



# RBA Validated Assessment Program (VAP) Operations Manual Revision 7.0.0 – January 2021

Organizations working with and in the Responsible Business Alliance (RBA) [www.responsiblebusiness.org](http://www.responsiblebusiness.org) are working to improve sustainability and social responsibility within the global supply chain.

These companies recognize a mutual responsibility to ensure working conditions are safe, workers are treated with respect and dignity, and that manufacturing practices are environmentally responsible. The Validated Assessment Program (VAP) is a collaborative approach to auditing to reduce the burden on supply chain companies from multiple requests for social audits. The VAP meets the need for a high quality, consistent and cost-effective standard industry assessment for labor, ethics, health, safety environmental, and management systems practices based on the RBA code of conduct, laws, and regulations.

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## APPENDIX 12 WORKING HOURS / DAYS OFF GUIDANCE

### 1. RBA CODE PROVISION:

**Working Hours:** Studies of business practices clearly link worker strain to reduced productivity, increased turnover and increased injury and illness. Working hours are not to exceed the maximum set by local law. Further, a workweek should not be more than 60 hours per week, including overtime, except in emergency or unusual situations. Workers shall be allowed at least one day off every seven days.

### 2. DEFINITIONS

#### 2.1. Emergency or unusual situations

Situations that are unpredictable events that require overtime in excess of legal or RBA limits. Such events cannot be planned for or foreseen. Examples of such situations include:

- Equipment breakdown, power failure or other emergency resulting in prolonged shutdown of a production line.
- Unforeseen raw material or component shortages or quality issues that shut down production. Excessive overtime is then needed in both situations to recoup lost production time and meet customer commitments.

In all of these cases evidence of FEWER hours worked before a period of excessive production in Emergency or Unusual Situation is present and documented. The site has a documented plan to recover from the emergency situation and bring working hours back into conformance. During the implementation period of the documented recovery plan the site will be deemed in conformance.

Situations that are NOT “emergency” or “unusual” include:

- Holidays, peak season production demands and new product ramps. These are predictable and proper planning can minimize overtime requirements.
- Contract change orders that significantly increase order volumes or shorten delivery timelines. This should be negotiated in good faith between the client the location and should never exceed the capacity of the location at a rate of 60 hours per week or the legal maximum work hour requirement for the location.

## 2.2. Working Hours or Hours of Work

Refers to the period of time that an individual spends performing paid occupational labor. This means the actual hours of paid “work” by an employee.

What is included in Working Hours is defined in national labor law. Some countries define break time as paid working time, some countries do not. National labor legislation should be checked to clarify the definition of what is included in Working Hours. It is possible that short breaks before and after meals are defined as paid and therefore are working time while lunch or dinner may not.

If what is included in Working Hours is not defined in the national labor legislation then RBA accepts that breaks where workers are free (to have lunch/dinner, refreshment, rest, ....) and do not involve company-imposed activities such as training, admin duties... are non-working time.

## 2.3. Overtime Hours

Paid work hours that are in addition to the standard number of work hours per day or week specified by local or country law

Some laws define overtime as any time beyond the standard number of work hours per day, while others consider overtime to be only the number of work hours that exceed the standard number of work hours per week. Workers must be paid at a rate defined by local law.

## 2.4. Time Off

Days on which workers are not required to work

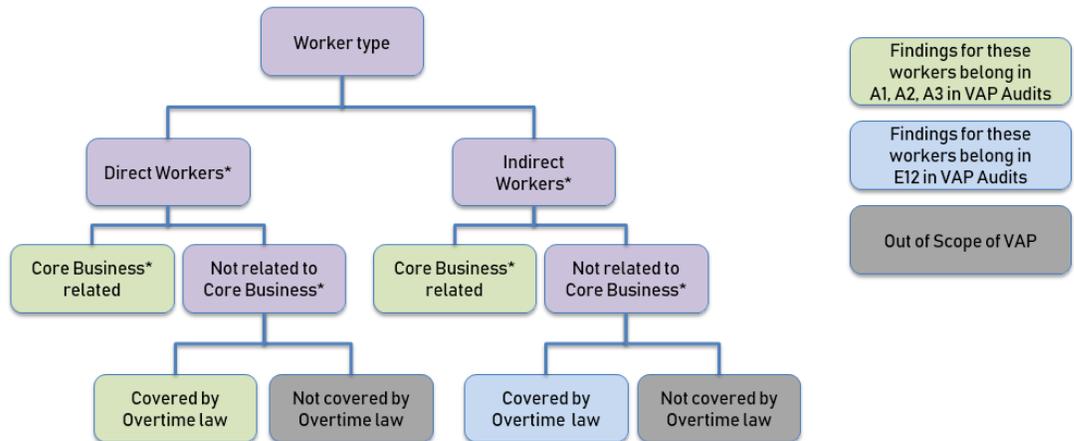
Local or country law typically requires at least one scheduled day off every seven days, as does the RBA Code. Country and local law also stipulate the number of legal holidays to which workers are entitled.

Depending on local law or company policy if company policy grants more than the legal required minimum, workers may also be entitled to time off for sickness, vacation, maternity/paternity, family emergencies and other specific situations. Time off may be paid or unpaid, depending on the type of time off, local law and company policy.

Workers (for the scope of working hours and pay –overtime pay)

Direct or indirect worker dedicated to the production of a good or delivery of a service

- Any worker subject to an hourly increase or decrease due to volume production
- Any worker covered by local laws governing overtime



\* - As defined in RBA VAP Operations Manual v6.0.1 Feb 2019

### 3. EXAMPLES OF ACTUAL OR POTENTIAL NONCONFORMANCE

#### 3.1. Working Hours:

- Total hours worked exceed local or national standards, or 60 hours per week, whichever is stricter.
- Excessive working hours due to inconsistency or manipulation of documents related to working hours

#### 3.2. Overtime Policies:

- Women or juvenile workers work night shift or overtime when it is prohibited by the applicable labor laws.
- Workers are not informed of overtime in advance.
- Workers receive fines, penalties or retribution for refusing overtime. For example, refusal to work overtime results in no future offers of overtime.
- Negative incentives for employees to work overtime

#### 3.3. Rest Days/Breaks:

- Workers do not have at least scheduled day off in every 7 days
- Workers work on the scheduled day off
- Amount of rest period given during a workday or during shifts does not comply with local law
- Company policy states that workers have Sundays (or seventh day) off but time records reflect that some workers work all seven days.
- Vacation or personal leave is not allowed in compliance with national laws and regulations.
- Workers are not given legally required holidays.

#### 3.4. Recordkeeping:

- A facility does not have a mechanism for employees to control their time records nor are the records available for workers to review.
- Works hours listed on employee pay slips do not match company payroll/timekeeping records.
- Maintaining multiple time-keeping systems and/or false records for any deliberately misleading reason, such as to falsely demonstrate working hours.
- Time records and payroll records are incomplete, inaccurate or manipulated.
- Attendance system cannot retrieve time records or accurate working hours cannot be verified within the system

#### 4. EVALUATION OF CONFORMANCE:

Auditors will use the following guidance and examples to help determine facility conformance with the Audit criteria.

In evaluating conformance, Auditors must consider both the number/percentage of workers that exceed the Audit criteria or legal requirements as well as the degree or severity of the Nonconformance.

##### 4.1. One Day Off per Week

- Workers must receive one day off every seven days. In practice, this means that workers can work a maximum of 6 consecutive days and
- Consideration must be given to both how many workers are not receiving one day off every seven days and whether this is an infrequent or routine occurrence.

- The definition of a “day” is no less than 24 consecutive hours. The standard tool measures calendar days. If there are 7 consecutive days of work, the burden of proof shifts to the auditee to demonstrate through evidence via documents and worker interviews that the workers had 24 hours of rest in those 7 days.

Specific thresholds are described in section 6 below.

## 4.2. Working Hours

Working hours must be analyzed over a period of the previous 12 months for at least the number of workers records equal to the square root of the total population or 20 workers, whichever is larger. In this 12-month period, one peak season month, one low season month and one normal production month need to be analyzed in detail.

Include in your evaluation any time spend on work-related activities, such as meetings, trainings and work area cleaning that are performed outside of normal working hours. This is considered overtime and must be included in total working hours for the purpose of determining conformance with the Audit criteria. Information about such unpaid overtime situations is typically obtained via worker interviews.

All unusual or exceptional circumstances (as defined in section1) should be removed from the working hour calculation.

Working hours should be calculated per section (department, unit, ....) and for the total facility.

The determination of conformance with the RBA working hours limit is done by calculating weekly working hours. Therefore, for the months reviewed (peak, low and average), calculate the hours worked for each week in each month. This will result in a minimum of 12 weekly working hours calculations for each of the workers selected for review.

For determining conformance with legal requirements for overtime, calculate total overtime for each worker for each of the three months selected, either by the week or by the month, depending on how the legal requirement is defined.

Determination of conformance is based on both the extent and severity of the situation. That is, both the number and percentage of workers who exceed the limit and the degree of the exceedance. The reason for this is the need for a reasonable degree of statistical significance. Specific Nonconformance thresholds are described in Section 6.

## 5. FINDINGS RATINGS

Work Hours/Week	% of Sample Work Weeks (Total or Specific Area or Function or Nationality)				
	≤1%**	>1% to ≤5%	>5% to ≤15%	>15% to ≤40%	>40%
>84 hours/week	<b>Priority</b>				
>72 hours/week to ≤84 hours/week	Conformance	Minor	Major	Priority	Priority
>60 hours/week to ≤72 hours/week	Conformance	Opportunity for Improvement	Minor	Major	Priority
>Local law* to ≤60 hours/week	Conformance	Opportunity for Improvement	Minor***	Minor***	Major
<Local law* AND ≤60 hours/week	Conformance				

## 5.1. working hours

\* Local law is stricter than 60 hours/week

\*\* No tolerance allowed if working hours are >84hours/week

\*\*\* Legal non-conformance is rated a major non-conformance except if working hours if below 60h/week but above local law for  $\leq 40\%$

- RBA Code requires that companies comply with local law or Code whichever is more stringent. If you have a valid and current government waiver (e.g. Comprehensive Work Hour System in China which allows shifting of overtime limits) this waiver is considered “local law.” Regardless of the waiver, the 60 hours/week limit is in place.
- This matrix is consolidated average of an average, a peak and a low month
- The workweek is defined by the facility work schedule / calendar, not per calendar week / month.
- Working Hours are reviewed in 4 ways:
  - Average of sample
  - Within sample, average by job codes
  - Within sample, average by work area
  - Any workers under the age of 18 must be studied separately. If found to be working in excess of the stricter of law or 60 hours per week is a Priority Non-Conformance unless required for their qualification/certification under A2.4.

## 5.2. Days off

Consecutive Days	% of Sampled Workers (Total or Specific Area, Function or Nationality)			
	≤1%**	>1% to ≤5% of sampled workers	>5% to ≤40%	>40%
≥24 Consecutive Days	Priority			
>12 to <24 Consecutive Days	Minor	Minor	Major	Priority
>6* to ≤12 Consecutive Days	Conformance	Minor	Minor	Major
≤6* Consecutive Days	Conformance			

\* Or legal requirement if stricter than 6 consecutive days

\*\* No tolerance allowed if ≥24 consecutive days

- **Not Applicable:** Not applicable
- This matrix is consolidated average of an average, a peak and a low month
- Days of Rest are reviewed in 4 ways:
  - Average of sample
  - Within sample, average by job codes
  - Within sample, average by work area
  - Any workers under the age of 18 must be studied separately. If found to be working in excess of the stricter of law or 60 hours per week is a Priority Non-Conformance unless required for their qualification/certification under A2.4.

## 6. CORRECTIVE ACTION PLAN FOR WORKING HOURS

Work Hours/Week	% of Sample Work Weeks (Total or Specific Area or Function or Nationality)				
	≤1%**	>1% to ≤5%	>5% to ≤15%	>15% to ≤40%	>40%
>84 hours/week	Priority				
To move a conformance level	↓	↓	↓	↓	↓
>72 hours/week to ≤84 hours/week	Conformance	Minor	Major	Priority	Priority
To move a conformance level	↙↓	↙↓	↙↓	↙↓	↙↓
>60 hours/week to ≤72 hours/week	Conformance	Opportunity for Improvement	Minor	Major	Priority
To move a conformance level		↙↖	↙↓	↙↓	↙↓
>Local law* to ≤60 hours/week	Conformance	Opportunity for Improvement	Minor	Minor	Major
To move a conformance level		↙↖	↙↓	↙↓	↙↓
<Local law* AND ≤60 hours/week	Conformance				

\* Local law is stricter than 60 hours/week

- If the audit reported:
  - Work hours > 84 hours, a priority non-conformance (the top box of the rating table), an auditee has up to 1 week from discovery to submit a CAP and 90 days from the date of the finding to move all workers below 84hrs per week.
  - Work hours < 84 hours, an auditee has up to 2 weeks from receipt of final VAR to submit a CAP in the form of a Comprehensive Plan.
  - Due to the challenges and complexity of a working hours non-conformance, a detailed plan is expected to contain milestones or check points every 90 days.
- An auditee may have up to 90 days to improve from one non-conformance level to another. A conformance level is either a ROW or a COLUMN in matrix above:
  - Move down a row in the table, lowering the working hours of ALL workers;
  - Moving left across the table, lowering the percent of workers impacted; or
  - Moving down and left across the table to lower the working hours of all workers and the portion of workers impacted.
- Status must be given to the APM/Company APM who is managing the CAP at least every 90 days and show the improvement noted above or is ready to discuss the roadblocks or challenges.
- For a 90-day priority audit, the trend since the last audit must be reviewed and the one month immediately preceding the priority audit is sampled at 3 times the normal sample size (3 times the square root of in-scope workers or 60 workers whichever is larger). For a 180-day priority audit, the trend since the last audit must be reviewed and the 3 months immediately preceding the priority audit are checked with the normal sample size (square root of in-scope workers or 20 workers whichever is larger).