



COMPANY: Cutter & Buck

COUNTRY: Malaysia

ASSESSMENT DATE: 11/18/15

MONITOR: Donny Triwandhani

PRODUCTS: Apparel

PROCESSES: Full [= full package]

NUMBER OF WORKERS: 3050

NUMBER OF WORKERS INTERVIEWED: 50

ASSESSMENT NUMBER: AA0000001941

FLA Comments

This report was submitted to the FLA and the FLA affiliated company by the assessor. Despite deadline reminders and extensions for submission of a corrective action plan, the FLA has not received a plan to address the risks and noncompliances raised in the report. Therefore, the report is posted in its current state and will be updated once a corrective action plan has been submitted to and reviewed by the FLA. Due to shifts in the fashion landscape, we discontinued this product category and no longer needed the service of this particular supplier. Cutter & Buck represented a fleeting and negligible portion of their overall business. All of the 'Immediate Action Required' findings were remediated very quickly by the supplier.

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Understanding this Assessment Report

This is a report of a workplace assessment conducted by Fair Labor Association assessors following FLA's Sustainable Compliance methodology (SCI), which evaluates a facility's performance in upholding fair labor standards through effective management practices throughout the entire employment life cycle.

This report identifies violations and risks of noncompliance with the Fair Labor Association Workplace Code of Conduct in its assessment of the employment functions, and includes a description of the root causes of violations, recommendations for sustainable and immediate improvement, and the corrective action plan for each risk or violation as submitted by the company. This document is not a static report; rather, it reflects the most recent progress updates on remediation in the "Progress Update" section for each finding.

Glossary

De minimis: A de minimis factory is a factory (1) with which the Company contracts for production for six months or less in any 24-month period; or (2) in which the Company accounts for 10% or less of the annual production of such facility. The FLA Charter states that in no event shall de minimis facilities constitute more than 15% of the total of all facilities of a Company, and the list of facilities designated as de minimis by a Company is subject to the approval of the FLA. Please note that collegiate-producing factories cannot count as de minimis.

Facility performance: how a facility rates in terms of a particular employment or management function, with 100% being the best possible score.

Fair labor standards: the minimum requirement for how workers should be treated in a workplace, as outlined in the [FLA Workplace Code of Conduct](#).

Employment life cycle: all aspects of an employee's relationship with the employer, from date of hire to termination or end of employment.

Code violation: failure to meet standards outlined in the FLA Workplace Code of Conduct in the workplace implementation of employment or management functions.

Employment Functions: The different components of the relationship between management and employees in a factory. An employment function is a process regulating an aspect of the employment relationship, such as the recruitment of workers. All employment functions together constitute the employment relationship between an employer and an employee.

1. Recruitment, Hiring & Personnel Development (e.g., performance reviews)
2. Compensation (e.g., wages, health care)
3. Hours of Work (e.g., overtime, documentation of working hours)
4. Industrial Relations (e.g., collective bargaining agreements)
5. Grievance System (e.g., worker communication with management)
6. Workplace Conduct & Discipline (e.g., discrimination, harassment)
7. Termination & Worker Retrenchment (e.g., downsizing, resignation)
8. Health & Safety (e.g., exposure to chemicals)
9. Environmental Protection (e.g., energy saving)

Management functions: violations or risks related to an employment function could be caused by the absence – or a problem in the operation – of any one of the management functions or in more than one.

1. Policy
2. Procedure
3. Responsibility & Accountability
4. Review Process
5. Training
6. Implementation
7. Communication & Worker Involvement
8. Support & Resources (only for the in-depth level)

Finding: indicators of potential gaps between desired and actual performance of the workplace on different employment functions.

Finding type

- *Immediate action required:* discoveries or findings at the workplace that need immediate action because they not only constitute

an imminent danger, risk the workers' basic rights, threaten their safety and well-being or pose a clear hazard to the environment, but also are clear non-compliances with the FLA Workplace Code of Conduct and local laws. Examples include a finding by the assessor that crucial fire safety elements are not in place or that there is underpayment of wages and/or worker entitlements or that there is direct discharge of waste water, etc.

- *Sustainable improvement required*: findings that require sustainable and systematic actions. The factory will be asked to tackle the underlying root causes and to do so in a long-term and systematic manner to bridge the gap between actual and desired performance. Examples include a finding by the assessor that there is lack of termination policies and procedures in the workplace, lack of grievance system, etc.
- *Notable feature*: indicates a remarkable feature or best practice at a workplace. Examples might include workers' wages and benefits that are significantly above the industry average, or community benefits such as free daycare.

Local law or Code Requirement: applicable regulations and standards in a workplace, which serve as the basis for an assessment, as per local law or FLA Workplace Code of Conduct. When these two do not concur, the stricter of the two standards applies.

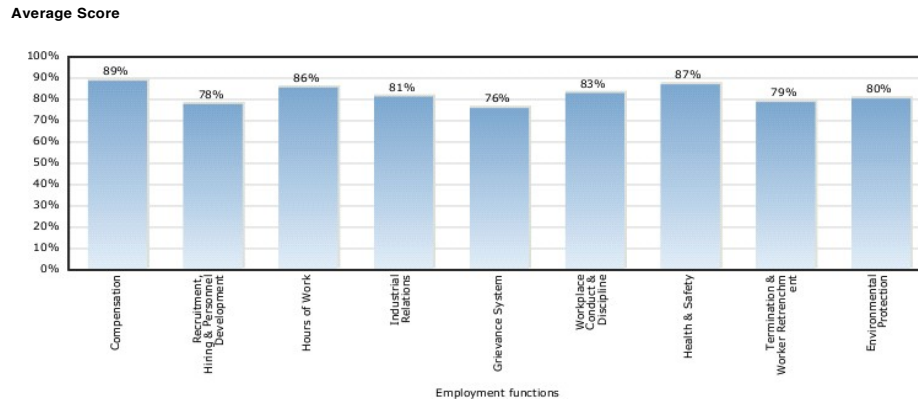
Root causes: a systemic failure within an employment function, resulting in a "finding." Findings are symptoms of underlying problems or "root causes." Consider, for example, the case of workers not wearing hearing protection equipment in a high noise area. The most expedient conclusion might be that the worker did not use the hearing protection equipment because such equipment was not provided by management. However, upon a more thorough evaluation of available information, the assessor might find that the worker was indeed supplied with hearing protection equipment and with written information about the importance of wearing hearing protection, but was not trained on how to use the equipment and that use of the equipment was not enforced in a consistent manner by management.

Company action plan: a detailed set of activities outlined by the sourcing company and/or direct employer to address FLA findings.

Factory Profile

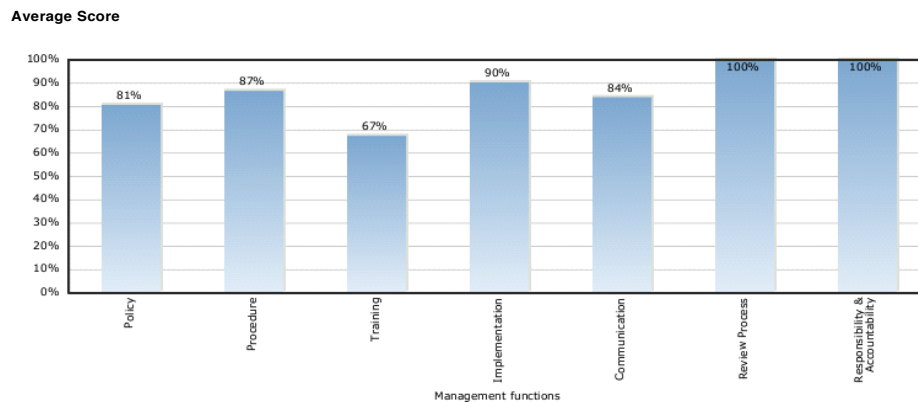
Score by Employment Function

Scores indicate a factory's performance related to a specific employment function based on an FLA assessment. A score of 100 percent indicates flawless operation of an employment function. A score of less than 100 percent indicates need for improvement.



Score by Management Function

Scores indicate a factory's performance related to a specific management function based on an assessment conducted for FLA by independent, accredited assessors. A score of 100 percent indicates flawless operation of a management function. A score of less than 100 percent indicates need for improvement.



Score Summary

Scores indicate the strength of management functions as they relate to different elements of the employment relationship (employment functions). For example (reading left to right), a score of 100 percent in the cell on the top left corner would indicate the existence of appropriate policies related to recruitment, hiring and personnel development.

Management Functions	Recruitment, Hiring & Personnel Development	Compensation	Hours of Work	Industrial Relations	Grievance System	Workplace Conduct & Discipline	Termination & Worker Retrenchment	Health & Safety	Environmental Protection
Policy	40%	66.67%	50%	50%	75%	75%	75%	66.67%	75%
Procedure	85.71%	100%	100%	100%	100%	100%	100%	83.87%	40%
Responsibility & Accountability	100%	100%	100%	100%	100%	100%	100%	100%	100%
Review Process	100%	100%	100%	100%	100%	100%	100%	100%	100%
Training	85.71%	33.33%	100%	0%	33.33%	50%	33.33%	80%	75%
Implementation	79.02%	88%	96%	96.43%	77.78%	100%	100%	90.56%	94.23%
Communication	83.33%	87.5%	100%	50%	75%	83.33%	66.67%	100%	100%

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	Violations
Compensation	3	Workers Awareness and Understanding of Compensation Timely Payment of Wages Calculation Basis for Overtime Payments
Employment Relationship	16	General/Human Resource Management Systems Terms and Conditions/Employment Terms Terms and Conditions/New Employee Orientation Terms and Conditions/Communication Terms and Conditions/Supervisor Training Administration of Compensation/Timing and Completeness General/Documentation and Inspection Administration of Compensation/Wage Advances Industrial Relations Industrial Relations/Right to Organize, Bargain and Participate in Legal Strikes Work Rules and Discipline Skills Development/Management of Performance Reviews Health, Safety, and Environmental Management System/Policies and Procedures Termination and Retrenchment/General Policies and Procedures Recruitment and Hiring/Employment Agency Recruitment Practices Recruitment and Hiring/Employers Agreement with Employment Agencies
Forced Labor	3	Storage for Employee Documents Freedom of Movement/Workers Ability to Terminate Personal Workers Identification and Other Documents
Freedom of Association and Collective Bargaining	1	Facilities for Worker Representatives
Health, Safety and Environment	6	General Compliance Health, Safety, and Environment Material Safety Data Sheets/Workers Access and Awareness Dormitory Facilities Notification and Record Maintenance Evacuation Requirements and Procedure Safety Equipment and First Aid Training
Non-Discrimination	1	Compensation Discrimination

Findings and Action Plans

FINDING NO.1

ENVIRONMENTAL PROTECTION

FINDING TYPE: Sustainable Improvement Required

Finding Explanation

1. The available environmental procedures do not include steps to enable workers to raise environmental concerns. In addition, the environmental procedures do not include any steps to protect workers who allege violations on Health, Safety & Environmental Protection. In addition, the factory's procedure on Environmental Protection is only available in English and not in other migrant workers' languages or the local language.
2. The factory does not provide specific training to supervisors regarding Environmental Protection.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.17.1 and ER.31.2; Health, Safety & Environment Benchmark HSE.1)

FINDING NO.2

HEALTH & SAFETY

FINDING TYPE: Immediate Action Required

Finding Explanation

1. Half of the Material Safety Data Sheets (MSDS) are only in English, and only around 50% of MSDS are in Malaysian language, violating local law requiring that all information required on MSDS is in the national language and English. In addition, the MSDS was not provided in the migrant workers' languages, such as Nepalese, Bangladeshi, Burmese, and Vietnamese language.
2. The liquid and solid waste storage area is not adequately secured and protected since there is no shelter and secondary containers for all waste, including hazardous liquid waste (chemical waste).

Local Law or Code Requirement

Occupational Safety & Health (Classification, Packaging, and Labeling) Regulations (1997), Sec. 9(4): Occupational Safety and Health (Use and Standards of Exposure of Chemicals Hazardous to Health) Regulations (2000), Sec. 9(1) - (2); FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.9.1 and HSE.10.1)

Recommendations for Immediate Action

1. Provide all MSDS in the workers' local language and migrant workers' languages; including Nepalese, Bengali, Burmese, and Vietnamese.
2. Provide secondary containers for all hazardous chemical waste. Ensure that the liquid and solid waste storage areas are secured and protected with a shelter.

FINDING NO.3

HEALTH & SAFETY

FINDING TYPE: Immediate Action Required

Finding Explanation

1. The factory does not have any evacuation plans in the 2 out of 4 selected workers dormitories. In addition, the factory does not mark the assembly meeting point for emergency evacuation in the dormitories.
2. The factory has not installed any emergency lights (illuminated emergency lights that direct into safe evacuation) on the ground floor outside of the waste water treatment and compressors area near the stairway for emergency evacuation leading to the assembly point. In addition, all emergency lights and emergency exit signs were not illuminated in the stairway of one out of four dormitories. Furthermore, there are no emergency lightings installed in the female dormitory buildings of outsourced migrant production workers from Indonesia.
3. There is no system to ensure that all visitors, contractors, and service providers are safely evacuated, such as canteen staff.
4. During factory and dormitory tours, several fire fighting equipments were obstructed: The fire fighting vehicle was blocked by a car in the parking lot in the ground floor near the security guard house. In addition, the hydrant and fire extinguisher were blocked by table and chairs in the male dormitory building. Furthermore, one hydrant was blocked by trolley and goods in the

cutting section.

5. There is only one emergency exit door or stair provided for the 1 block 4-storey female dormitory building violating legal requirements that state that every factory should have no less than two exits for every floor..
6. The factory does not prohibit smoking within 15 meters (~50 ft.) of closed areas; however, workers were observed smoking in the bed room of the dormitory, violating local law that states that no person shall smoke in any room with inflammable substances. Although the factory has no-smoking signs in all closed areas, workers were observed smoking in the bed rooms and dormitory areas, posing a potential fire hazard.
7. During dormitories tour, it was observed that electric cables were loose and extension sockets were not properly installed in the two male dormitories. In addition, the storage of finished goods carton boxes and empty carton boxes were storage too near with electrical lamps (around 20 cm) in temporary finished goods storage area of finishing section which potential for fire hazard.
8. The factory does not have a system to identify pregnant or nursing women at the workplace.
9. The factory holds annual evacuation drills but not all employees participate at the evacuation drills violating local law that states that all workers have to be involved in a routing evacuation drills. The factory has different shifts with workers working night shifts not participating in any annual evacuation drills.

Local Law or Code Requirement

Factories and Machinery (Safety, Health & Welfare) Regulations (1970), Sec. 21(4); Factories and Machinery (Safety, Health & Welfare) Regulations (1970), Sec. 29(h); Factories and Machinery Act (Act 139) 1967, Sec. 10(f); Factories and Machinery (Safety, Health & Welfare) Regulations (1970), Sec. 21(1); Factories and Machinery (Safety, Health & Welfare) Regulations (1970), Sec. 16(2); Factories and Machinery (Fencing of Machinery and Safety) Regulations (1970), Sec. 11; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.5.1, and HSE.25)

Recommendations for Immediate Action

1. Post evacuation maps in all dormitories and mark assembly meeting points.
2. Install functioning emergency lights throughout the factory and dormitories. Establish a system to track the maintenance of emergency lights.
3. Ensure all fire fighting equipments in factory area and dormitories are clear of obstructions.
4. Provide a secondary exit in each dormitory.
5. Implement a non-smoking policy in the bedroom of the dormitory for fire safety. Regularly train and communicate workers on the restriction of smoking in all closed areas.
6. Ensure to secure all electrical installation in the dormitory and all flammable materials are stored away from ignition sources.
7. Ensure that all workers participate in the annual evacuation drills, including workers that perform night shift work.

FINDING NO.4

HEALTH & SAFETY

FINDING TYPE: Immediate Action Required

Finding Explanation

1. Although the factory maintained work-related injury records, not all injuries were recorded by the Environmental, Health & Safety (EHS) team. For example: One cutting worker was injured on October 12, 2015 at around 08:50 AM with the sick certificate valid from October 12 - 15, 2015. However, this incident was not recorded on the summary of work-related injury records.

One metal hand glove worn by a cutting worker in the cutting department is broken (hole at finger side).

Local Law or Code Requirement

Occupational Safety and Health (Control of Industrial Major Accident Hazards) Regulations (1996), Sec 23; Factories and Machinery (Safety, Health & Welfare) Regulations (1970), Sec. 32(f)- (i) - (ii); FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.3.2, and HSE.7)

Recommendations for Immediate Action

1. Establish a system to track the use of Personal Protective Equipment (PPE) and its replacement. Provide workers in the cutting department with new sufficient metal hand gloves.

FINDING NO.5

DENIAL OF ACCESS

FINDING TYPE: Immediate Action Required

Finding Explanation

1. The assessment team was not allowed to access several sections of the factory, including the deeping, washing and pressing sections, covering a total of 49,513 square feet of the ground floor, mezzanine, and 1st floor. These sections were defined as a restricted area by the factory, due to their internal policy on intellectual asset protection of restricted areas. As per statement by the factory management, there were around 482 migrant workers working in the deeping, pressing and washing process in the finishing section. The documentation of relevant workers, employee files, payroll and time records were available for review. However, it was unable to verify the actual working condition in this area.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.2)

Recommendations for Immediate Action

1. Ensure all areas, including Deeping, washing and pressing sections, are accessible for the assessment team to verify the working condition.

FINDING NO.6

TRAINING (MACRO)

FINDING TYPE: Sustainable Improvement Required

Finding Explanation

1. Based on training materials, orientation for new workers does not include an explanation of Industrial Relations & Freedom of Association, and Grievance System.
2. There is no specific training for the relevant supervisors on Compensation, Termination & Retrenchment, Industrial Relations & Freedom of Association, Workplace Conduct & Discipline, and Grievance System.
3. There is no ongoing training to workers to explain the employers' rules, compensation package and policies for human resources, Industrial Relations & Freedom of Association, including the respect of the right to Freedom of Association, Grievance System, and Workplace Conduct & Discipline.
4. The factory does not communicate its Termination & Retrenchment policy and procedures to the general workforce.
5. The factory does not conduct specific workplace safety training to designated employees with special responsibilities. The training is conducted at each production floor covering all Environment, Health & Safety issues with the duration of the training being only about 15 minutes.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.15, ER.17.1, and ER.29)

FINDING NO.7

RECRUITMENT, HIRING & PERSONNEL DEVELOPMENT

FINDING TYPE: Immediate Action Required

Finding Explanation

1. 2163 out of 2588 production workers are migrant workers from Myanmar, Vietnam, Nepal, Indonesia, Bangladesh, Philippines, and Cambodia. In addition, the factory also hired around 108 additional contracted migrant production workers from Nepal, Indonesia, Myanmar, and Bangladesh through five labor agencies. All migrant workers stay at the factory's dormitories. Original passports for about 50% of the migrant workers are kept by the factory with written consent from workers. The migrant workers do not have free and easy access of their passport. Interviews with migrant workers revealed that they feel pressured to give their passports to the factory since everyone is doing it and they are not clearly communicated to about the right to keep their passports. The passports are kept by factory management in the office of the female dormitory, and only compliance staff hold the key of the deposit box. In addition, contract migrant workers are required to provide cash deposit equal to the balance of

levy (tax for Malaysia government) and cost of permit to the labor agency prior to taking their passport for the purpose of going back to their home country for vacation. The cash deposit is returned when the workers come back to work. However, one out of five labor agencies deducted MYR 300 (USD 76.78) from the cash deposit due to their workers taking leave and not working for a month.

2. The factory provided an interest-free loan to migrant workers from Nepal (MYR 4,100, USD 975), Vietnam (MYR 3,000 or USD 713), Myanmar (MYR 2,500 or USD 595) and Indonesia (MYR 2,525 or USD 600), and the loan was then given to their labor agency to cover the recruitment expenses (cost of making passport, medical fees in country of origin, government fee, and agency fees). The wage of migrant workers then is deducted on a bi-weekly basis for MYR 78 (USD 19.96) until the loan has been fully paid. In essence the factory charges the workers for their own recruitment. In addition, no written approval has been obtained from labor department for deduction of loan. The factory has been trying to obtain the legally required written approval for such deduction from labor department since December 2014, and tried to apply again on November 12, 2015 but no approval has been obtained. In addition, the loans exceed three months of salary.
3. Contract migrant workers directly hired and paid by the five labor agencies need to pay a fee of MYR 950 –MYR 1,000 (USD 243 – 256) per year to the labor agency for extension of their work permit after the first contract (lasting 2-3 years). The actual cost of an extension of the work permit is MYR 245 (USD 62/70) (so called Pass Lawatan Khas Sementara PLKS /work permit MYR 60 (USD 15.36), process fee MYR125 (USD 31.99), and Visa MYR 60 (USD 15.36).
4. The factory hired around 108 contract migrant workers from Nepal, Indonesia, Myanmar, and Bangladesh through five labor agencies. However, employment the agreements of contract workers from four of the five labor agencies were not available for review. All employment agreements are kept by the labor agencies. Although all of the concerned migrant workers stated that they have signed the employment agreements and were provided with a copy, the labor agency did not grant assessors access to the relevant documents. Therefore, the assessors were unable to verify the terms of employment, including the wages and benefits promised as written in employment agreements.
5. The extension of employment contract for migrant workers is only in English, instead of the native language of the migrant workers.
6. There is no performance reviews conducted for production workers. Moreover, there is no procedure of performance reviews that includes steps and processes, demonstrates linkages to job grading, prohibits discrimination, provides written feedback, and complies with legal requirements.

Local Law or Code Requirement

Employment Act (1955), Sec. 24(4); FLA Workplace Code (Employment Relationship Benchmarks ER.2, ER.5, ER.6.2, ER.10, ER.11.5, ER.20, and ER.29; Forced Labor Benchmarks F.7, F.9, and F.10; Compensation Benchmark C.17.1)

Recommendations for Immediate Action

1. Ensure all that all migrant workers keep their original passports, or establish a system for migrant workers to keep their passports in a safe place. Ensure that migrant workers can access their passports at all times without any cash deposit requirements. Ensure that migrant workers know about their right to keep their passports at all times. Regularly train and communicate migrant workers regarding their rights on Recruitment, Hiring & Personnel Development. Return the passports to the migrant workers who want to keep their passports to themselves. Revise the factory's policy to include the right to keep the passports for migrant workers.
2. Ensure all costs to recruit migrant workers, including air ticket from worker country of origin to Malaysia, medical fees in country of origin, government fee, and agency fees are paid by employer/factory. Retroactively compensate all migrant workers that paid for any recruitment costs. Establish clear procedures regarding loans to workers. Ensure that the factory's loans never exceed three months of salary, as per FLA benchmarks.
3. Ensure all employment contracts from all workers who work in the factory, including contract workers, are maintained and available for review. Ensure that third party assessors receive access to all personnel files, including documentation kept and maintained by the employment agencies.

FINDING NO.8

COMPENSATION

FINDING TYPE: Immediate Action Required

Finding Explanation

1. The factory uses five labor agencies to hire 108 additional contract migrant production workers. These migrant workers are directly hired and paid by the labor agencies and do not have a direct relationship with the factory. Thus, the factory does not keep their personnel files for these outsourced migrant workers and does not have a system in place to track and ensure the accurate payment of these migrant workers, including accurate time and payroll records. Two of the five labor agencies delayed the payment for the outsourced migrant workers, violating local law that states that payments shall be made no later than the seventh day after the last day of any wage period. One labor agency delayed the payment for 18 days while the other labor agency delayed the payment over 3 days after the regular payday.

2. The factory had an overtime deficiency on outsourced workers recruited by one of the labor agencies: Around 22 outsourced Nepalese workers are hired and directly paid by this labor agency, and they are paid overtime hours at the overtime rate of MYR 5.70 (USD 0.88) per hour instead of the legal overtime rate of MYR 6.49 (USD 1.00) per hour for overtime on regular days. In addition, these Nepalese workers received the overtime rate of MYR 7.60 (USD 1.17) per hour instead of MYR 8.65 (USD 1.63) per hour for overtime done on public holidays.
3. The pay slip of migrant workers who received a loan does not reflect clear details of the loan repayment. Instead the amount deduction of MYR 78 (USD 12.02) per pay period reflected on their pay slip is for wage adjustment instead of loan repayment. Additionally, the factory provides a loan to migrant workers from Nepal to cover the recruitment expenses, such as cost of passport, medical fees in country of origin, governmental fees, and labor agency fees. This loan exceeds three months of salary for the Nepalese migrant workers, posing a risk for bonded labor, for example: the average salary for a Nepalese worker is MYR 1300 per month. Nepalese migrant workers receive a loan of MYR 4,100 (USD 975) to cover the before-mentioned costs. The loan reimbursement deduction is either MYR 78 (USD 19.24) biweekly or MYR 156 (USD 38.48) per month. Thus, the loan reimbursement takes 53 weeks.

Local Law or Code Requirement

Employment (Amendment) Act (2012), Sec. 19; Employment Act (1955), Sec. 60A(3a); Employment Regulations (1957), Sec. 9; FLA Workplace Code (Employment Relationship Benchmarks ER.18 and ER.20; Compensation Benchmarks C.1, C.4, and C.7.1)

Recommendations for Immediate Action

1. Pay the contracted migrant workers directly. If this is not feasible, ensure that all outsourced migrant workers are accurately compensated. Establish a system to monitor and check the proper payment of all migrant workers, including access and overview of time and payroll records.
2. Ensure all workers, including contracted workers, are paid no later than the seventh day after the last day of any wage period, as required by local law.
3. Ensure all contracted workers are paid correct overtime compensation at the legal rate.
4. Ensure that the pay slip for workers to reflect accurate details of loan repayment deduction. Ensure that the loan or advances amount to not exceed three months pay. Establish clear documentation and procedures regarding loans and loan repayment, including proper documentation in payroll records with workers confirming the receipt and accuracy in writing. Regularly train and communicate all migrant workers on the established rules regarding advances and loans.

FINDING NO.9

INDUSTRIAL RELATIONS

FINDING TYPE: Sustainable Improvement Required

Finding Explanation

1. The factory has a union with only local employees being members of the union. In addition, there are worker representatives from each nationality of migrant workers.
2. The factory does not provide an office space for union to properly exercise their function.

Local Law or Code Requirement

1. FLA Workplace Code (Freedom of Association Benchmark FOA.15)

FINDING NO.10

WORKPLACE CONDUCT & DISCIPLINE

FINDING TYPE: Sustainable Improvement Required

Finding Explanation

1. A process for workers to appeal disciplinary actions taken against them is not adequately implemented. In addition, the disciplinary procedures did not include the presence of a third-party witness during application of disciplinary actions.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.16.2 and ER.27.4)

FINDING NO.11

REVIEW PROCESS (MACRO)

FINDING TYPE: Sustainable Improvement Required

Finding Explanation

1. The factory has not developed policies and procedures on review process to ensure updates are made according to local law and FLA Workplace Code requirements. As a result, the factory management does not periodically review its policies and procedures for all Employment Functions, such as Recruitment, Hiring & Personnel Development, Compensation, Workplace Conduct & Discipline, Grievance System, Environmental Protection, Termination & Retrenchment, Industrial Relations & Freedom of Association, and Health & Safety.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.3, ER.25.2; ER 31.2, and ER.32.5)

FINDING NO.12

GRIEVANCE SYSTEM

FINDING TYPE: Sustainable Improvement Required

Finding Explanation

1. Based on the grievance procedure posted on the announcement board revealed that the grievance procedure is only available in English version although there are migrant workers from Bangladesh, Indonesia, Cambodia, Myanmar, Nepal, Philippines and Vietnam. There is no grievance record available for review. The majority of the workers is not aware about the existence of grievance channels and procedures. The factory's posted grievance procedure states that in case of the workers having a grievance then they need to speak to the supervisor; thus, the factory only has one grievance channel through submitting grievances directly to the supervisor. The factory uses translators for any grievances that migrant workers might have. Therefore, the factory does not have a confidential grievance channel since the direct channel with the supervisor is the only existing grievance channel.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.2 and ER.25.3)

FINDING NO.13

WORKER INTEGRATION & COMMUNICATION (MACRO)

FINDING TYPE: Sustainable Improvement Required

Finding Explanation

1. The factory does not communicate its policies and procedures on all Employment Functions to the general workforce.
2. The worker integration component is missing for all Employment Functions. The factory has not established procedures for receiving worker input/feedback on the creation, implementation, and revision of its policies and procedures. Workers are neither systematically integrated nor consulted in the decision-making processes.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.16, ER.25, and ER.30)

RECRUITMENT, HIRING & PERSONNEL DEVELOPMENT**FINDING TYPE: Sustainable Improvement Required****Finding Explanation**

1. According to Malaysian government regulations, migrant workers headed to the country are required to undergo a medical examination before departing their countries of origin, and are to be re-examined within one month of their arrival in Malaysia, including tests for pregnancy as well as tuberculosis, hepatitis B, syphilis, HIV, malaria and leprosy. A private firm, the Foreign Workers Medical Examination Monitoring Agency (FOMEMA), which oversees the administration of the medical examinations under a contract with the Malaysian Ministry of Health, provides a list of physicians from which employers can choose a provider to examine their migrant employees. The examination involves recording of the worker's medical history, physical examination, blood tests, urine tests and X-rays. Subsequently, migrant workers are subject to annual medical examinations for the first three years of employment on an annual basis.
2. If the migrant worker tests positive in the abovementioned tests, including pregnancy, during the first three years of employment, the Immigration Department will not renew their work permit and the factory will be required to send the worker back to the country of origin. If the employer continues to employ the migrant worker, the employer is charged with a penalty of MYR 10,000 (USD 2467) or 6 months of jail term. An employer, who does not report any of these conditions, including pregnancy, of a migrant worker to the authorities, will also have their security bond confiscated, for which the employer pays between MYR 250 (USD 62) and MYR 1500 (USD 370) depending on the nationality of the migrant worker. The security bond is a legally required bank guarantee for the issuance of the visa for the migrant worker.
3. Based on this law, the factory has sent a number of migrant workers, who failed the medical examination, back to their country of origin. While legal, this practice is in violation of FLA Benchmarks stating that employers shall not, on the basis of a person's health or pregnancy status, make any employment decisions that negatively affect the person's employment status. As a general principle, in cases where the local law and the FLA standard conflict, the stricter of the two standards apply. Therefore, the employer, in collaboration with the buyer and other stakeholders, is recommended to lobby the Malaysian government to change the regulations so that work permit is not contingent on the medical examination of the migrant worker.

Local Law or Code Requirement

FLA Workplace Code (Discrimination Benchmarks ND.9 and ND.10)