

Managing Ethical Recruitment from East Africa to the Gulf States

Due Diligence and Monitoring of Sending Country
Recruitment Procedures in Complex Labor
Markets

July 2021

Acknowledgements

This guide was made possible through the generous support of the United States Department of State's Bureau of Democracy Human Rights and Labor (USDOS-DRL). The opinions expressed herein are those of the authors and do not necessarily reflect the views of the United States Department of State. The guide was written by Sarah Lince, who serves as Project Director, and Evie Simkins, the Project Analyst. Lawrence David assisted with design and layout of the guide. Interviews conducted by Equidem Research and Consulting with Kenyan and Ugandan migrant workers in 2017 to 2019 also contributed to the guide. Erin Klett provided oversight of the project. Lastly, and most importantly, Verité would like to thank the migrant workers and community members in Kenya and Uganda who contributed their valuable time, experiences, and perspectives for the development of this guide.



Verité® is a non-profit organization that provides the knowledge and tools to eliminate the most serious labor and human rights abuses in global supply chains.

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Glossary of Terms

Employer – For the purposes of this guide, an individual or company employing foreign migrant workers sourced from East Africa for jobs in Gulf Cooperation Council countries

Ethical Recruitment – A process for hiring workers lawfully, and in a fair and transparent manner that respects their dignity and human rights.

Forced Labor – All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself/herself voluntarily.¹

Foreign Migrant Worker – A person who migrates to another country for employment, usually on a fixed-term contract and with intentions to return to their original country (sending country) after completion of foreign employment.

The Gulf, or GCC Countries – For the purposes of this guide, Gulf Cooperation Council member countries.

Human Trafficking, Trafficking for Labor Exploitation – Trafficking in persons is defined by the [Palermo Protocol](#) as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

Labor Agency – Any company established as a business which provides recruitment services.

Labor Intermediary – Any contractor, vendor, or other entity providing services for the procurement of workers in a company’s labor supply chain.

Receiving Country – The country where workers will be employed; the country to which a foreign migrant worker travels to fulfil an employment contract.

Sending Country – The country from which workers are sourced to fill a vacancy; the country of origin of a foreign migrant worker.

Sub-agent – An informal, private labor agent that provides labor recruitment services, such as initial pooling of candidates for a labor agency in the sending country.

Worker – A person who currently works in or is being recruited to work in a non-managerial position for a company; may be a foreign migrant worker.

Introduction

The Need for Ethical Recruitment Solutions

Companies operating in Gulf countries are faced with a dilemma. Many employers are highly reliant on foreign workers to meet their labor needs, but commonly used models for foreign recruitment place these workers at heightened risk of labor and human rights abuse and employers at ensuing risk of facing adverse business consequences. In the worst-case scenarios, abuses against workers resemble human trafficking for forced labor. Employers are implicated in such exploitation, even when root causes of worker exploitation lie with private recruiters in workers' country of origin. The traditional, "hands-off" model for recruiting foreign labor through private labor agencies creates or contributes to these risks, but employers may be unaware of those risks or see the model as the only way to source labor while maintaining a successful business.

This guidance has been developed for companies operating in Gulf countries not only to illustrate the risks of old models for foreign recruitment, but to demonstrate that better, more ethical models exist. With a clear understanding of the risks posed by cross-border recruitment, companies can design effective mitigation strategies. Rather than relying on private labor agencies lacking in oversight, employers can use strategies and techniques in this guidance to **cover the costs of recruitment, vet labor agencies**, set expectations in **thorough service agreements**, and **monitor agency activities**, as well as **carry out recruitment activities directly** in some situations. As this guidance shows, companies can transform their management system for sourcing foreign labor to **uphold principles of ethical recruitment**. By shifting to an ethical recruitment model, employers will assure themselves and business partners that they are hiring foreign workers lawfully, and in a fair and transparent manner that respects workers' dignity and human rights.

Companies that uphold workers' rights and protect them from exploitation will not only be protected from the adverse consequences of being implicated in human rights abuses; ultimately, they will enjoy a competitive advantage in obtaining and sustaining desirable business contracts as instituting migrant worker protections becomes a standard business practice.

Benefits of Adopting an Ethical Recruitment Model

Opportunities for business, investment, and market access

Companies with strong programs to combat human trafficking and forced labor can attract new clients, strengthen business relationships, and enjoy better access to investments, international markets, and business partners.

Reputational benefits

Action against trafficking enhances companies' brand value and reputation among potential clients and other influential stakeholders, such as investors, for sustained legal compliance and leadership on the issue.

Understanding The Regional Focus of the Guidance

This guidance has been developed with support from the U.S. Department of State's Bureau of Democracy Human Rights and Labor as part of Verité's advocacy work to promote ethical recruitment business models and improve labor and human rights conditions among workers migrating from East African countries to the Gulf.

East Africa is emerging as an increasing source of labor for Gulf employers. Private security, hospitality, commercial cleaning, and other service industries in the Gulf are increasingly looking to East Africa – and especially to Kenya and Uganda – to fill vacancies. In 2016, for example, between 100,000 and 300,000 Kenyan migrants were estimated to work in GCC countries, a number that was expected to grow with the region's continued high demand for foreign labor.

This upward trend in East African labor migration to the Gulf has the potential to benefit both the sending and host country economies. However, this recruitment takes place in the context of emerging regulatory regimes and a dearth of private sector capacity to detect or halt unscrupulous recruitment activities. Although regulatory improvements to mitigate risks of forced labor and trafficking are underway in East Africa and the Gulf, companies cannot rely on governments cooperating across jurisdictions to act as the sole arbiters of ethical recruitment.

Who is This Guidance For?

The guidance is primarily targeted at companies in a variety of sectors, particularly those operating in Gulf Cooperation Council (GCC) countries, that are seeking to ensure fairer and more humane working conditions for foreign migrant workers. This guidance is especially targeted at companies that employ foreign migrant workers from East African countries, recognizing that these countries are emerging sources of migrant labor and are therefore less studied or reported on in existing literature.

This guidance presumes that companies which understand the enormity of the work behind this goal are motivated and committed to investing the necessary time and resources. Some companies may have just started to recognize the need for change and have a basic understanding of the principles behind laws and customer standards for protecting foreign migrant workers. These companies have a strong foundation of problem-solving skills that have allowed them to address business needs, but which they may not have applied to identifying and addressing human rights issues linked to labor procurement.

This guidance is for companies with an interest in learning more about industry labor standards and practices. This guidance may also be used by companies which are in the process of rolling out labor standards and codes of conduct focused on foreign migrant worker protections to their suppliers in Gulf countries. These tools can be incorporated into supplier monitoring processes, or adopted to supplier capacity building programs.

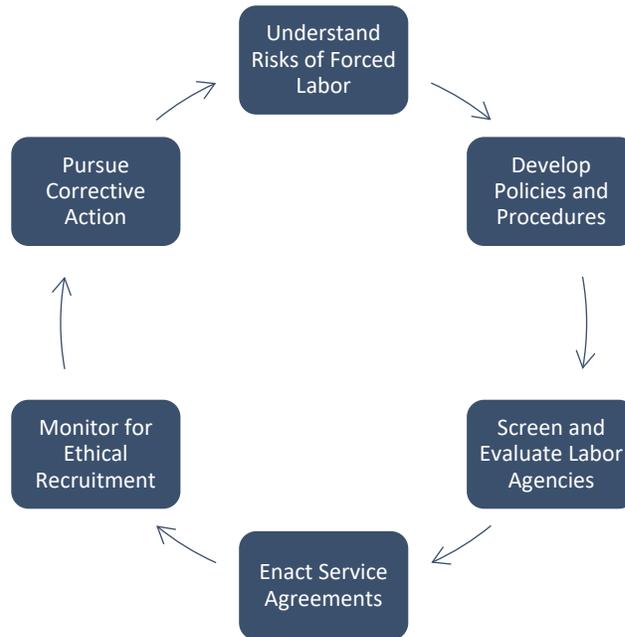
What is in this Guidance?

The guidance offers a case study approach based on established ethical recruitment guidance including Verité’s Responsible Sourcing Tool (RST), which has been expanded upon using extensive desk and field research of employers, labor agencies, and workers in East Africa and the Gulf. This guidance has also been benchmarked to the ILO’s General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs.² Readers will find evidence-based tips, techniques, and practical steps, as well as **guidance for benchmarking** designed to help companies determine whether they are meeting important, core labor standards, such as the employer pays principle. There are **case studies and explanatory descriptions** that introduce readers to recurring forms of labor exploitation likely to arise during cross-border recruitment if not actively prevented, as well as the ways in which laws and customer standards respond to these risks. The guidance also directs readers to **resources** which provide in-depth discussions on related topics. Lastly, the guidance offers **recommendations** in the form of **basic steps, tips, and best practices** in ensuring that customer and legal labor standards are met.

The guidance explores how to apply ethical recruitment principles in the following sections:

1. **Risks of Forced Labor in Recruitment** of Foreign Workers
2. **Developing Policies and Procedures** for Ethical Recruitment
3. **Screening and Evaluating** Sending Country Labor Agencies
4. **Enacting Service Agreements** with Labor Agencies to Promote Ethical Recruitment
5. **Monitoring** for Ethical Recruitment
6. **Pursuing Corrective Action** for No Fees Violations

Figure 1: Ethical Recruitment Cycle



Risks of Forced Labor in Recruitment of Foreign Workers

The following sections explore:

- Why adopt an ethical recruitment model?
- What factors increase risks of forced labor in labor supply chains?
- How do risks typically occur during recruitment in the sending country?

Why adopt an ethical recruitment model?

Why should employers adopt an ethical recruitment model? Why is doing so crucial in areas where many foreign migrants are employed, such as the Gulf? The following case study, while fictional, is based on stakeholder consultations and interviews, and demonstrates the real risks posed to companies operating in GCC countries or elsewhere which lack a rigorous management system for labor agency oversight.

Scenario A: The Employer Uses an Outdated Recruitment Model

The Recruitment Process

PRIME-X, a private security company in Qatar, needs to hire more labor to fulfill a contract with a brand-name hotel in Doha. PRIME-X decides to hire workers from Kenya. The company has not hired from Kenya before, so PRIME-X contracts with a local labor supplier, Qatar Labor Supply, to source security guards from Kenya to fill the new job vacancies for the contract with the hotel. It entrusts Qatar Labor Supply with managing all recruitment activities for the company.

After PRIME-X obtains government approval to recruit workers from Kenya, it sends the required documentation to Qatar Labor Supply to initiate recruitment. Qatar Labor Supply then contracts with a Kenyan labor agency, known as Kenya Employment Agency, to pool, screen, and prepare candidates for deployment. The selected Kenyan private security guards are deployed to PRIME-X within a few weeks.

Monitoring Reveals Serious Labor Violations Suffered by New Hires

Several months later, PRIME-X receives troubling news from its hotel client: Kenyan security guards interviewed during a social audit are trapped in debt taken on to pay recruitment fees and are possible victims of forced labor. Among other issues, the guards had taken out loans in Kenya to pay fees to Kenya Employment Agency totaling QAR 6,000 (about USD 1,650). The indebted guards feared losing their jobs and being deported with no way to repay the debt, and were not in a position to refuse overtime, resign, or complain about other abuses. The guards reported that Kenya Employment Agency had pressured them to accept the job without full knowledge of the job terms and conditions and misled them by asserting that their monthly salary would be higher than what they received.

Consequences for the Security Company

The hotel company informs PRIME-X that based on the audit findings, PRIME-X has violated the hotel company's code of conduct, which PRIME-X had agreed to follow. The Code requires the client and its suppliers to prevent risks of forced labor as defined by the ILO, including by ensuring that workers do not pay fees for the job.¹ PRIME-X is required to reimburse the workers for the fees they paid or risk losing its contract with the client.

¹ Many companies use the ILO definition of recruitment fees for their Code of Conduct. See ILO general principles and operational guidelines for fair recruitment and the definition of recruitment fees and related costs: www.ilo.org/global/topics/labour-migration/publications/WCMS_536755/lang--en/index.htm

Unmonitored or under-managed recruitment of foreign workers harms companies as an indirect result of the human rights abuses suffered by workers during or following the recruitment process. In Scenario A, the “hands-off” approach used by Prime-X to manage the recruitment process resulted in conditions that meet the definition of forced labor as defined by the ILO: workers **did not enter the job voluntarily** and **faced a menace of penalty** for resigning.³

Indicators of Forced Labor from Scenario A

<i>Indicators of involuntary work:</i>	<i>Indicators of menace of penalty:</i>
<ul style="list-style-type: none"> • Workers received incomplete or inaccurate information on their terms and conditions of employment. • Workers were deceived about their wages and working conditions. 	<ul style="list-style-type: none"> • Workers could not refuse overtime or terminate the contract because they needed to pay back debts they took on during recruitment.

As shown in the case study, taking a “hands-off” approach to recruitment by delegating responsibilities to third-party labor agencies with little oversight can easily lead to serious legal and business risks for companies.

Risks for the Company from Scenario A

<p><i>Contractual risk</i></p> <ul style="list-style-type: none"> • The company has jeopardized a lucrative contract with a client.
<p><i>Reputational risk</i></p> <ul style="list-style-type: none"> • The client may not recommend the security company as a good supplier. • If news of probable debt bondage in the company’s operations reaches a wider audience, this will cause even more widespread reputational damage.
<p><i>Business risk</i></p> <ul style="list-style-type: none"> • The company is faced with the expense and logistical challenge of reimbursing workers for fees that they should not have paid in the first place.
<p><i>Legal Risk</i></p>

- Recruitment practices may violate laws in the sending or receiving country. Qatari law, for example, prohibits charging workers for recruitment.⁴

Such negative consequences are increasingly likely in the evolving legislative, business, and trade climate. There are legal considerations for businesses operating in Gulf countries. For example, laws in Qatar, UAE, and Saudi Arabia **prohibit charging recruitment fees** to foreign workers.

Legal frameworks are also shaping business environments. Many companies in the Gulf supply goods or services to multinational corporations or foreign governments that require compliance with increasingly stringent laws requiring supply chain and labor recruitment due diligence. Examples include:

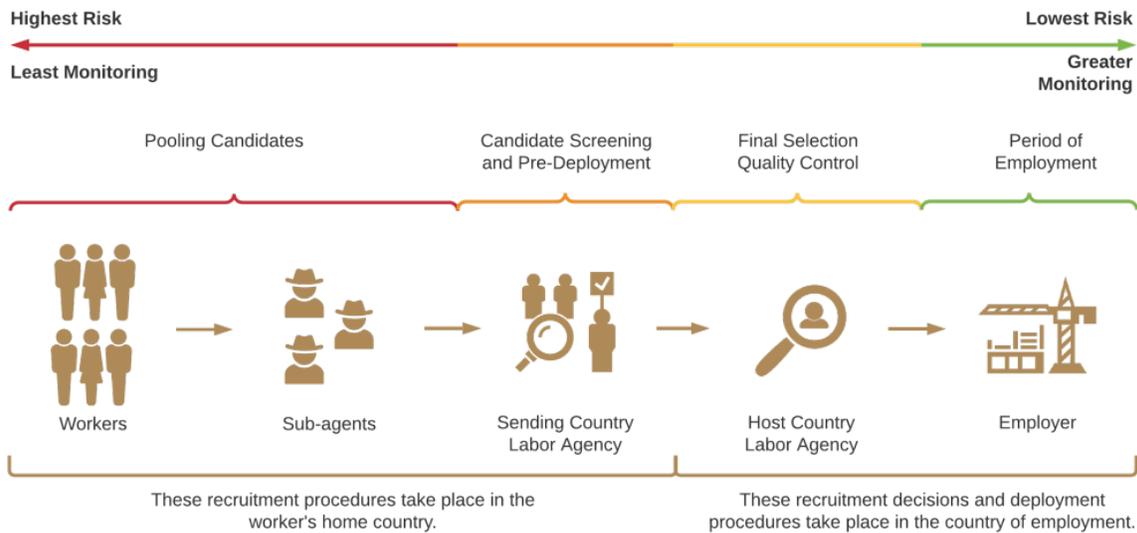
- California Transparency in Supply Chains Act 2010
- UK Modern Slavery Act 2015
- French Duty of Vigilance Law 2017
- Australia Modern Slavery Act 2018
- U.S. Federal Acquisition Regulation: Combatting Trafficking in Persons, 2018

These prohibitions on forced labor tend to be followed by specific standards on preventing forced labor in the brands' supply chains, as well as on how to address identified risks and cases of forced labor. For example, by 2020, 86 percent of the world's largest food and beverage companies had publicly committed to addressing forced labor in their supply chains.⁵ Members of the private security industry group known as the International Code of Conduct Association (ICOCA) have committed to a set of principles which requires companies to provide personnel with clear, accurate contracts and communicate protections afforded by labor laws, among other requirements designed to uphold human rights.⁶

What factors increase risks of forced labor in labor supply chains?

The guidance provided shows that employers can hire foreign workers while also mitigating risks if they commit to ethical recruitment practices. For labor supply chains such as East Africa to Gulf countries, it is recommended to focus ethical recruitment efforts on the area of the labor supply chain where risks to workers (and therefore to companies) is highest. Companies typically focus recruitment process management and monitoring on the links of the labor supply chain which are **closest** to the employer facility or company. However, the highest risks occur in the links of the labor supply chain which are **farthest** from the employer facility, i.e., the recruitment operations which take place in the worker's country of origin (the sending country).

Figure 2: Typical Distribution of Monitoring Efforts*



*This model shows use of a high number of labor recruitment intermediaries, which Verité research and expert interviews have indicated is typical in East Africa – the Gulf recruitment. Not all employers will use a labor supplier in the host country. Some employers will utilize in-house capacity to recruit directly, bypassing use of host or sending country third-party intermediaries.

Recognizing that serious risks of human trafficking for forced labor are likely present in the lower tiers of the labor supply chain, in the sending country, employers should increase monitoring and oversight of recruitment and deployment activities. In East Africa and other regions where foreign recruitment takes place via private labor agencies and independent brokers, employers can mitigate risks by increasing oversight of these actors through **due diligence** during pre-screening of labor agencies, carefully constructed **service agreements**, and **regular monitoring** of their activities. Some employers may find that the most desirable strategy for increasing oversight of recruitment is to take direct responsibility for some or many recruitment activities.

There are many benefits to hiring foreign workers, but cross-border recruitment is a complex undertaking and proper execution of management or monitoring can seem out of reach for a company. Even spanning multiple countries and involving numerous intermediaries or labor agencies, employers can recruit and hire foreign workers while controlling for exposure to business and legal risks in the process. Understanding the conditions and factors which drive risk for companies and workers is the first step to developing an appropriate recruitment management and monitoring approach.

Cross-border labor recruitment conditions that contribute to risks for employers and workers include two factors prevalent in East Africa to the Gulf labor markets, as well as in many other labor markets around the world:

- High reliance on labor intermediaries
- Obscured visibility into worker recruitment

High Reliance on Labor Intermediaries

Industries that rely on labor agencies or other third-party intermediaries to recruit, hire, or manage their workforce are at increased risk of having forced labor in their supply chains. Labor agencies can provide valuable recruitment services; however, in contexts such as East Africa and the Gulf where gaps in regulation and inadequate monitoring practices persist, the exploitation and abuse of workers by agents is widespread. Such exploitative and abusive practices include deceptive and coercive recruitment, as well as charging workers steep fees when recruitment activities are unmonitored and not fully paid for by the employer.

The following is an example of a recruitment process in which labor agencies are used. This same general process can be followed whether recruitment takes place in East Africa, India, or another sending country.

Obscured visibility into worker recruitment

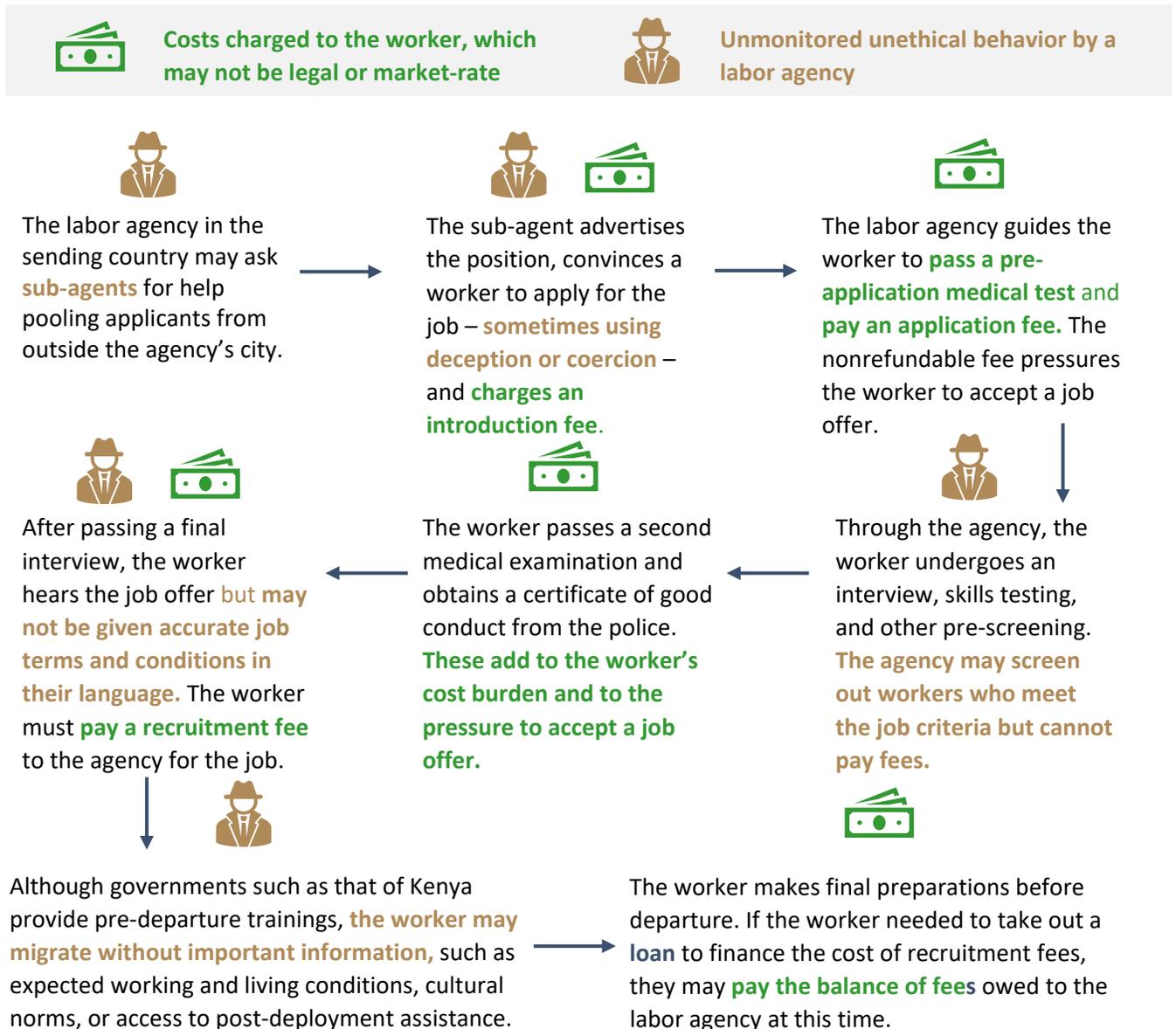
This guidance emphasizes that serious risks of forced labor occur during the recruitment process, but what do these risks look like? Companies that understand the specific legal, ethical, and human rights risks that may be present in the recruitment process can more effectively respond to and mitigate those risks. The following summaries provide insight into the labor recruitment process and the specific risks that foreign workers and employers may encounter at each stage.

Cross-border recruitment is necessarily a complex process, often requiring cooperation between multiple private labor agencies, government agencies, and private service providers such as training centers and medical clinics. As companies are well aware, however, complex business processes can still be controlled and well-managed when there is greater understanding of high-risk activities or procedures.

How do risks typically occur during recruitment in the sending country?

The following example of typical recruitment of low-wage workers from East Africa to a Gulf country maps the risks employers will need to be aware of in order to improve ethical recruitment performance where both high reliance on intermediary labor agencies and obscured visibility of sending country recruitment activities are key conditions in the labor supply chain.

Figure 5: Typical Risks to Workers and Companies During Recruitment Procedures in the Sending Country





Sub-agents

In East African countries like Kenya and Uganda, carrying out foreign recruitment activities without a government-issued license is illegal,⁷ yet many labor agencies and informal sub-agents operate without a license or other government oversight. Sub-agents are especially likely to operate illegally and without government or private sector monitoring. In East Africa, sub-agents tend to be paid by workers and/or labor agencies at a rate of about USD 100 – 200 per worker pooled. The incentive is to provide a quantity of applicants to the labor agency for screening, rather than to provide quality applicants. In other words, applicants are often selected based on their ability to pay an “introduction fee” to the sub-agent.

Sub-agents not only expose employers to the risk of indirectly funding unlawful activities; they also raise the likelihood that workers will be exploited during recruitment. East African sub-agents have coerced workers to accept jobs without complete information and have added to workers’ fee burdens.



Recruitment-related Fees and Expenses

Similar to practices reported in other migration corridors, workers migrating from East Africa to the Gulf for work often pay steep recruitment fees to private labor recruiters in addition to migration-related expenses. In Kenya, for example, workers pay labor agent fees ranging from USD 450 to as much as USD 3,300. At the least, this is a burdensome expense that exceeds one month net wages (the Kenyan legal limit on recruitment fees); at worst, workers are incurring debt which amounts to 16 times the minimum monthly wage in Qatar.⁸

Payment of such fees by workers raises serious concerns, including risks of:

Illegal practices: The amounts charged often exceed legal limits and – in the case of unlicensed agents – charging a fee at all may be illegal. In Kenya, workers can legally only be charged a recruitment fee equivalent to one-month net wages.⁹

Fees can be inflated if the sending country agency is not compensated for its services. The Gulf-based labor agency may attend shortlisting and candidate interviews in person. According to Verité stakeholder interviews, the East African agent may be required under the terms of their agreement to cover travel and accommodation costs. These costs are then passed to the worker in the form of fees charged by the sending country agency. This scenario is common and indicates mismanagement or poor monitoring of service agreements by the employer.

Coercion: Workers are commonly required to pay fees early in the application process, such as sub-agent introduction fees and labor agency application fees. These fees can place undue pressure on workers to continue pursuing a foreign employment opportunity and earn back the money invested by quickly accepting a job offer.

Debt bondage: Many workers take out loans to pay for the cost of recruitment, which places them at high risk of becoming trapped in debt bondage, a form of forced labor.



Deceptive and Coercive Job Offers

In many cases, East African workers are not provided a comprehensive employment agreement until they have arrived in the Gulf country of employment, making declining an undesirable contract more challenging than if the worker had reviewed the terms and conditions of the job in the sending country. In the sending country, however, workers must rely on information provided by the sub-agent or labor agency. Strong incentives to earn fees and commissions can result in these actors overstating the desirability of the job and pressuring workers to accept a job offer. Verité's research indicated that wage deception is the most common form of deception reported by East African workers in the Gulf, with many workers reporting that they were promised a wage 50 percent higher than the wage they were ultimately paid.

When workers are prevented from making an informed decision on whether to accept a foreign employment offer, this raises risks for both the worker and the employer. The worker may be under- or overqualified for the role and therefore not a good fit, affecting the worker's job performance and length of tenure. Wage deception can significantly exacerbate or prolong workers' vulnerability to debt bondage.

Developing Policies and Procedures for Ethical Recruitment

The following sections explore:

- What standards make up an ethical recruitment model?
- Developing a No Fees Policy Commitment
- Developing Procedures on Clear, Deception-free Recruitment

What standards make up an ethical recruitment model?

A comprehensive approach to ethical recruitment encompasses the commitment to developing procedures to support the following conditions:

- ✓ Workers are **fully prepared for** and **freely choose** the job.
- ✓ Workers are **not deceived** during the recruitment process.
- ✓ Workers are **not charged fees** in exchange for their jobs.

Given the business risks at stake in managing and monitoring recruitment of foreign workers, companies should additionally review their policies against those of their customers. Many multinational corporations already prohibit practices that raise the risk of forced labor in their supply chains.

Developing a No Fees Policy Commitment

Why should companies pay for the costs of recruiting foreign workers?

Any company that employs foreign contract workers should formally commit to paying for the full cost of workers' recruitment. These policies are known as *No Fees* policies and *Employer Pays* policies. This guidance includes an overview of a No Fees policy. See the Further Resources section for additional information about materials such as Verité's **Responsible Sourcing Tool** and Verité's **Fair Hiring Toolkit**.

Prevent Contractual Risks – Improve Compliance with Customer Requirements

Leading global brands in a variety of industries are increasingly requiring that their contractors adhere to No Fees policies in all operations. In 2020, 73 percent of the world's largest ICT companies had a policy prohibiting worker-paid recruitment fees in their supply chains. Among these policies, 86 percent clearly stated that the employer is responsible for payment of recruitment fees.¹⁰

Prevent Legal Risks – Improve Compliance with Legal Requirements

Companies' policies on fees should also reflect local law. In countries such as Qatar, Saudi Arabia, and the UAE, it is illegal for employers and labor agencies to charge any amount to workers as recruitment fees. Qatari and UAE law specify that all recruitment fees and related costs are the legal responsibility of the employer.¹¹

Example Legal Requirements on Recruitment Fees

Example Recruitment Fee Item	Who is legally required to pay?	
	Qatar	UAE
Recruitment fees, including service fees payable to a labor agency	Employer	Employer
Transport at the beginning and end of the contract	Employer ¹²	Employer ¹³
Transport for annual home leave, if specified in the contract	Employer or Worker ¹⁴	Employer or Worker ¹⁵
Legal costs, such as a work visa and sponsorship costs	Employer	Employer
Identity cards and/or work permits	Employer ¹⁶	Employer ¹⁷

Prevent Forced Labor Risks – Improve Business Reputation and Operations

Whether or not they are required to do so, companies should commit to paying the full cost of their workers’ recruitment. When the costs of recruitment are passed on to workers, not only do workers spend weeks, months, or even years paying off the ensuing debt – creating the risk that the employer is using forced labor – the employer has also gained an improper benefit by externalizing the costs of recruitment, which extends indirectly to the employer’s clients.

To prevent debt bondage in their operations and to stay competitive in a business environment that increasingly values human rights, companies will benefit from revisiting their model for recruitment to ensure that they cover the actual cost of recruitment and mitigate a key source of forced labor risk.

What fees should be covered under a No Fees policy?

As stated in established guidance such as the Responsible Sourcing Tool, a No Fees policy should be shaped to meet the following benchmarks:

- ✓ **The company has a written policy** declaring that workers shall not pay any amount to secure a job with the company or with a supplier or subcontractor.
- ✓ **The employer covers all recruitment and processing fees, costs, and expenses**, including those associated with securing identity cards, medical certificates and examinations, skills testing, skills training, travel from the worker’s home to the location of employment, and return travel and other repatriation costs upon completion of the employment contract.

Fees and Expenses Payable by the Employer Under a No Fees Policy¹⁸

Recruitment fees, meaning one-time or recurring payments for recruitment services offered by an individual or company, include any application, recommendation, reservation, commitment, or placement fees in the sending and receiving country. This includes commissions, referral fees, and expenses paid to sub-agents.

Medical costs, including medical examinations and testing. Most candidates in East Africa are required to take two sets of medical tests: one prior to the job interview, and a second directly prior to deployment to the Gulf country.

Insurance costs, including enrollment in a migrant welfare fund (although this is not currently a requirement of the Kenyan government).

Costs for training and orientation, including a pre-departure briefing and post-arrival orientation. In Kenya, workers are charged an additional fee to attend a pre-departure training provided through government-accredited training institutes.

Equipment costs, including the cost of uniforms.

Travel and lodging costs, such as airfare, as well as costs incurred by workers staying in temporary lodging prior to a flight to the receiving country. This includes travel at the beginning and end of the contract.

Administrative costs, which for East African workers often include fees for obtaining identity documents (such as a birth certificate), a passport, and sending-country-required exit clearance documentation such as a police certificate of good conduct, contract attestation by the sending country government, and setting up banking arrangements to receive wages.

Post-deployment costs, such as work and residence permits, medical tests, and facilitating workers' regular access to healthcare.

Developing Procedures on Clear, Deception-free Recruitment

Minimum Recommended Policy Commitments on Ethical Recruitment

At a minimum, the company should commit to the following:

- ✓ The company will perform comprehensive **pre-selection due diligence** of labor intermediaries before entering into a business relationship.
- ✓ The company will enact detailed, **written service agreements** – directly or through subcontracting arrangements – with each labor intermediary performing recruitment-related activities on behalf of the company.
- ✓ The company will conduct **regular, ongoing monitoring** of labor agencies to verify that recruitment activities meet service agreement terms and applicable law.

- ✓ The company will **pursue remedy** for workers for any misconduct discovered.

Best Practices in Ethical Recruitment

Given the serious business and human rights risks associated with outsourcing cross-border recruitment – especially in areas of the world like East Africa and the Gulf – companies should formalize which types of engagement with labor intermediaries are allowed versus prohibited.

Although more challenging to implement, companies should explore the possibility of enacting a **policy on direct hiring**, as well as commitments to **reduce reliance on unlicensed sub-agents**.

Direct Hiring Commitments

For many companies, hiring foreign contract workers without the use of any labor agencies may be feasible. A company could carry out the activities of a local labor agency using in-house staff, and doing so would increase visibility into worker recruitment conditions as company staff would directly engage with the sending country labor agency. However, navigating the legal and logistical conditions in the sending country can be challenging, in which case the company is advised to take steps described in this guide to reduce the total number of labor agents or intermediaries involved in the pooling, selection, recruitment, and/or deployment of foreign workers.

Reduce Use of Unlicensed Sub-agents

Another strategy to increase supply chain visibility is to reduce or eliminate the reliance on informal brokers or sub-agents. In Kenya and Uganda, for example, it is common for labor agencies to rely on informal sub-agents to pool applicants; however, such sub-agents are typical unmonitored, not legally licensed to carry out recruitment activities, and contribute to risks of deception, fees, and other abuse during worker recruitment. While enacting an outright ban on all sub-agents may be challenging in these regions where they are heavily relied upon, companies should work with the sending country labor agencies with which they partner to reduce the use of unlicensed sub-agents.

What are key procedures for implementing a No Fees policy?

The following activities are crucial to ensuring that a No Fees policy is met in practice:

- **Reduce reliance on third-party labor intermediaries**, hiring workers directly wherever possible. Although direct hiring without labor agencies was not the norm in East Africa at the time of writing, companies can at a minimum work to eliminate the use of unlicensed sub-agents, as well as to shift recruitment activities such as direct monitoring of job interviews.
- **Revise employment contracts** to cover the No Fees policy, and distribute revised contracts to the workforce.

- **Enact service agreements** with labor intermediaries which contain contractually and legally enforceable clauses upholding the No Fees policy.
- **Communicate the details of the No Fees policy to workers**, including the date of effectiveness, any forthcoming reimbursement for existing workers, methods for reporting fee payments, and the non-retaliation policy.
- **Communicate the new No Fees policy to agencies** – Labor agencies will require advanced communication that a No Fees policy is in place and collaboration on how to comply with the policy, as this will almost certainly be a change from the norm. In Kenya, for example, it is legal for workers to pay for certain recruitment-related expenses up to the equivalent of one-month’s salary.¹⁹
- **Update job advertisements** to clearly state that no fees shall be charged to candidates at any phase in the recruitment and hiring process, and that all such expenses are paid by the employer. In Kenya, for example, job advertisements are frequently placed on radio programs and on social media, as well as through branch offices and sub-agents.
- **Ensure workers are informed of the No Fees policy at the point of recruitment** – This can be done by setting expectations for labor agencies to communicate the policy to applicants, and ideally, supported with additional communication by the company during job interviews.
- **Monitor adherence to No Fees requirements** with workers through post-arrival interviews and other means. To ensure effectiveness, it is recommended that monitoring activities take place during and directly after each recruitment batch.
- **Carry out prompt reimbursement** (e.g., within 30 days of discovery) for any fees found to have been paid by workers which are the employer’s responsibility under its No Fees policy.

Screening and Evaluating Sending Country Labor Agencies

The following sections explore:

- Due diligence for screening sending country labor agencies
- Sample Due Diligence Checklist

Due Diligence for Screening Sending Country Labor Agencies

As a standard practice, companies should conduct due diligence of all labor agencies under consideration, whether the agency is local or located in workers’ country of origin.

At a minimum, due diligence should verify that the labor agency complies with local law, can source suitable candidates in the given timeframe, and commits to uphold the company’s ethical recruitment policy requirements.

Elements of Due Diligence Screening

Basis for Evaluation Criteria	Description of Criteria Covered
Supplier Code of Conduct	Social responsibility expectations
Legal requirements	Agency licensing requirements Applicable laws and regulations Government procurement requirements
Technical requirements	Ability to source qualified, vetted, and suitable personnel Ability to source personnel within set timeframe and budget

Sample Due Diligence Checklist

Any labor agency involved in the company’s labor supply chain should be vetted for indicators that the labor agency meets all of the criteria including legality of operations, and demonstrated awareness of and commitments to ethical recruitment.

Compliance with laws

- ✓ The labor agency is registered and licensed in all countries of operation
- ✓ The labor agency has no record of legal sanctions in the past three years, or violations have been corrected or are on track for correction.
- ✓ The labor agency has a process to ensure ongoing knowledge of applicable international and regional standards on labor and human rights.

Compliance with international labor standards

- ✓ The labor agency has formal policy statements committing to compliance with international and regional standards on labor and human rights.
- ✓ The labor agency formally expresses a commitment to uphold the company’s supplier code of conduct, either through a direct agreement with the employer, or in the case of some foreign recruiters, through an agreement with the employer’s local labor agency.
- ✓ If applicable, the labor agency has formally committed to uphold a **local industry ethical code of conduct**.
- ✓ The labor agency participates in a fair recruitment certification program (note that at the time of writing, East African labor agencies were not yet certified).

Compliance with company and legal standards on: recruitment

- ✓ The labor agency has a policy stating that no worker will be charged recruitment fees.
- ✓ The labor agency can demonstrate that worker have not been charged recruitment fees and that their clients have in fact covered the costs by using receipts, for example.

Compliance with company and legal standards on: employment contracts

- ✓ The labor agency has a policy to ensure that worker contracts meet all legal and company requirements, including any bilateral agreements.
- ✓ The labor agency has a system in place to ensure that job offers and/or worker contracts handled by the supplier on behalf of the employer include accurate and verifiable information on the position, location of job, length of contract, housing, employer name, wages, working hours, any legal wage deductions, and all applicable benefits.
- ✓ The labor agency maintains records demonstrating that workers receive accurate copies of job offers and/or contracts.
- ✓ The labor agency has processes in place to validate that the terms of employment do not differ from those offered to the worker.

Compliance with company and legal standards on: grievance mechanisms

- ✓ The labor agency has the capacity to participate in available grievance mechanisms.
- ✓ The labor agency has a policy of non-retaliation for individual participation in grievance mechanisms.

Tip #1 for Screening East African Labor Agencies

In Kenya and Uganda, labor agencies may belong to one of the following industry associations, which follow an industry code of conduct:

The Kenya Association of Private Employment Agencies (KAPEA)

- Approximate membership estimate: 100 to 200
- Phone: +254 722 752252
- Email: kapeacenter2020@gmail.com

The Association of Skilled Migrant Agencies of Kenya (ASMAK)

- Approximate membership estimate: 50 to 65
- Contact information: searchable online

The Uganda Association of External Recruitment Agencies (UAERA), based in Kampala

- Approximate membership estimate: 200
- Phone: +256 788 708000
- Email: uaeraug@gmail.com

Tip for Due Diligence of East African Labor Recruiters

In Kenya²⁰ and Uganda,²¹ labor agencies must be registered with the government to legally carry out activities related to foreign recruitment.

Kenya

In Kenya, labor agency registration numbers are publicly searchable and, per Kenyan regulation, must be included in the agency’s job advertisements alongside other evidence that the agency is a legal business, such as proof of a physical address.²²

Employers can find legally licensed agencies in Kenya through the Kenya National Employment Authority’s updated list: www.nea.go.ke/web/?page_id=11

Uganda

The government of Uganda’s Ministry of Gender, Labour and Social Development maintains a publicly searchable web page listing accredited labor agencies: eeimis.mglsd.go.ug/companies

After the successful labor agency has been selected and hired, companies can use the information from this due diligence selection process as baseline data for managing and monitoring the performance of the labor agency on an ongoing basis.

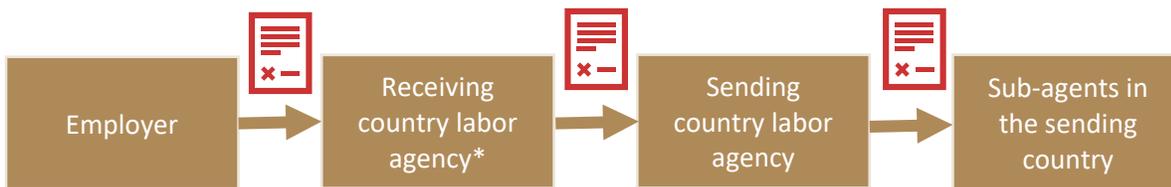
Enacting Service Agreements with Labor Agencies to Promote Ethical Recruitment

The following sections explore:

- Drafting and Reviewing a Labor Agency Service Agreement
- Sub-contracting Considerations
- Drafting Fee Schedules
- Services Provided Section – Opportunity to Reinforce Key Procedures

Just as companies enact formal service agreements with customers and materials suppliers, they should ensure that they have enacted formal, written service agreements which cover **all** labor agencies involved in pooling, screening, interviewing, and/or deploying workers to their operations, whether the agencies operate locally or in workers’ country of origin. Agreements with agencies should fully describe the business relationship, services to be performed by the agencies, and social responsibility requirements that the agencies must follow in order to continue working with the facility.

Figure 6: Service Agreements Should Cover All Labor Agencies Used in Recruitment



**Not all employers will use a labor agency in the receiving country.*

The following checklists address services that should be provided in the sending country. If companies also use labor agencies for the provision of services during migrant workers’ employment such as interpretation or dormitory management, these services should also be covered in service agreements.

Service Agreement Summary

The service agreement should meet the following conditions:

- ✓ All **fees and costs** are specified as the employer’s responsibility.
- ✓ All **activities** to be carried out by the labor agency as part of the agreement are detailed.
- ✓ Prior approval is required for any **subcontracting** of recruitment activities.
- ✓ **Job criteria** are adequately specified and nondiscriminatory.
- ✓ The agreement requires the labor agency to follow all applicable **laws and customer standards**.

Drafting and Reviewing a Labor Intermediary Service Agreement

What terms and conditions should be included in service agreements and addendums to minimize risks to workers and to the company? If a service agreement draft covers the following questions, it is likely to have mitigated the primary risks related to human trafficking, forced labor, and associated legal and reputational risks.

Parties to the Agreement

Do agreements specify:

- A prohibition on subcontracting any recruitment activities without the prior knowledge and formal consent of the client company
- The name, address, business license, and contact information of **all** labor intermediaries whose services will be engaged to fulfill the agreement, including subcontractors
- A commitment by the labor intermediary and any approved subcontractors to follow laws and client social responsibility requirements

Worker Criteria

Do agreements specify:

- The legal minimum age of hire for the country and sector of work
- Minimum qualifications, such as education, skills, and physical capabilities
- No criteria that could be discriminatory or otherwise illegal

Subcontracting to unlicensed sub-agents – which is common in countries like Kenya and Uganda – can increase risks that workers are **charged more fees** and **misinformed** about the job. These and other sub-agent practices are indicators of forced labor.

Fees and Expenses

Do agreements specify:

- The service fee that the client agrees to pay the labor intermediary for each worker hired
- All expenses associated with recruitment and deployment, specifying each expense item, cost estimate, and party responsible for its payment
- The terms, method, and frequency of payment to the labor intermediary for its services (phased payments are recommended)²³
- Invoicing requirements, including substantiation for reimbursable expenses

Services Provided

Do agreements specify:

- All activities that the labor intermediary will carry out
- The party responsible for each activity in the recruitment and deployment process, including job interviews, a pre-departure briefing, skills training, and skills tests, among others

Remedies for Breach

Do agreements specify:

- Remedies for breach of service agreement conditions (retention or deduction against fees payable, indemnity, penalties, damages, termination)
- Examples of what constitutes a breach or major breach, e.g., charging workers fees

Agreements on Sub-contracting – Improving Visibility into the Labor Supply Chain

It is crucial for companies to address risks associated with subcontracting of unscreened or unmonitored labor suppliers. This guidance has explained how lack of due diligence or screening of sub-contracted entities or individuals involved in the company's labor supply chain can present high risks to workers and the company alike. Employers (or labor agencies hired by employers) based in the Gulf often either subcontract with a recruitment agency operating in the country from which workers will be sourced, such as Kenya or Uganda, or utilize sub-agents for applicant pooling services on a casual basis. It is common for sending-country agents (including sub-agents) to require fees from workers to be eligible for the pooling selection. This practice, although normalized, contradicts a No Fees policy, and increases the worker's vulnerability to debt bondage.

Service Agreements present an opportunity for companies to address this risk by requiring labor suppliers to obtain prior approval from the company for any sub-contracting, including use of sub-agents in the worker's home country.

Drafting Fee Schedules

Fee schedules are an important tool for protecting workers from debt bondage and ensuring compliance to customer and legal requirements. Laws in Qatar and the UAE, for example, prohibit the charging of recruitment costs to workers.²⁴

Before finalizing agreements and initiating recruitment, company staff should carefully review a schedule of fees against a summary of recruitment and deployment activities in the sending country to verify that all costs incurred will be covered by the employer, either as part of an agency’s service fee or as expense reimbursements. The fees schedule should ensure that workers either do not pay any fees upfront, or – if direct payment of a fee such as for a medical exam is unavoidable – workers will be swiftly reimbursed.

Because the market-rate cost of recruitment may shift over time, company staff should review the schedule of fees on a regular basis.

Costs to Review When Drafting a Fees Schedule for Recruitment Services

Fee or expense item	Cost
Independent sub-agent’s fee	
Passport application process	
Pre-application medical exam	
Fee to submit application for the vacancy	
Interview and screening	
Contract attestation (by government of sending country)	
Police clearance	
Pre-departure/employment contract medical exam	
Pre-departure training	
Labor agency placement fee	
Transport and accommodation in the sending country	
Plane ticket	
Deposit or guarantee payment (funds to be forfeited if employee does not complete probationary employment period)	
Post-arrival expenses during transit to worksite (e.g., ground transport, post-arrival medical exam)	
Total fees and expenses	

Services Provided Section – Opportunity Key Procedures

The scope of work section of a service agreement with a labor agency is an opportunity to reinforce specific procedures and performance expectations.

Detailed Job Description to Reduce Vulnerability to Deception or Misinformation

The requirement that the labor agency refrain from deception or coercion can be reinforced by requiring the labor agency to utilize the job offer description provided by the company.

A detailed job offer goes beyond a demand letter. Companies typically create a demand letter to legally initiate overseas recruitment, as is true for companies operating in the Gulf, but **demand letters do not specify all job terms and conditions**. To ensure that workers accept the job with their free and informed consent, companies should provide intermediaries or labor agencies with comprehensive information about the terms and conditions of the vacancy. This document must be in a language the worker understands in order to meet its intended purpose of comprehensively informing the worker about the job in order to ensure they are making a free and informed decision to apply for the job.

This job offer checklist can be used by companies to ensure the job offer description provided to labor suppliers covers details important for workers to be informed about **BEFORE** the worker applies for the job. Providing labor suppliers with a more detailed job offer description can improve efficiency by reducing the need to screen out mismatched applicants and reducing workers' vulnerability to misinformation or deception about the job, a key indicator of forced labor.

Companies should communicate all of the information about the job, including terms and conditions (as listed in the Checklist) to **ALL** labor agencies in the labor supply chain when authorizing the agency to initiate recruitment activities for the company. In the Gulf and East Africa, where the signing of a service agreement can signal the beginning of recruitment activities, the company will likely benefit from communicating the job offer in tandem with the signing of the service agreement.

Job Offer Checklist

To be comprehensive, a job offer should specify the following information:

- Location of employment, including the country and city
- Job position and activities performed in the role
- Employer name and address
- Worker name and identifying details

- Contract length with start and end dates
- Provisions for contract renewal
- Conditions for early contract termination by the worker with and without reasonable notice, specifying under what circumstances the employer will pay for return transportation
- Conditions for contract termination by the employer
- Probationary period, if any, including the length of probation, provision of wages and any benefits during probation, as well as conditions for successful completion of probation
- Wage rates for regular working hours, with the minimum and maximum hours that may be worked per day and/or per week
- Wage rates for overtime hours, if any, including a definition of what constitutes overtime work
- Pay practices, including frequency of payment, payment method, and pay slips
- Deductions taken from the worker's salary, including for meals, accommodation, transit, healthcare, and insurance
- Benefits and leave provided, including provision of healthcare, sick leave, annual leave, emergency home leave, and holiday leave such as during Ramadan
- Provision of transportation at the end of the contract, i.e., the party responsible for arranging and paying for return transportation to the worker's country

Detailed Pre-employment Briefing to Improve Free and Informed Consent by Foreign Workers

Before agreeing to a job offer, signing a contract, or being deployed to the host country, workers should be briefed on the company's employment policies and understand their legal rights, protections afforded to them under local law, full disclosure of the contents of their contracts, confidential grievance channels, and social responsibility standards that the company follows.

The briefing must be understandable and in a language the worker understands in order to be effective, and should cover, at a minimum, the following items:

- An overview of the company's No Fees policy

- An overview of procedures the applicant can expect the company to oversee during recruitment (e.g., screening applicants including a medical exam, interviews, shortlisting, final selection, deployment procedures, transit to the company or facility, etc.)
- An overview of the employer, workplace, type of job, working conditions, and living conditions
- Terms and conditions of employment
- Terms and conditions of contract termination and repatriation, including any provisional employment period
- Pre-employment legal requirements that workers must fulfill (e.g., medical examination screening for employment eligibility)
- Legal protections in the sending and receiving countries, including sending or home country Embassy or Consulate information
- Facility policies regarding: forced or involuntary labor; recruitment fees and expenses; freedom of movement; identity document retention and safekeeping; grievance procedures including the exact process for reporting violations of facility policies and/or other unethical treatment during recruitment

As a best practice, company staff should provide a briefing in person. If company staff cannot be present for the briefing, the company should develop or carefully review contents for the briefing to ensure that it meets their standards, and appropriately represents the company.

Resource for Pre-employment briefings in Kenya and Uganda:



The Just Good Work App provides advice, guidance, and resources to migrant workers employed in or seeking employment in Gulf countries. The mobile phone app is specially designed for Kenyan and Ugandan workers and is available to download on Apple and Android phones in English and Kiswahili.

To download the Just Good Work App, open the App Store or Google Play Store application. Using the search function, type in “Just Good Work” to locate the App.

www.justgood.work/

Monitoring for Ethical Recruitment

The following sections explore:

- Planning Monitoring Activities
- Monitoring through labor agency interviews and document reviews
- Monitoring through worker interviews and grievance mechanisms

Monitoring is crucial to combatting risks of forced labor, but monitoring activities must be adequately tailored to be effective. If a third-party audit does not assess foreign worker recruitment conditions or treatment by labor agencies, for example, the audit could miss many risks of forced labor. A company piloting an ethical recruitment program could interview newly hired foreign workers about their recruitment experiences, but still not adequately manage this process to detect if workers have been threatened and coached by labor agencies on how to respond. The following guidance materials summarize the key questions to ask and criteria to meet when developing procedures to conduct routine monitoring, whether in a Gulf country or elsewhere.

Planning Monitoring Activities

When designing monitoring programs to assess for the presence risks during the recruitment and deployment process, the intended purpose of the monitoring should inform the monitoring criteria and scope of activities. Any monitoring of migrant worker recruitment, for example, should take into account the laws governing labor agencies in the sending country as well as in the receiving country.

Questions to Consider Before Initiating Monitoring

- **What will the monitoring results be used for?** Will corrective actions be restricted to serious labor violations? Will the results be used to prevent violations and improve workers' welfare during deployment?
- **What will the monitoring cover?** Will monitoring cover the labor agency's management structure, policies, and procedures?
- **What are the evaluation criteria?** Which laws and company standards will be used to evaluate practices?
- **What time period will be covered?** If the company has adopted a No Fees policy, for example, will it investigate conditions among workers hired before the policy was finalized, recognizing that they are also at risk of debt bondage?
- **What types of findings should be raised?** Will monitoring only evaluate for the presence of labor and human rights violations or will it also assess the adequacy of management systems and operations?

Monitoring through Labor Agency Interviews and Document Reviews

Effective monitoring should cover all labor intermediaries in the receiving and sending countries involved in the recruitment of workers. This can be done by instituting procedures for regular interviews with staff of labor agencies, as well as reviews of documents produced during the recruitment of workers for the company. Among other practices, monitoring of labor intermediaries should confirm that the following practices take place as part of the recruitment process, as there is significant risk that workers may encounter fee-charging, deceptive practices, and in some cases restrictions to freedom of movement during migration from East Africa to the Gulf. Depending on the company's service agreements with labor agencies, the company itself may carry out certain activities such as pre-departure briefings for new workers; companies should therefore tailor monitoring to ensure that the responsible party has carried out the activity for which it has been contracted.

Key Topics to Cover During Labor Agency Monitoring

Adherence to No Fees policy

- The sending country labor agency has been paid for all of the services it provides, either directly by the company or indirectly through an agreement with another labor agency.
- If workers pay for the up-front costs of documentation or other items needed for deployment on their own, the labor agency has a process for communicating the company's policy on reimbursement and for issuing reimbursement if necessary.
- The labor agency can demonstrate that any pre-deployment accommodation offered is provided at the market rate.
- The labor agency can demonstrate that any services offered are provided at the market rate.
- The labor agency maintains records of itemized recruitment costs.

Adherence to policies on freedom of movement

- The labor agency can demonstrate that its practices (e.g., with regard to provision of any pre-deployment accommodation) do not restrict workers' freedom of movement.

Adherence to policies on contracts and pre-departure communication

- The responsible party provides workers with a standard explanation of the contents of the employment contract. The explanation is comprehensive and gives workers sufficient time to review the contract before signing.
- The party responsible for explaining the employment contract verifies that workers understand the key job terms and conditions before they decide whether to accept the job.
- The labor agency ensures that workers have received a comprehensive pre-employment briefing **prior to signing an employment agreement** which covers topics such as working and living conditions, the receiving country's cultural norms, and legal protections in the sending and receiving countries. If workers

receive this information **after** they have paid non-refundable fees or **after** signing and employment agreement, they may be prevented from freely consenting to the job. In other words, if workers receive information during this briefing which leads them to decide not to take the job, they should not incur any penalty for refusing the job.

Any violations uncovered during monitoring should be accompanied by a corrective action process. Section 6 of this guide provides guidance on establishing procedures for corrective action for No Fees policy violations. Additional guidance is available in Verité’s Responsible Sourcing Tool, among other tools listed in Further Resources.

Monitoring through Worker Interviews and Grievance Mechanisms

Workers are a crucial source of information on the recruitment process – their testimony is often the only way companies learn of fee-charging and coercion – but workers will report violations to the company only if they are provided a safe means to do so as part of a credible and well-communicated procedure. Such a procedure would broadly include clear communication to workers of a non-retaliation policy, communication in a language they understand, and participation by adequately trained staff with clear tasks and responsibilities.

Companies should consider making use of multiple mechanisms to encourage reporting, including:

- ✓ **A grievance mechanism** available to candidates and workers before deployment from the sending country;
- ✓ **Onboarding interviews** with all or a representative sample of newly arrived workers to evaluate whether recruitment activities met legal and company requirements;
- ✓ **Follow-up interviews** to review recruitment conditions that are conducted after a number of months of employment, by which point workers may have learned to trust the company’s reporting mechanisms and non-retaliation policy.

Key barriers to gathering information from workers on recruitment fees and other aspects of the recruitment process

- No paper trail – If workers report illegal or prohibited fee-charging, it is highly unlikely that workers have been issued receipts for these charges.
- Lump sum or untraceable payments – Workers may not know the breakdown of fees paid if they are charged a lump sum by the labor agency or not provided receipts.

- Fear of retaliation – Workers may have been threatened by labor agencies or sub-agents not to reveal recruitment violations. Such threats are particularly effective if workers know or believe that others who spoke out suffered retaliation.

Targeted Topics for Worker Interviews

For companies operating in the Gulf, interviews of their workers recruited from East Africa should focus on confirming the following:

- ✓ **Workers did not pay prohibited recruitment fees or expenses** in conjunction with their recruitment and hiring, as defined by laws and company policy;
- ✓ **Workers were not recruited through unauthorized agents**, such as unlicensed, illegal sub-agents or registered labor agencies other than those known to the company and covered under service agreements;
- ✓ **Workers were provided, signed, and retained a written contract of employment** that meets company and legal requirements and that matched the terms and conditions of any agreement later signed in the receiving country;
- ✓ **Workers did not experience any form of deception or coercion** during recruitment and hiring, including with regard to job conditions or recruitment fees;
- ✓ **Workers did not experience any restrictions on their freedom of movement** during recruitment, e.g., in pre-deployment accommodations provided by the labor agency.

Good Practice Methods for Planning Worker Interviews

As noted above, migrant workers will report labor abuse and violations of company policies only if they trust the reporting procedure. Worker interviews, therefore, should be carefully designed to safeguard workers from any retaliation and earn their trust. The following checklists include good practices for planning worker interviews; additional guidance is available in the Responsible Sourcing Tool, among other tools listed in Further Resources.

Staff Criteria

Do designated staff or consultants assigned to interviews have the following:

- **Training** on positive interview techniques and safeguarding workers
- **Resources**, including an up-to-date checklist of fees to ask workers about
- **Sufficient language skills** in a language in which workers are fluent
- **The same gender** as workers
- **No conflicts of interest** or other indication that they could retaliate against workers for reporting sensitive information about the recruitment process

Interview Logistics and Structure

Do interviews:

- Cover a statistically significant, random sample of workers to interview
- Take place in a private location
- Include advanced communication to workers on the voluntary nature of interviews and on the company’s non-retaliation policy
- Allow for workers to submit follow-up questions, concerns, and reports of retaliation

Sample Questions for Worker Onboarding Interviews

Employers can use the following sample questions during interviews with foreign migrant workers upon arrival at the worksite to ensure that they were recruited responsibly. Note that responses related to recruitment fees can be entered into a standardized form such as the sample fee verification form provided in this guidance.

- How did you learn about this job?
- Were any labor agencies or independent agents involved in bringing you to the worksite?
- Did you pay any recruitment-related fees and costs?
 - How much were you charged for a placement, service, or processing fee?
 - How much were you charged for documents?
 - How much were you charged for medical tests?
 - How much were you charged for training?
 - Other charges: _____
- Were you asked to give a deposit or pay a bond by your labor agency / independent agent?
- Were you asked to pay for anything else by your labor agency / independent agent?
- Did you have to borrow money to finance the cost of recruitment?
 - From whom did you borrow money?
 - How much?
 - Were you provided a receipt or a loan agreement?
 - Is there an interest on the loan?
- What information about the recruitment process and about the job were provided to you by the agent or recruiter?
- Were you provided a passport and work permit or employment visa? If NO...
- Who helped you to enter the country?
- How much did you pay for this service?
- Do you have the following with you?
 - Employment contract
 - Passport

- Work visa
- Medical certificate
- If you don't have your passport, who has custody of it?
 - Under what conditions can you take your passport back?
- Did you attend a pre-employment or pre-departure orientation briefing?
- Did you sign an employment contract? If YES...
- Did you sign the contract before departing the sending country?
- Did you sign the contract after arriving in the receiving country?
- Was your employment contract explained to you before signing? Did you know...
 - What your work and position will be?
 - The name of the company that you will be working for?
 - The address of the facility that you will be working in?
 - The salary you will be receiving?
 - What benefits you will be receiving?
 - How many hours/amount of time will you be working for per day?
 - Where you will be housed during your employment?
- Were you informed when and how you will receive your salary?
- Did the contents of the contract and the explanation of your labor agency match?
- Did the contents of the contract and the actual working and living conditions match? If NO...
 - Are the actual conditions better or worse?

Example Fee Verification Procedure

One method adopted by companies to monitor for and identify fee-charging is to use a fee verification form: a standard form used by company staff when interviewing workers about their recruitment experience. Conducting interviews using a standard form and process helps to ensure that all workers are asked in sufficient detail whether they paid any fees or expenses that should be borne by the employer.

To be effective, a fee verification form should allow workers to report each fee item or expense paid, the currency in which the item was paid, the total amount paid, and the amount reimbursed to the worker, if any. As noted in regard to good practice interview methods, because the fee verification form addresses a sensitive topic and may involve asking workers to disclose that they were subjected to unethical or illegal practices, only staff who have completed training on positive interview techniques and upholding worker protections should be authorized to conduct interviews. The interviews should take place during onboarding and form part of a larger procedure for obtaining feedback on the recruitment process and communicating protections afforded to workers, including grievance mechanisms and the non-retaliation policy.

The sample fee verification form below includes all items that workers may encounter during recruitment and deployment, particularly in East African to Gulf labor migration corridors, all of which should ultimately be covered by the employer.

Sample Fee Verification Form		
<p>Attention – Staff may assist in completing this form only after:</p> <ul style="list-style-type: none"> • completing the training for conducting onboarding interviews • explaining the interview purpose, the company grievance and non-retaliation policy, and the voluntary nature of interviews 		<ul style="list-style-type: none"> • ensuring that the worker has grievance channel contact details • confirming that the worker and staff are fluent in a common language
Worker name:		
Nationality:		Date of hire:
Items charged to worker pre-arrival	Cost (specify currency)	Payment Made to (specify individual/company/ government agency name and contact information)
Independent sub-agent’s fee		
Obtaining a passport Please include the cost of any pre-requisite (e.g., obtaining a birth certificate).		
Pre-application medical exam		
Fee to submit application for the vacancy		
Interview and screening		
Contract attestation (by government of sending country)		
Police clearance		
Pre-departure/employment contract medical exam		
Attendance of pre-employment or pre- departure training		
Labor agency placement fee		
Deposit or guarantee payment (funds to be forfeited if employee does not complete probationary employment period)		
Transport and accommodation in the sending country during transit to worksite		
Plane ticket/transport costs for transit to worksite		
Post-arrival expenses during transit to worksite (e.g., ground transport, post-arrival medical exam)		
Total fees and expenses paid		

Total amount reimbursed		
Total paid after reimbursements		
<i>Worker signature, date signed</i>		
<i>Assisting staff signature, date signed</i>		
<i>Receipts Attached? (Y/N)</i>		
<i>Please record loans required for payment of any of the above costs in a separate form, including rate of interest.</i>		

Any fee-charging reported by workers should be investigated and responded to as part of a procedure designed to monitor compliance to the company’s No Fees policy. The procedure should include a corrective action process with root cause investigations to ensure that all fee-charging practices are stopped, and workers are reimbursed for any fees paid.

Pursuing Corrective Action for No Fees Violations

The following sections explore:

- The Likelihood of Violations of No Fees Policies
- Rationale and Strategies for Pursuing Reimbursement
- Overview of Reimbursement Process

The Likelihood of Violations of No Fees Policies

One major challenge faced by employers of migrant workers in the Gulf and other regions is how to remediate unwarranted and illegal fee-charging experienced by workers during recruitment. The issue of fee-charging can persist even among employers that have taken preventative measures, enacting No Fees policies and formally prohibiting their contracted labor agents from passing on costs of recruitment to workers. As demonstrated in Scenario B, service agreements may incentivize labor agents in the sending country to recoup business costs through workers, leaving migrant workers in debt and at risk of becoming trapped in debt bondage during their employment. To *prevent* violations of a No Fees policy, therefore, employers should ensure prior to recruitment that the full, market-rate costs of sourcing workers are covered by the employer.

Continuing the case study of the fictional company “PRIME-X” outlined in Scenario A, Scenario B illustrates the subtle links between company practices for sourcing labor and worker vulnerability to experiencing risks during recruitment which lead to exploitation during employment.

Scenario B: The Employer Discovers Root Causes of Workers' Debts

The company initiates a root cause investigation

After undergoing its customer's supplier audit and learning of the risks of debt bondage faced by its Kenyan workers, PRIME-X prepares to take corrective action, starting by determining the root cause of code of conduct violations.

The investigation reveals a surprise

The root cause investigation carried out by PRIME-X with the client's guidance reveals a surprise: the employer had not covered the actual costs of recruitment, and so the costs were passed on to workers. Based on a review of the agreement with the Kenyan labor agency, the fees paid to the labor agency would not cover the reasonable and market-rate costs of recruiting workers and deploying them to the Gulf with proper documentation.

Moreover, the written agreement showed that the Kenyan agency was required to bear significant costs, including:

- QAR 4,370 (about USD 1,200) paid to the Qatari intermediary per worker
- the cost of first-class tickets and accommodation for Qatari staff to travel to Kenya to perform final selections of workers
- all costs incurred when a worker does not complete their contract

By not covering these costs of recruitment, PRIME-X was in effect passing the costs onto workers, which in this case is prohibited by Qatari law and the PRIME-X customer's supplier code of conduct.

Rationale and Strategies for Pursuing Reimbursement

Whenever workers are charged fees or expenses to obtain a job, they should receive reimbursement for those costs. In cases where the employer has formally committed to paying for the costs of recruitment and employment, the obligation to repay workers is particularly clear-cut. The employer may also pursue reimbursement for other reasons, such as to ensure compliance with local law or to ensure continued business with a customer. Reimbursing workers for the costs of recruitment not only meets industry best practice and ILO guidance;²⁵ doing so also mitigates the risk that workers could be trapped in forced labor as a result of recruitment debt.

While the rationale for reimbursing workers may be clear to employers and their customers, the best strategy for calculating and issuing reimbursement may appear more elusive.

Ideally, after a discovery of fee-charging, each migrant worker not already interviewed would be asked in depth (using techniques outlined in this guidance) about the fees they paid for the job. Each worker would then receive prompt reimbursement in the exact amount that they reported. In some cases, such as when a migrant worker obtains a passport years prior to applying for a job, a payment may be found not to violate the employer’s policy, but any fee that does violate the policy would be recorded and refunded.

The Ideal Reimbursement Strategy

- ✓ **Interview all migrant workers** who may have paid reimbursable fees or expenses, using a comprehensive definition of fees and positive interview techniques outlined in this guidance.
- ✓ **Repay each worker in full within one month** of discovery, basing the reimbursement on the amount that the worker reported.

In some cases, however, interviewing each worker and repaying them within a month may appear infeasible. A different strategy may appear necessary, for example, when an employer oversees a large migrant workforce and estimates that issuing all reimbursements at once would result in financial distress for the company.

Example issues that may necessitate an alternate tactic for reimbursement	Alternate reimbursement tactics to consider
<p>There are insufficient resources to properly interview each individual migrant worker who may have paid reimbursable fees and expenses.</p> <p>OR</p> <p>The employer’s onsite subcontractor (e.g., a janitorial company) is not cooperating fully with the investigation and may retaliate against its migrant workers for reporting steep recruitment fees.</p>	<ul style="list-style-type: none"> • Interview a sample of migrant workers who may have paid reimbursable fees or expenses, taking care to interview a sample from each nationality and hiring batch. • Repay each worker according to a median or average payment for workers in a given cohort, such as Kenyan workers hired in 2021, or workers hired by the Ugandan labor agent who charged a steeper recruitment fee.
<p>Reimbursing all migrant workers who paid fees within one month would result in serious financial distress for the company.</p>	<ul style="list-style-type: none"> • Repay workers in batches or installments using a reimbursement plan. The plan should prioritize workers whose contracts are nearing completion, as repaying workers after contract completion may be more challenging and time-consuming.

Reimbursement Process Overview

While reimbursement is not a one-size-fits-all process, companies should expect to carry out the following activities to reimburse workers and prevent recurrences:

- ✓ **Strategize how to reimburse workers effectively**, as described in the previous section, based on factors such as how many workers remain to be interviewed and how many workers are owed reimbursement.
- ✓ **Develop a reimbursement plan** based on worker interviews which covers workers targeted for reimbursement. A comprehensive plan should include the number of workers owed reimbursement, their names, nationalities, dates of hire, and amounts to be reimbursed, among any other salient details such as the local labor agency assisting with management of the worker.
- ✓ **Process reimbursement via payroll**. It can be phased in or paid in installments over several cycles up to year end or the end of the worker's contract, whichever comes first. To avoid the risk that some workers leave the job without their full reimbursement, the supplier should follow best practice by communicating the upcoming repayment to workers in advance, specifying that the payment is for recruitment fee reimbursement.
- ✓ **Confirm that workers received reimbursement**, including any workers who finished their contract terms, were terminated, or resigned. The most effective way to confirm receipt is through a combination of document review and worker interviews, taking care to follow best practice protocols for interviewing workers.
- ✓ **Prevent Recurrences** by looking for the root cause of why the fees were charged and were not immediately detected, then taking action. The supplier may find, for example, that it could improve communication of the fees policy with staff, labor agents, and/or workers with actions such as:
 - Updating the fees checklist given to staff for interviewing workers regarding fees paid
 - Updating the service agreement and other communication with labor agents to specify details of the company's No Fees policy
 - Updating documents and trainings given to workers to specify the supplier's No Fees policy, and ensure translations are accurate
 - Reviewing foreign workers' access to and comfort using communication channels for reporting fees

Be aware of unintended consequences

When developing a reimbursement plan, employers should be aware of how the plan could affect workers and labor agencies to prevent unintended consequences. Workers of one nationality or hiring batch, for example, may feel resentment towards workers in another group who received a higher average reimbursement. A labor agency that is required to reimburse a group of workers may attempt to recoup the funds by charging more fees to another group of workers. Employers should work to prevent and mitigate such risks using communication and monitoring activities that are tailored to the conditions at hand.

Conclusion

This follow-up case study of the fictional company “PRIME-X” outlined in Scenario A represents a realistic scenario, based on extensive Verité research, social assessments, and other engagements with workers, labor agencies, and employers – in GCC countries and in other countries highly reliant on foreign migrant labor. This example serves to demonstrate the immense progress that companies can make – and have made – in protecting foreign migrant workers and preventing risks of forced labor.

Scenario C: The Company Realizes the Benefits of Ethical Recruitment

The New Recruitment Model Improves Worker Retention, Morale, and More

PRIME-X has now been implementing its new ethical recruitment model for almost two years. The first foreign workers hired under the new model are completing their contracts and are asked if they would like to renew the contract. Some workers decline, but other workers say that they would like to take their home leave and renew the contract. Some workers explain that the pay is better than what they can find in their home country, and several workers mention that compared to the descriptions they have heard of other private security companies in the area, PRIME-X is a trustworthy and responsible employer. PRIME-X finds that retention has increased. Some workers have also referred their friends, which PRIME-X informs workers is permitted as long as workers help direct referrals to the company’s official recruitment channels and do not charge introduction fees.

New Business Opportunities Arise

After PRIME-X has onboarded newly hired workers from Kenya to replace those whose contracts ended, some of the workers are included in a client’s social audit. The client is the same hotel company that threatened to terminate a contract with PRIME-X three years ago when workers were found to be trapped in debt bondage.

The client expresses that, as the private security provider with the strongest commitments to social responsibility and the best protections for its workers, the client is considering contracting with PRIME-X to provide services to more of its operations.

As this guidance shows, companies can transform their management system for sourcing foreign labor to uphold principles of ethical recruitment. Equipped with the proper information and tools, companies have the capacity to uphold migrant workers' rights and protect them from exploitation during recruitment and hiring, even in contexts such as in the East Africa to Gulf migration corridors where risks of exploitative practices such as deception and coercion are elevated. When companies succeed in implementing ethical recruitment principles, they will not only be protected from being implicated in human rights abuses; ultimately, they will enjoy a competitive advantage with new and existing clients.

Further Resources

Responsible Sourcing Tool

www.responsiblesourcingtool.org/

Verité Help Wanted Resources

www.verite.org/help-wanted/resources/

www.verite.org/help-wanted/

Verité White Paper: Financial and Contractual Approaches to Mitigating Foreign Migrant Worker Recruitment-Related Risks

www.verite.org/wp-content/uploads/2019/10/Verite-Financial-and-Contractual-Approaches-to-Mitigating-Foreign-Migrant-Worker-Recruitment-Related-Risks.pdf

The Toolkit for Palm Oil Producers on Labor Rights

www.verite.org/resources/our-work-in-palm-oil/palm-oil-toolkit/palm-oil-producers-toolkit/

ILO Fairway Project

www.ilo.org/beirut/projects/fairway/lang--en/index.htm

ILO – Free movement of persons and transhumance in the IGAD Region: Improving opportunities for regular labour mobility

www.ilo.org/africa/technical-cooperation/WCMS_631153/lang--en/index.htm

Know The Chain

knowthechain.org/

Endnotes

¹ A framework of indicators such as those mentioned was first presented by the ILO in a 2012 document called “Hard to See, Harder to Count – Survey Guidelines to Estimate Forced Labour of Adults and Children” and were updated in 2018 by the International Conference of Labour Statisticians (ICLS) in a document called “Guidelines Concerning the Measurement of Forced Labour.”

² International Labour Organization (ILO). “General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs.” International Labour Office, Geneva. 2019. www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_536755.pdf

³ A framework of indicators such as those mentioned was first presented by the ILO in a 2012 document called “Hard to See, Harder to Count – Survey Guidelines to Estimate Forced Labour of Adults and Children” and were updated in 2018 by the International Conference of Labour Statisticians (ICLS) in a document called “Guidelines Concerning the Measurement of Forced Labour.”

⁴ The Payment of Recruitment Fees is Forbidden in Qatar, Pursuant to Article 33 of Law No. 14 of 2004. Available at: www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_125871.pdf. (Accessed 16 February 2021).

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⁶ International Code of Conduct Association (ICOCA). *The International Code of Conduct for Private Security Providers*. icoca.ch/the-code/

⁷ Government of Kenya. The Labour Institutions (Private Employment Agencies) Regulations 2016. Legal Notice 110 (Legislative Supplement No. 45). June 17, 2016. Available at: kenyalaw.org/kl/fileadmin/pdfdownloads/LegalNotices/2016/110-Labour_Institutions_Act__Private_Employment_Agencies__Regulations__2016.pdf (Accessed 11 February 2021); Government of Uganda. *Rules and Regulations Governing the Recruitment and Employment of Ugandan Migrant Workers Abroad*. Available at: www.ilo.org/dyn/migpractice/docs/228/Rules

⁸ Equidem. “Mitigating Risks of Forced Labour and Human Trafficking Among Kenyan and Ugandan Migrant Workers in Qatar and the United Arab Emirates – A Needs Assessment Survey.” November 25, 2019. On file with Verité.

⁹ Government of Kenya. The Labour Institutions (Private Employment Agencies) Regulations 2016. Legal Notice 110 (Legislative Supplement No. 45). June 17, 2016. Available at: kenyalaw.org/kl/fileadmin/pdfdownloads/LegalNotices/2016/110-Labour_Institutions_Act__Private_Employment_Agencies__Regulations__2016.pdf (Accessed 11 February 2021).

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¹² Pinsent Masons. *Qatar Labour Law and Immigration: Recent Reforms*. Jan 2021.

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¹³ International Labour Organization (ILO). *UAE: Regulatory Framework Governing Migrant Workers*. November 2019. www.ilo.org/beirut/media-centre/news/WCMS_728267/lang-en/index.htm

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²⁰ Government of Kenya. The Labour Institutions (Private Employment Agencies) Regulations 2016. Legal Notice 110 (Legislative Supplement No. 45). June 17, 2016. Available at: kenyalaw.org/kl/fileadmin/pdfdownloads/LegalNotices/2016/110-Labour_Institutions_Act__Private_Employment_Agencies__Regulations__2016.pdf (Accessed 11 February 2021).

²¹ Government of Uganda. *Rules and Regulations Governing the Recruitment and Employment of Ugandan Migrant Workers Abroad*. Available at: www.ilo.org/dyn/migpractice/docs/228/Rules

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²³ Verité. "Financial and Contractual Approaches to Mitigating Foreign Migrant Worker Recruitment-Related Risks." October 2019. www.verite.org/wp-content/uploads/2019/10/Verite-Financial-and-Contractual-Approaches-to-Mitigating-Foreign-Migrant-Worker-Recruitment-Related-Risks.pdf

²⁴ International Labour Organization. *Regulatory Framework Governing Migrant Workers: Qatar*. November 2019. www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/legaldocument/wcms_728266.pdf; International Labour Organization. *Regulatory Framework Governing Migrant Workers: UAE*. November 2019.

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