

RBA Validated Audit Program (VAP) Operations Manual

Revision 6.0.0– January 2018

Organizations working with and in the Responsible Business Alliance (RBA) 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 Audit 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 and environmental practices based on the RBA code of conduct, laws, and regulations.

For more information about the Validated Audit Program (VAP), please contact:

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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

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

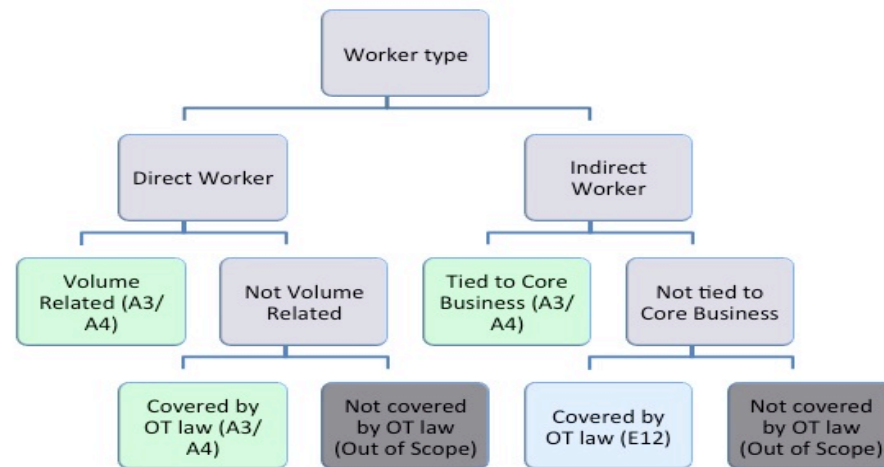
Local or country law typically requires at least one scheduled day off every seven days, as does the RBA Code. Country and local law also stipulate the number of legal holidays to which workers are entitled.

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.

2.5. 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



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 work day 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 fraudulent 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. AUDITOR GUIDANCE

The purpose of the Audit is to:

- Measure and compare worker standard and overtime hours against the local legal requirements and the RBA Audit criteria
- Evaluate facility management's understanding of the legal and RBA requirements for working hours
- Verify the validity of any government-issued waivers (such as Comprehensive Working Hours System), and
- Ensure that working hours are accurately recorded and that there is no records falsification

4.1. Management Interviews:

Interviews with management are necessary to understand how the facility manages working hours in the facility. However, management interviews alone do not provide sufficient information or objectivity to conclude that the facility conforms to the RBA working hours.

- Ask management how they manage working hours to conform to the RBA limit of 60 hours per week and any applicable legal limits.
- Ask management to explain their timekeeping system, including how work hours are recorded and communicated to workers.
- Ask management if workers can freely decline overtime work, and under what circumstances.
- Ask managers how they inform workers of required overtime; how they recruit voluntary overtime work; and if there are any penalties for refusing overtime.
- Ask management about how they plan production/working hours
- Ask management what they do when worker's hours approach the maximum overtime
- Ask management what they do if worker's hours exceed maximum overtime.
- Ask management where do they track customer requests for upside work, work during peak times and how do they analyze and respond to that
- Ask management how back pay is reimbursed when OT is wrongly calculated, is back pay paid in accordance with the law (time limit)

4.2. Gathering information from workers:

The main purpose of gathering information from workers is to verify information provided by management, including ensuring that working hours are not excessive, overtime in the facility is voluntary and paid appropriately.

1.2.1 Suggested worker interview questions:

- Has management made you aware of the facility policies and procedures and the legal requirements for normal working hours, overtime and days off?
- How is your attendance at work recorded?
- How are your working hours being recorded? Who does the recording?
- How do you review these hours to assure that they are accurate? If you believe that your hours are inaccurate, what are you supposed to do? Have you ever followed these steps? What happened?
- Do you have to punch more than one time card? If so, why?
- Do you ever work when your timecard is not recorded? What happens during that time? How do you receive compensation or payment for that time? How do you feel about this practice?
- What breaks are you supposed to be given and for how long is each? (Morning - first part of work time; lunch - mid-work time; afternoon/evening - later part of work time)
- How often do you get these breaks and how long do you normally take?
- Are you asked to attend any work-related meetings or trainings for which you are not paid?
- What days of the week are you scheduled to work?
- What days of the week do you usually work?
- What times do you start and stop work on a regular workday?
- What times do you start and stop work on an extra workday?
- What are your usual overtime hours? Are they recorded accurately on your pay slip?
- What are your peak months and what overtime do you work during these peak months?
- Under what circumstances is the overtime work considered optional? Under what conditions is it considered mandatory?
- How do you feel about working the overtime that you do? What are the reasons that you have for working overtime?
- Do you think you work too many hours or would you like to work more?
- What will happen if you do not work the overtime? How would this be different if the overtime was considered optional versus mandatory?
- How many extra days in a week or a month do you usually have to work? Please explain why you have to work these extra hours.

4.3. Record Review:

RBA uses the RBA Data Collection template to ensure consistent and comprehensive analysis of working hours at the Auditee. The completion of the working hours template is the responsibility of the Auditee for the workers selected by the Auditor.

The RBA Working Hour template is always submitted with the Validated Audit report (VAR)

Failure to complete the data collection template by the Auditee or to present working hours data for the selected workers by the Auditor will result in a “major” nonconformance.

Prior to reviewing or analyzing records, Auditors must:

- Determine type and frequency of payroll activities. Note: if cash payments are made to workers, increase the interview sample size significantly to validate payments.
- Determine if time clocks are locked and if employees punch cards. Compare # and names of employees working to those on time cards. Is all necessary information on timecards?
- Compare and evaluate information on time cards, payroll sheets, computer records (if any), pay stubs, piecework tickets or records and any other sources of payroll activity or journal entries. Is all appropriate information on stubs and other documents? This also applies to information generated by individual stations on unit production systems.
- Are all required documents indicating workers status current, complete, on-file and available?

1.3.1 Recommended Auditor Record review activities:

- Review records for all employees who have been selected for individual interviews. The remaining records to be reviewed per the sample size described in Section 8.6 of this Manual.
- The sample of workers to be interviewed and therefore the records to be reviewed should be from different work stations and employee levels within the facility
- Review, for selected employees, the wage records in conjunction with time card and pay records for selected period to determine conformance (minimum, peak, low and average month –could be extended to determine conformance with local law). The records and documents reviewed should include at least one: 1) high production month (peak season), 2) low production month (low season) and 3) average production month. For a 90 day or 180-day Priority audit, the trend since the last audit must be reviewed.
- Summarize and record the details for all records analyzed in order to ascertain the standard work week, overtime hours and holiday/weekend work

- Focus on operators, for the purpose of wage and working hours review. This definition excludes managers and supervisors, but includes production personnel and service workers
- Record details of the standard workweek and overtime practices in the Audit report, including the differences between normal and peak seasons.
- Verify alignment of information from worker interviews, worker pay slips and payroll records.
- If there are any Non-conformances, further analysis may be performed to ascertain the full situation
- Carry out the hours of work review in conjunction with the wage and benefit review
- Where overtime hours exceed national law, but are within any waivers obtained, it is particularly important to review a full 12-month cycle
- Ensure breaks, holidays and rest periods are in accordance with local law and RBA requirements

Auditors can look at the following documents to verify working hours. Auditors can adapt and/or expand the list depending on the production facility and other local conditions.

- Facility policy related to working hours, rest & breaks, overtime
- Work schedule
- Public holiday notices
- Attendance records
- Monthly overtime summary report
- Timecard, Payroll, Pay-slip, Bonus structures & policies
- Production plan and customer order records
- Output reports, QC reports (or daily productivity records)
- Overtime request from Production and overtime approval forms
- Overtime refusal records
- Accident reports & records
- Maintenance reports & records
- Disciplinary records
- Suggestion/ complaint letters

4.4. Site Observation

Site observation of the facility, including production areas, clinic rooms, dormitories, canteens and cafeterias (if applicable), provides another basis for Auditors to make informed judgments about compliance relating to working hours. Also, a visual inspection can confirm compliance with requirements for informing workers about the working hours, overtime schedules and the like:

- Closely examine practices in the facility work area. Are there cases where workers who are ostensibly being paid on an hourly basis, counting pieces or collecting tickets? Are there tickets or tick sheets at employee workstations?
- Are time-keeping devices (e.g., time clocks) being correctly used?
- Are people punching out and then returning to work?
- When surveillance is required, observation of facility entrances or docks just before or just after working hours will sometimes reveal homework arriving or departing and may possibly reveal people engaging in cash transactions. Returning unexpectedly to a time clock shortly after closing time may reveal employees working off the clock.
- If the employees have to submit the approved leave application to Security upon leaving during working hours
- If the employees have to record the timing for toilet or leave the production line

5. 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.

5.1. 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.

Specific thresholds are described in section 6 below.

5.2. Working Hours

Working hours must be analyzed over a period of the previous 12 months for at least the number of worker records equal to the square root of the total population. 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.

6. FINDINGS RATINGS

6.1. 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				
>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				

* 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 ≤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) these 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.

6.2. 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.

7. 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 AQM/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). 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).