



FAIR LABOR
ASSOCIATION[®]

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: MBI, Inc.

COUNTRY: China

ASSESSMENT DATE: 09/21/20

ASSESSOR: Openview

PRODUCTS: Apparel

NUMBER OF WORKERS: 156

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	2

Findings and Action Plans

FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. There are 123 workers in the factory, and all are eligible for social insurance contributions. The factory provides five types of social insurance, including medical, maternity, work-related injury, unemployment and pension insurances, to all 123 eligible workers. The factory contributes to medical and maternity insurances based on CNY 6,175 (USD 908) per month, which exceeds the legal requirement. However, the contribution base of the other three types of social insurances is not in line with the legal requirement.

a) The factory contributes to work-related injury and unemployment insurances based on the local minimum requirement of CNY 2,100 (USD 309) per month, which is not in line with the legal requirement of the contribution being based on a worker's average monthly wage of the previous year. All workers' average monthly wages of the previous year were higher than the local minimum contribution base, ranging from CNY 3,000 (USD 441) to CNY 6,000 (USD 882).

b) The factory contributes to pension insurance based on CNY 3,803 (USD 559) per month, while 30% of workers' average monthly wages of previous year were higher than CNY 3,803 (USD 559). [C.10.1, ER.22]

2. The factory contributes to the Housing Provident Fund for all 123 eligible workers. However, the factory contributes to the Housing Provident Fund based on local minimum requirement of CNY 2,100 (USD 309) per month, which is not in line with the legal requirement of the contribution being based on a worker's average monthly wage of previous year. All workers' average monthly wages of the previous year were higher than the local minimum contribution base, ranging from CNY 3,000 (USD 441) to CNY 6,000 (USD 882). [ER.22.2]

Local Law or Code Requirement

Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 16. FLA Workplace Code (Compensation Benchmark C.10; Employment Relationship Benchmark ER.22)

Recommendations for Immediate Action

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

2. <!--[endif]-->Contribute to Housing Provident Fund based on worker's average monthly wage of previous year.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. Overtime hours exceed the legal limit of 36 hours per month. Time records for the period from September 2019 to September 18, 2020 and worker interviews indicate that the monthly overtime hours for about 80% of workers exceeded 36 hours in all reviewed months, with a maximum of 76 hours in November 2019. [HOW.1.1]

2. The factory sets the production plan based on 58 hours per week (two overtime hours per day on five workdays and eight overtime hours on Saturday). Factory management sets production targets and production system at a level that workers need to work eighteen overtime hours per week. [ER.24]

Local Law or Code Requirement

The China Labor Law, Article 41. FLA Workplace Code (Employment Relationship Benchmark ER.24; Hours of Work Benchmark HOW.1)

Recommendations for Immediate Action

1. <!--[endif]-->Ensure overtime hours do not exceed legal limit of 36 hours per month.
2. Set production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
3. <!--[endif]-->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.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, FOA.10]

Local Law or Code Requirement

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

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The occupational hazards test report indicates that polishing workers have hazardous exposure to dust and noise of up to 84dB. However, the factory only provides polishing workers with occupational health examinations for dust. In addition, the factory does not provide post-job occupational health examinations to eligible workers. [HSE.1]
2. Since they started operation at the current location in July 2016, the factory has not conducted the pre-assessment of occupational disease hazards, assessment of the effects of occupational disease hazards, or assessment of current conditions of occupational disease hazards. [HSE.4]
3. The factory is renting about 15 square meters of one 50 square meter flat building as the chemical and hazardous waste warehouse. However, the factory does not have a report on the inspection and acceptance of the completed construction project for the warehouse. [HSE.4]

Local Law or Code Requirement

The PRC Law of Prevention and Control of Occupational Diseases, Article 17, Article 18 and Article 35; The Construction Law of the People's Republic of China, Article 61. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1 and HSE.4)

Recommendations for Immediate Action

1. <!--[endif]-->Provide polishing workers with occupational health examinations for dust and noise. Provide post-job occupational health examinations to all eligible workers as per legal requirement.
2. <!--[endif]-->Conduct assessment of the current conditions and effects of occupational disease hazards and obtain the assessment

report.

3. <!--[endif]-->Obtain the report on inspection and acceptance of the completed construction project for the chemical and hazardous waste warehouse as per legal requirement.

FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. Since starting operation at the current location in 2016, the factory has not obtained the Environmental Impact Assessment (EIA) report and approval, Environmental Protection Acceptance Check Report for the completed construction project, or the pollution discharge registration of a fixed pollution source. The factory has four units on the third floor of one 4-story production building. Current environmental related approval and reports are processed under the name of the landlord. [HSE.4]

Local Law or Code Requirement

China Environmental Impact Assessment Law, Article 16; Measures for Administration of Environmental Protection Acceptance Check upon Completion of Construction Project, Article 17; Law of the People's Republic of China on the Prevention and Control of Atmospheric Pollution, Article 19. FLA Workplace Code (Health, Safety and Environment Benchmark HSE.4)

Recommendations for Immediate Action

1. <!--[endif]-->Obtain the Environmental Impact Assessment (EIA) report and approval, Environmental Protection Acceptance Check Report for the completed construction project, and pollution discharge registration of fixed pollution source as per legal requirement.