF WORKERS: 166

## 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
Hours of Work	1
Employment Relationship	6
Health, Safety, and Environment	5
Nondiscrimination	1

## Findings and Action Plans

### FINDING NO.1

#### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Recruitment, Hiring & Personnel Development

##### Finding Explanation

1. The factory signs three-year employment contracts with workers. However, the factory does not sign employment contracts of indefinite duration (permanent contracts) with all eligible workers (around 25% of workforce) after two consecutive fixed-term employment contracts. [ER.10.1]
2. The job application form contains questions regarding politics, status, gender, nation, height, weight, age, hometown, health status, marital status, and household registration type, which might lead to discriminatory practice during the recruitment process. There has been no evidence that discriminatory action has taken place [ND.2.1]

##### Local Law or Code Requirement

The China Labor Contract Law, Article 14; The China Labor Law, Article 12. FLA Workplace Code (Employment Relationship Benchmark ER.10; Non-discrimination Benchmark ND.2)

##### Recommendations for Immediate Action

1. Sign employment contracts of indefinite duration (permanent contracts) with all eligible workers after two consecutive fixed-term employment contracts.
2. Remove discriminatory questions from the job application form. Employment decisions are to be made solely on the basis of a person's qualifications and abilities.

### FINDING NO.2

#### 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, HOW.11]
2. There are a total of 154 workers working in the factory, including 18 workers over the retirement age. The factory only contributes to the Housing Provident Fund for 7 out of 136 eligible workers (5%). [ER.22.1]
3. The contribution base of the Housing Provident Fund is not in line with the legal requirement. The factory contributes to the Housing Provident Fund based on the local minimum requirement of CNY 2,480 (USD 366) per month, which is not in line with the legal requirement of contribution based on worker's average monthly wage of the previous year. All workers' average monthly wages of the previous year were above CNY 4,000 (USD 590). [ER.22.2]

### Local Law or Code Requirement

Implementation Measures of Paid Annual Leave for Employees of Enterprises, Article 4; Regulations on Management of Housing Provident Fund, Article 15 and Article 16. FLA Workplace Code (Compensation Benchmarks C.6; Employment Relationship Benchmark ER.22; Hours of Work Benchmark HOW.11)

### Recommendations for Immediate Action

1. Calculate annual leave based on worker's cumulative working experience (working age).
2. Provide all workers with legally required Housing Provident Fund.
3. Contribute to the Housing Provident Fund based on worker's average monthly wage of the previous year.

## FINDING NO.3

## IMMEDIATE ACTION REQUIRED

## FINDING TYPE: Hours of Work

### Finding Explanation

1. The factory sets the production plan based on 48 hours per week (a total of six days per week and eight overtime hours on Saturday). Factory management sets production targets and production system at a level that workers need to work eight overtime hours per week. [ER.24]

### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.24)

### Recommendations for Immediate Action

1. Set the production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
2. Ensure that overtime is not included as a general practice into the factory's production planning. FLA affiliate Company's Sourcing and Social Compliance teams should:

- 1) Implement FLA Principles of Fair Labor and Responsible Sourcing and
- 2) Accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue:
  - a. How to provide better order forecasts to the factories;
  - b. Possible workshops/consultancy for the factory on how to improve productivity/quality;
  - c. Clear guidelines on how to extend shipment deadlines in case of contingencies;
  - d. Steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and Social Compliance teams);
  - e. Clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks;
  - f. Clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

## FINDING NO.4

### 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, FOA.10]

##### Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmark FOA.2 and FOA.10)

## FINDING NO.5

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

##### Finding Explanation

1. The factory has not centralized the fire alarms or installed the backup battery for the fire alarms in the factory premises. [HSE.5.1]
2. The factory has never conducted an inspection for the lightning protection system on the roof of the building. [HSE.13]
3. The factory does not obtain the fire permit, fire filing document or the report on the inspection and acceptance of the completed construction project for the 4-story building used as a warehouse. The factory has not maintained any records to show the construction completion date of this building. [HSE.4]
4. The factory mainly produces garments, which are classified as general-risk-level. However, the factory has not conducted the "Three Simultaneities Assessment" for Occupational Health of Construction Projects when founded in 2010 and moved to current location in 2012. [HSE.4]
5. The electrician is holding a special operation certificate, which is valid through October 8, 2022 and a review is required by October 8, 2019 through attending the retraining assessment. However, the factory has not applied for the review. [HSE.4]
6. The factory outsources the food service from a catering service provider. However, the factory does not keep the food sample as per legal requirement. [HSE.22.1]
7. The factory has one 4-story production building, one 4-story warehouse building and one 3-story office building. However, the registered address on the Business License only covers 1st and 2nd floor of the 4-story production building. [ER.2.1]

##### Local Law or Code Requirement

Code for Design of Automatic Fire Alarm System (GB50116-2013), Article 10.1.1; The Technical Specifications for Inspection of Lightning Protection System in Building, Article 6; The Fire Prevention Law of the People's Republic of China, Article 11 and Article 13; The Construction Law of the People's Republic of China, Article 61; Law of the People's Republic of China on the Prevention and Control of Occupational Diseases, Article 18; The Management Regulation on Safety Training and Assessment for Special Operator, Article 21; The Food Safety Operation Specifications for Catering Service, Article 7.9.2; Regulation of the People's Republic of China on the Administration of the Registration of Enterprise Legal Persons (2016 Amendment), Article 17. FLA Workplace Code (Employment Relationship Benchmark ER.2; Health, Safety and Environment Benchmarks HSE.4, HSE.5, HSE.13 and HSE.22)

##### Recommendations for Immediate Action

1. Install centralized fire alarm system with the backup battery in the factory premises.
2. Conduct annual inspection for the lightning protection system and obtain the inspection report.

3. Obtain the fire permit / fire filing document and the report on inspection and acceptance of the completed construction project for the 4-story building used as a warehouse.
4. Conduct Current Occupational Hazards Assessment by a qualified company and obtain the assessment report.
5. Apply for a review of the special operation certificate for the electrician on a timely basis.
6. Keep the food sample for at least 48 hours as per legal requirement.
7. Obtain an updated Business License to cover all factory premises.