

RBA Trafficked and Forced Labor – “Definition of Fees” January 2019

(Revised by the RBA Board of Directors on November 1, 2018. This version is effective January 1, 2019)

Definitions:

A **Foreign Migrant Worker** is an individual that [is recruited] and migrates from his or her home country to another country for specific purposes of employment. [Note: Fees guidance in sections I.A, I.B, II and III below all apply]

Professional Employees are those engaged in work that is predominantly intellectual and varied in character as opposed to more routine mental, manual, mechanical, or physical work; such work involves the consistent exercise of discretion and judgment in its performance and is of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time.

Scope:

The RBA recognizes that responsible employment and recruitment, including its associated fees and costs, is critical to the protection of workers and their rights. Workers that are most vulnerable to poor working conditions, abuse and exploitation or, in the worst case, forced labor and human trafficking, require the most protection. Consistent with the VAP methodology focusing on production / hourly workers, the provisions outlined here are henceforth applicable to all workers excluding Professional Employees.

The definition of **Foreign Migrant Worker** is meant to exclude those workers with permanent residency and/or **Professional Employees** on short or long term international assignments.

Overarching Principle:

Workers shall not be required to pay fees for their employment.

Supporting principles:

1. All In Scope Workers should not be required to pay application, recruiting, hiring, placement, or processing fees at any time (i.e. fees in section I.A).
2. All In Scope Workers should not be required to pay any fees once they have been made an offer (i.e. fees in sections I.A, I.B, or III).
 - Exception 1: If worker travels back to their hometown, village or place of residence before departing the home country to start work in the country of destination, they are responsible for those costs.
 - Exception 2: If a worker initiates the application, presenting themselves to the company at the place of employment, they will have paid or will pay some of the fees in section I.B such as passport, visa, residency certificate, transportation and should not expect to be reimbursed as the employer did not seek them out in their country, province, state or region of origin.

3. If a fee is not specifically listed in the Definition of Fees or does not fit any of the categories, Foreign and Migrant workers should not pay anything that a Local worker would not pay.
4. Worker should not expect to be reimbursed for basic items to prepare for the interview such as CV preparation, photos, copies of existing documents and certificates, and incidentals.

Guidance to VAP on Recruitment Fees

- I. Effective January 1, 2016, workers shall not be required to pay fees to obtain or retain their employment. Where the worker is legally required to pay a fee or cost directly, the worker is reimbursed as soon as practicable upon employment, but no later than **90** days after commencement of employment. Documentation of payments should be provided but may not always be required for repayment.

For workers hired prior to January 1, 2016, the maximum amount of fees that a worker can pay is 1 month of gross base wages.

- A. The following recruitment and service fees are not to be paid by any worker including temporary, migrant, student, contract, direct employees, and any other type of worker:

Application, recommendation, recruiting, hiring, placement, and processing fees, of any kind or at any stage, including agent, sub-agent, intermediary, or employer operating, administrative and overhead costs associated with the recruitment, selection, hiring, and placement of those workers.

- B. The following recruitment- and service-related costs are not to be paid by **Foreign Migrant Workers**:

1. Pre-departure fees and costs including but not limited to:

- Skills tests
- Additional Certifications
- Medical exams/screening if required by the employer or law
- Pre-departure training or orientation
- Any other requirements to access the job opportunity

2. Documentation / Permits and associated costs of obtaining such documents and/or permits:

- New passport /identity documents needed for the purposes of obtaining employment, including renewal(s) required for the purposes of retaining employment
- Visas (including renewals)
- Temporary work or residence permits (including renewals)
- Police clearance fee
- Birth Certification fee
- Certificate of good behavior fee

3. Transportation and lodging costs (including all taxes and fees):

- Transportation and lodging costs after the employment offer has been made and accepted, from their home in their sending country to the port of departure
- Transportation from sending country to receiving country port of entry
- Transportation from receiving country port of entry to supplier's facility or provided accommodations
- Border-crossing fees
- Relocation costs if asked to move once employment has begun
- Return transportation to employee's home country at the end of employment

4. Arrival / On-Boarding including but not limited to:
 - New-hire training or orientation
 - Medical exams/screening
5. Other legal requirements including but not limited to:
 - Deposits and/or bonds (including non-legislated)

II. These costs can be paid by worker if noted in their contract and a receipt or record of payment is provided. They must be without markup.

1. Basic expense item to prepare for the interview such as CV copies, photos, copies of existing documents and certificates, incidentals
2. Costs to meet minimum qualifications for the job such as degree or certification
3. Passport replacement cost due to employee loss or fault. For replacing visas/permits this also includes photo(s), providing/photocopying any documents, etc.
4. Dormitory and meals (must be fair market value and meet international health & safety standards)
5. Costs for any legally-allowable levies may be charged but must be deducted in a pro-rata manner. At the end of employment, apart from situations where there is dismissal for gross misconduct, workers shall not be charged any remaining balance due on any levies

III. All other initial and ongoing employment expenses and fees for work-related equipment, tools, and apparel shall be borne by the Employer. If other costs are added by any agent, sub-agent, or intermediary which are not required by law or by the employment site, the worker shall not be required to pay.

IV. Termination and Early Leave:

1. If the worker has provided full notice period per local law – no fees should be charged
2. If the worker has not provided full notice period:
 - Worker can pay at most 60% of 1 month of gross base wages, if there is no legal penalty associated with worker leaving early
 - Worker cannot pay any fees if the worker had to leave without full notice period because of abuse or threat to safety

V. For fees not listed, consult the Principles for guidance.

Matrices

To help in understanding the fees, the following matrices note what fees the worker **MUST NOT** pay and **MAY** pay. The matrices are divided according to the worker's situation and stage in the recruiting and hiring process. For fees not listed, consult the Principles for guidance.

- Stage in the Process: Down the first column are the three stage in hiring: before a job offer has been made and accepted; after a job offer has been made and accepted and once the job has begun.
- Worker's Situation: Some workers may choose to present themselves at the facility ready to work and may therefore have incurred costs that may not be reimbursed (e.g., documentation, transportation). This situation is represented in the second column. The third column represents the situation where the recruiting is initiated by the company.

Matrix 1: Fees the worker **MUST NOT** pay depending upon the worker's situation and stage in the recruiting and hiring process. Workers never pay I.A fees, deposits, or bonds. Items in **bold** are the differences between the two worker situations>

| Worker MUST NOT pay fees noted (detailed above) in these | Initiated by Worker where the Facility is located (whether or not a National of the country) | Foreign Migrant Workers or Nationals recruited by the Company |
|---|---|--|
| Before a job offer has been made and accepted | <ul style="list-style-type: none"> • Fees noted in section I.A (non- legislated fees) • Skills tests, additional Certifications, Medical exams/screening | <ul style="list-style-type: none"> • Fees noted in section I.A (non- legislated fees) • Skills tests, additional Certifications, Medical exams/screening |
| After a job offer has been made and accepted | <ul style="list-style-type: none"> • Any other Skills tests, Certifications, Medical exams/screening • Pre-departure training or orientation • Transportation and Lodging Costs and fees IF worker is asked to move to another location • Other Legal Requirements | <ul style="list-style-type: none"> • Any other Skills tests, Certifications, Medical exams/screening • Pre-departure training or orientation • Documentation (incl. Passport, visa) / permits / fees and associated costs, including renewals to retain employment • Transportation and Lodging Costs and fees from home to facility and to return home at end of employment • Other Legal Requirements |
| Once job has begun | <ul style="list-style-type: none"> • Arrival and Onboarding • Other Legal Requirements • Ongoing Agent administrative fee • Relocation costs if asked to move | <ul style="list-style-type: none"> • Arrival and Onboarding • Other Legal Requirements • Ongoing Agent administrative fee • Relocation costs if asked to move |

Matrix 2: Fees the worker MAY pay depending upon the worker’s situation and stage in the recruiting and hiring process. The employer/facility may choose to pay these fees. Items in **bold** are the differences between the two worker situations>

| Worker MAY pay fees noted (detailed above) in these situations... | Initiated by Worker where the Facility is located (whether or not a National of the country) | Foreign Migrant Workers or Nationals recruited by the Company |
|---|--|--|
| Before a job offer has been made and accepted | <ul style="list-style-type: none"> • Basic items to prepare for the interview, such as CV copies, photos, copies of existing documents and certificates, incidentals • Costs to qualify for the job • Transportation and Lodging Costs • Initial Passport /visas /residency permits | <ul style="list-style-type: none"> • Basic items to prepare for the interview, such as CV copies, photos, copies of existing documents and certificates • Costs to qualify for the job • Transportation and Lodging Costs |
| After a job offer has been made and accepted | <ul style="list-style-type: none"> • Passport replacement due to employee loss/fault, including visas, permits • Transportation and Lodging Costs unless the worker is asked to move to another location | <ul style="list-style-type: none"> • Passport replacement due to employee loss/fault, including visas, permits |
| Once job has begun | <ul style="list-style-type: none"> • Dormitory/meals if disclosed in contract, fair market value, and meet RBA H&S standards | <ul style="list-style-type: none"> • Dormitory/meals if disclosed in contract, fair market value, and meet RBA H&S standards |

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