



Responsible Business Alliance

Advancing Sustainability Globally

PRACTICAL GUIDE

TO DUE DILIGENCE ON RECRUITMENT FEES IN INTERNATIONAL SUPPLY CHAINS

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EXECUTIVE SUMMARY

While there are many drivers of forced labor, the payment of recruitment fees by workers to obtain work is one of the most widespread factors that can contribute to situations of forced labor. In many countries and industries it is common for workers, especially migrant workers, to be charged fees or to incur other costs to obtain and retain employment, and to return home after employment has concluded. It is increasingly understood that workers may have to borrow money to pay these recruitment fees and costs, taking on debts that leave them vulnerable to exploitation and unable to leave their jobs until the debt is repaid, contributing to situations of forced labor. This awareness has meant that the issue of payment of recruitment fees has become an increasingly important topic for international companies, both in relation to their own workforces and to workers employed in their supply chains. There are growing customer, regulatory and other stakeholder expectations on companies to implement practices in their operations and supply chains that contribute to the elimination of such fees. Equally, it is increasingly recognized by companies and employers that tolerating working conditions that could lead to forced labor can have material negative business impacts.

The Responsible Business Alliance (RBA) is a nonprofit comprised of multi-industry companies committed to supporting the rights and well-being of workers and communities worldwide affected by global supply chains. In order to accelerate change and harmonize due diligence across multiple industries that share recruitment supply chains and drive labor market transformation through collective action, the RBA launched its multi-industry, multi-stakeholder Responsible Labor Initiative (RLI) in 2017. As part of its Code of Conduct, the RBA has a clear position that workers should not pay employers' or labor agents' recruitment fees and any such fees, if found to have been paid by workers, should be reimbursed to the workers as soon as practicable.

This Guide provides practical advice on how this element of the Code of Conduct should and could be implemented. It builds on in-house RBA guidance, the experience of RBA and RLI members, guidance and learning from international agencies, advocates for migrant workers, and guidance from other leading initiatives. It includes examples of emerging industry good practices, tools and guidance to help companies operationalize and promote a "no-fees" recruitment policy for the benefit of workers.

This Guide covers the following core processes, which are aligned with the framework provided by the Organisation for Economic Co-operation and Development (OECD) Due Diligence Guidance for Responsible Business Conduct.

Disclaimer:

This report should be taken only as a source of information and analysis. It is not given, and should not be taken, as legal advice and the provider of the information will not be held liable for any direct or consequential loss arising from reliance on the information contained herein.

<p>EMBED RESPONSIBLE BUSINESS CONDUCT INTO POLICIES & MANAGEMENT SYSTEMS</p> <p>Embedding “No-fees” requirements</p>	<p>Companies should adopt a clear policy on non-payment of recruitment fees by workers that can be communicated internally and to all business partners recruiting and employing workers. Policies may be included within existing codes of conduct or can be developed on a stand-alone basis. They should set out the scope of application (e.g., all owned operations as well as suppliers and agencies they use) and clearly define the fees and costs that are unacceptable. The RBA offers a “Definition of Fees” document for this purpose.</p> <p>Policies should be endorsed and communicated by senior executives.</p> <p>The key procedures to implement the policy should be set out, as well as the lines of responsibility and the consequences of non-compliance.</p> <p>It is important to move from using policy to react to situations where workers have paid recruitment fees to one in which companies are developing proactive and preventive strategies that enable no-fees recruitment.</p>
<p>IDENTIFY & ASSESS ADVERSE IMPACTS IN OPERATIONS, SUPPLY CHAINS & BUSINESS RELATIONSHIPS</p> <p>Identifying the risks</p>	<p>The next stage in the due diligence process is to identify where migrants are being hired in supply chains, how they have been recruited and the costs they are likely to have incurred. The key steps are:</p> <ul style="list-style-type: none"> • Mapping operations and supply chains to understand where migrant workers are located; • Understanding worker and recruitment journeys from their homes to workplaces; • Identifying particular red flags that indicate higher risks for migrant workers; • Learning about risks in specific migration corridors and the typical fees that apply; and • Prioritizing higher-risk geographies, suppliers and recruiters for further on-the-ground action. <p>The RBA has developed specific tools that can assist in mapping labor supply chains and in identifying potential recruitment fees. These include the RBA’s Online Risk Assessment Tool and the RBA Migration Corridor Database.</p>
<p>IDENTIFY & ASSESS ADVERSE IMPACTS IN OPERATIONS, SUPPLY CHAINS & BUSINESS RELATIONSHIPS</p> <p>Monitoring and auditing</p>	<p>Based on the initial risk assessment, companies can target workplace, labor and recruitment agent assessments where the risks of workers paying recruitment fees are highest. These assessments may take the form of standard RBA audits, but a more specialized assessment may be necessary to validate risks of recruitment fees, given workers’ fear of retaliation during audit interviews.</p> <p>The RBA has a specialized supplemental audit protocol focused on the risks of forced labor, called the Supplemental Validated Audit Process (SVAP) on Forced Labor.</p> <p>Constant monitoring of migrant workers’ situation and concerns through surveys, worker voice helplines, SMS, social media or off-cycle worker interviews can be effective in developing a continuous picture of recruitment fees, and other general worker issues.</p>
<p>PROVIDE FOR OR COOPERATE IN REMEDIATION WHEN APPROPRIATE</p> <p>Remediation and repayment</p>	<p>Elimination of fee charging and exploitative actors from the recruitment process is the ultimate aim, but where a worker is found to have paid recruitment fees and/or other related costs, RBA policy is clear. The worker must be reimbursed as soon as practicable but no later than 90 days after commencement of employment.</p> <p>The RBA Validated Assessment Program (VAP) has guidance on timescales for repayment depending on the severity of the situation. In more complex cases, a tailored repayment plan may need to be developed.</p> <p>Some key considerations include:</p> <ul style="list-style-type: none"> • Estimating how much workers have paid when there is no documentary evidence; • Allocating responsibility for repayment; • Developing a repayment plan that follows the timeframe prescribed by the RBA’s Code of Conduct and Definition of Fees; and • Communicating the repayment plan to all eligible workers and contacting any who may have left employment.

CEASE, PREVENT OR MITIGATE ADVERSE IMPACTS

Moving to no-fees recruitment: Engaging with suppliers

Suppliers may be hesitant to change their recruitment model for one or two customers, but experience among RBA members shows that they are prepared to make reasonable changes to align with no-fees requirements if they understand why changes are necessary and what they need to do to comply. There should be consistent communication about a no-fees policy with suppliers by all company staff who engage with them, and messages should be reinforced by senior board directors and commercial teams, not simply the compliance or human resource (HR) teams.

Engagement with suppliers should include making the case for no-fees recruitment so they understand the commercial and policy reasons for the change. Such arguments can include:

- Regulatory trends in favor of no-fees recruitment – and therefore the benefits of anticipating change;
- Potential civil or criminal liabilities for companies found to be associated with situations of forced labor;
- Customer and consumer demand for no-fees recruitment – and therefore staying ahead of customer requirements;
- Positive experiences within a company’s own direct operations of moving to a no-fees model as a way of showing that it is a practical way forward;
- Commercial or operational benefits from moving to a no-fees model such as higher worker retention; and
- Reputational damage that can arise from negative media and/or civil society communications.

Explain migrant workers’ journeys, their level of indebtedness and the vulnerability this creates, as suppliers simply may not be aware of the severity of the problem and its effect on workers’ livelihoods. Furthermore, supplier engagement should involve:

- Including clear and binding contractual clauses that set out real consequences of non-compliance;
- Monitoring suppliers and recruitment agencies in the company’s supply chain for compliance;
- Supporting suppliers with implementation, including with their own supply chain, through training, advice, and assisting them in undertaking root-cause analysis and sharing information on fees and migration journeys; and
- Ensuring employers do not seek to shift the cost of recruitment back onto workers through wage reductions, forced savings, etc.

CEASE, PREVENT OR MITIGATE ADVERSE IMPACTS

Moving to no-fees recruitment: Engaging with recruiters and other stakeholders

Implementing a no-fees policy also involves engaging with intermediaries in the entire recruitment chain including labor agents, recruitment agencies and sub-agents. Engagement with these intermediaries involves:

- Demonstrating there is a demand for recruitment services that are not based on workers paying fees;
- Recognizing that labor agents need to be compensated for the services they provide to the employer;
- Demonstrating that labor and recruitment agents can add value to their business by providing professional recruitment services;
- Establishing clear and formal contracts with labor agents covering the services they will provide, the fees they will charge the employer, their obligation to ensure that fees are not charged by their sub-agents, and their liability to repay any fees charged to workers they provide; and
- Involving them in training and collaborative opportunities.

In addition, there are opportunities for engagement and partnership with industry and sectoral bodies (such as the RBA), multi-stakeholder initiatives (such as the RLI), international organizations and civil society. Such partnerships can build shared knowledge and increase leverage as well as assist in advocacy with governments to improve the regulatory environment.

<p>TRACK IMPLEMENTATION & RESULTS</p> <p>Tracking progress</p>	<p>When measures have been implemented to deliver remediation and to enhance prevention with suppliers, recruiters and other stakeholders, the next step is to track the progress of these actions.</p> <p>This includes:</p> <ul style="list-style-type: none"> • Monitoring changes in recruitment practices to ensure that the risk of future fee payments is minimized; • Verifying that repayments have been completed in accordance with repayment plans; and • Conducting ongoing monitoring to make sure that any additional costs of recruitment incurred by employers are not being passed on to workers.
<p>COMMUNICATE HOW IMPACTS ARE ADDRESSED</p> <p>Reporting and transparency</p>	<p>It is important to communicate relevant due diligence and performance information externally. This will usually include policies adopted, responsibility for implementation, a description of risk-assessment processes, the main risks identified, the key actions taken, including the aggregated results of assessments, and details of any collaborative programs.</p> <p>Some key issues to consider include:</p> <ul style="list-style-type: none"> • Identifying and mapping the modern slavery reporting regulations with which companies need to comply; • Understanding the requirements of these reporting regulations and the types of information that companies must disclose; • Looking at other due diligence reporting beyond legal compliance that companies should consider in order to meet the expectations of other stakeholders; • Considering examples of current reporting practice, together with other tools and guidance that companies can access; and • Identifying Key Performance Indicators (KPIs) against which companies should be reporting.

A full, detailed version of the Practical Guide to Due Diligence on Recruitment Fees in International Supply Chains is available to RBA and RLI members [here on the Member Service Portal](#).