

## Introduction

Modern slavery – including all forms of forced labor<sup>1</sup> – is a business and legal risk and strictly prohibited by Meiyume’s [Supplier Code of Conduct](#).<sup>2</sup> Asia-Pacific has the second highest prevalence of modern slavery in the world with 6.1 cases per 1,000 people.<sup>3</sup>

Workers have paid USD 4,200 – 6000 and even higher for a job.

One of the greatest drivers of modern slavery in all economic sectors is the exploitation of migrant workers occurring at the hands of unscrupulous recruitment agencies and/or labor brokers. Abusive recruitment practices, including a worker’s payment of recruitment fees and related costs, are the most common entry point for modern slavery. Even fees authorized by law can amount to over USD 6000, burdening a worker and their family with high loan and interest payments. Migrant workers are most at risk of excessive fee charging as they often pay twice – both at the home country and destination country.<sup>4</sup> Costs go to multiple intermediaries, which may not be regulated by local authorities. Workers who fall into debt may become trapped in abusive working conditions with no or low wages.

The International Labour (ILO) Organization, in its Recommendations of Supplementary Measures for the Effective Suppression of Forced Labor, calls out the corporate responsibility of “protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process” in combating forced labor.

Additionally, the ILO issued General Principles and Operational Guidelines for Fair Recruitment stating that companies should include “human rights due diligence assessments of recruitment procedures and should address adverse human rights impacts with which they are involved.”

### Box 1: Definitions

**Illegal Fees:** Recruitment fees and related costs that are charged to workers and that exceed the limits set out by national labor migration laws and regulations in both the home country and destination country.

**Legal Fees:** Recruitment fees and related costs that are charged to workers in accordance with the limits set out by national labor migration laws and regulations in both the home country and destination country.

**Employer Pays Principle:** Consistent with the ILO Definition on Recruitment Fees and Related Costs (see Box 2), suppliers should cover the fees and costs associated with recruitment, deployment, employment and return of migrant workers, irrespective of whether labor recruiters are involved or a government hiring program is used. Migrant workers are at no stage required to advance any recruitment fees and related costs that are otherwise to be paid by the supplier.

<sup>1</sup> Forced Labor is defined by ILO C. 29. Worst Forms of Child Labor is found in ILO C. 182.

<sup>2</sup> Factory Code of Conduct, Forced Labor, Pg. 21.

<sup>3</sup> ILO Global Estimates on Modern Slavery (2017)

<sup>4</sup> Destination country refers to the country where the migrant worker secures employment.



## Requirements for Responsible Recruitment

### Employer Pays Principle

- Suppliers shall take steps to ensure workers do not pay recruitment fees or related costs to get a job. This includes payments, which are made in either the home country or the destination country.<sup>5</sup> Indirect fee charging (such as through deductions) is prohibited.
- Suppliers shall ensure that where employees have paid recruitment fees, that fees are reimbursed.<sup>6</sup>

### Policy

- Suppliers shall maintain a written policy incorporating Meiyume's requirements on responsible recruitment.
- Suppliers shall communicate the policy internally, to next-tier suppliers and to recruitment agencies used in the recruitment or management of employees.

### Contracts

- Employees shall be provided with a written copy of the labor contract before leaving home in a language understood by the employee and the labor contract shall be signed by both Employees and the Employer (not by the local recruitment agency).
- Employee's informed consent to the terms of the contract should be obtained without deception or coercion. Terms of employment promised to the employee during recruitment shall meet the actual terms of employment.
- Employees shall not be restricted from terminating employment other than restrictions pertaining to legal notice periods.

### No Holding of Identity Documents

- Workers shall hold their own identity documents including passports.
- Secure storage shall be provided to workers. Workers shall have access to storage without having to receive prior consent.

### Orientation with Workers

- Suppliers shall conduct orientation for migrant workers before they leave their home country to ensure workers have not paid any fees and to ensure they understand terms and conditions of employment.

### Due Diligence

- Prior to selection, suppliers shall undertake a formal screening of labor recruiters to assess commitment and capacity to meet the requirements set forth in this policy. Suppliers shall also research recruitment-related laws in home and host countries to better understand and be able to comply with the legal framework.
- Suppliers shall use registered or licensed recruitment agencies and have a written contract with recruitment agencies, incorporating:

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<sup>5</sup> See question 1 for definition of recruitment fees and related costs.

<sup>6</sup> See question 7 for guidance on fee repayment.



- Employer pays principal - Recruitment fees and related costs are transparent, itemized and paid by the employer.
- The labor recruiter performs ongoing due diligence of any additional labor recruiters, sub-agents and other partners in the recruitment process.
- The labor recruiter has an effective, operational-level grievance channel available and communicated to migrant workers in a language they understand.
- The employer has the right to carry out regular audits of the contracted labor recruiter, including through specialized third-party service providers.
- Penalties in case of the supplier or labor recruiter's violation of the policy.
- Conduct ongoing risk assessments and audits, including interviews with migrant workers to monitor and regular checks on labor recruiter's licenses and management systems to track compliance with the established contract.
- Suppliers should keep a copy of any current contracts with labor recruiters along with any other records of due diligence (e.g. audit or worker interview records) for Meiyume's review.

### Safe Return

- Migrant workers shall be free to return to their home country, in accordance with legal provisions. Suppliers shall ensure the safe return of foreign migrant workers at the expiry of the worker's contract, or at an earlier date in accordance with legal provisions.

### Grievance Mechanisms

- In accordance with the UN Guiding Principles on Business and Human Rights, suppliers shall establish or participate in effective, operational-level grievance mechanisms that are inclusive to migrant workers taking into account social, cultural factors and language differences.
- Suppliers shall follow a non-retaliation policy that prohibits reprisals against migrant workers for information provided or grievances filed at all stages of the labour migration process. Complaints can be lodged confidentially and without fear of recrimination, reprisal or dismissal.

### Remediation

- Suppliers must commit to remediating violations of the Meiyume Supplier Code of Conduct, including repayment of any recruitment fees and related costs to the worker.

## Frequently Asked Questions (FAQ) on the Responsible Recruitment Policy

Q1. *According to international and national standards can workers be charged any recruitment fees or costs?*

- The International Labor Organization (ILO) adopted a Convention in 1997 (No. 181) that recognizes that workers shall not be charged directly or indirectly, any fees or related costs for their recruitment. In March 2019 the ILO developed an international definition that clearly outlines the financial obligations of the employer during the recruitment process (see table 1).
- Most national laws **do not** allow fee charging to workers, particularly for the manufacturing sector. Some countries within Asia, do allow a predefined amount recruitment fees and costs to be paid by workers (usually in the form of a recruitment fee cap or itemized cost breakdown between employers and workers). A minority of countries have no laws regulating the payment of recruitment fees and related costs.<sup>7</sup> Suppliers shall contact relevant embassies or undertake desk research to understand the legal framework in home and host countries.

### Box 2: ILO Definition of Recruitment Fees and Related Costs (Paid by Employer)

Recruitment fees include:

- Payments for recruitment services offered by labor recruiters
- Payments made in the case of recruitment of workers with a view to employing them to perform work for a third party;
- Payments made in the case of direct recruitment by the employer; or payments required to recover recruitment fees from workers.

When initiated by an employer or labor recruiter and required to secure employment the following costs should be considered related to the recruitment process:

- Medical costs: payments for medical examinations, tests or vaccinations;
- Insurance costs: including enrollment in migrant welfare funds;
- Costs for skills and qualification tests: costs to verify workers' language proficiency and level of skills and qualifications.
- Costs for training and orientation: including on-site job orientation and pre-departure or post-arrival orientation of newly recruited workers;
- Equipment costs: costs for tools, uniforms, safety gear etc.
- Travel and lodging costs: expenses incurred for travel, lodging and subsistence within or across national borders in the recruitment process.

Q2. *What is the start date of the Responsible Recruitment Policy?*

The current Policy comes into effect for workers recruited **after** 1 July 2020. The factory is required to repay any illegal recruitment fee and related cost in the first year. The policy will

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<sup>7</sup> ILO Background paper for discussion at the Tripartite Meeting of Experts on Defining Recruitment Fees and Related Costs (Geneva, 14-16 November 2018)



be reviewed after one year of implementation (in July 2021) and may be further refined based on stakeholder feedback and learnings. Any changes will be clearly communicated to suppliers in advance of execution.

It is expected that Meiyume will expand the scope of the policy to cover ALL recruitment fees findings related to worker's payment of responsible recruitment as suppliers become more familiar with the employer-pays-principle and are able to build due diligence measures to avoid and detect fee-charging to workers.

*Q3. Is the factory responsible for reimbursing fees or related costs to workers recruited before July 2020?*

Meiyume recognizes that Responsible Recruitment has financial and administrative implications, which must be planned for; hence the policy will not be applied retroactively.

*Q4. Why are factories being held accountable for fees which may have been charged to workers in their home country?*

We understand that responsible recruitment is a complex issue and that monitoring the payment of recruitment fees and related costs in home countries can be challenging for factories as they may not have visibility over the whole process.

This being, it is within the control of factories to carefully select their recruitment partners; to ensure contracts with recruitment partners reflect the principles of responsible recruitment, to implement due diligence measures to monitor the recruitment process and to ensure re-payment of fees if they have been charged to worker.

Factories who independently identify worker payment of recruitment fees or recruitment related costs and put a plan in place to reimburse workers **will not** be cited a non-compliance.<sup>8</sup>

*Q5. When are workers payment of fees a non-compliance and how will the non-compliance be rated?*

While Meiyume has committed to the employer-pays-principle, we are initially targeting illegal recruitment fees as a priority non-compliance. The policy's focus on illegal recruitment fees and related costs should be viewed as one step towards our longer-term vision of having 100% of our suppliers implementing responsible recruitment, including the employer-pays-principle.

Factories will be cited a non-compliance if Meiyume (or its customers or representatives) discover through their own means of investigation (e.g. audits, customer reports etc.) that workers have paid illegal recruitment fees and related costs **in either their destination or home country**. The national legal frameworks of both countries (particularly national labor migration laws and regulations) will be taken into account when reviewing what is legal and illegal.

If Meiyume discovers during an audit that workers have paid legal fees – these will not be a non-compliance – but will be noted under “other observations” to help inform the refinement of Meiyume's actions and future policies on responsible recruitment.

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<sup>8</sup> There must be evidence showing the factory has at least partially repaid back fees to workers.



**Table 1: Examples of how ratings will be applied**

Rating	Description	Example
Other observations	Factory proactively identifies and address worker payment of recruitment fees and related costs (legal and/or illegal)	<p>An audit shows that workers recruited after July 2020 have paid recruitment fees.</p> <p>The factory has already paid back most of fees and has a plan to pay back the remainder by the end of the month.</p> <p>As the factory has taken proactive steps to discover and remediate the fees, this will not be counted as a non-compliance.</p> <p>Findings will be recorded under “other observations”.</p>
Other observations	An audit identifies workers payment of legal recruitment fees	<p>An audit shows that workers recruited after July 2020 have paid \$400 to recruitment agencies in their home country.</p> <p>The \$400 can be legally charged in the home country.</p> <p>Findings will be recorded under “other observations”.</p>
F	<p>Illegal recruitment fees and related costs</p> <p>F-rated factories cannot receive new orders until all the remediation steps are complete.<sup>9</sup></p>	<p>A factory recruited workers in another country. As part of the recruitment process, workers pay \$500 for plane tickets and another \$100 in recruitment fees.</p> <p>The home country regulations state employers pay for airfare to the place of employment and recruitment fees cannot exceed \$50. The destination country does not have any laws or regulations regarding who pays recruitment fees and related costs.</p> <p>Meiyume discovers payment of the fees as part of an audit and the factory had no prior knowledge of it (nor did the factory do any due diligence to understand the laws in the workers’ home country).</p>

**Q6.** *What should factories do if they find out workers have paid recruitment fees or related costs?*

- Undertake an investigation to determine an itemized breakdown of the fees and costs that were paid by each worker. Determine to the extent possible, who collected the money on what date and in which location.
- Carefully document all evidence relating to the charging of recruitment fees and related costs, including worker testimony from as many workers as possible.

<sup>9</sup> For an overview of remediation steps and recruitment fee payment see questions 7 and 8.



- Secure an agreement between parties (labor user, labor provider, worker representatives, affected worker(s), etc.) on the level of fees to be reimbursed and responsibility for reimbursing the agreed fees within an agreed timeframe. For example, workers may agree to a structuring of repayments that makes it more manageable, such as spreading out the repayments over the remainder of the migrant worker’s employment contract
- Consider termination of the contract with the labor provider if there is evidence that the labor provider was complicit in the exploitation and is unwilling to improve its practices. In such instances, the factory should identify a recruiter that commits to “no fee charging” to workers, such as those working with IOM’s IRIS Initiative <https://iris.iom.int/>.
- Factory, labor provider and any subagents work together to improve due diligence processes to ensure future job advertisements clearly state that no fees are charged to workers and that this is explained to workers in their own language as part of the application process.

**Q7. What is the timeline for remediation of violations and fee repayment?**

Please refer to the timeline below

**Table 3: Remediation Timeline**

Rating	Finding	Submit CAP	Repayment Initiated	Repayment Completed
Zero-Tolerance (F)	illegal recruitment fees or related costs	7 calendar days	30 calendar days from discovery or sooner	90 calendar days from discovery or sooner
<p>Note: timeframes for payment completion may change depending on customer expectations and amounts. Larger sums may need a longer timeframe for repayment but should never exceed 6 months for complete repayment. Customer requirements may necessitate a shorter timeframe.</p>				

Fee re-payment may be a complex operation to implement and may require the assistance of a third-party depending on the size and amount of the re-payment and customer requirements.

**Q8. What evidence base is required for worker reimbursement?**

- Workers are often not provided with receipts for fees paid or may be given fraudulent documentation that vastly understates the amounts paid. Many workers are told not to say anything about the fees they paid. In some cases, they are also threatened into silence. For this reason, Meiyume and the factory may need to rely on other evidence of fees paid, including oral testimony from workers (from worker interviews) on the levels of fees and/or communications between workers. A track record of such checks should be kept and updated regularly, Worker interviews will be cross-checked against third-party evidence (ILO, IOM and other third-party reports on average recruitment fee payment).

- When many workers are affected and linked to the same labor provider, there may be a need to cross-check information on fees reported by the workers. When information on the amount of fees paid is unclear, the factory should take the average amount mentioned by workers from the factory as the amount to be repaid.

**Q9. *How will Meiyume support factories to implement this policy?***

- i. Capacity building:
  - E-Learning: Meiyume has developed an e-learning on modern slavery and responsible recruitment which it is providing to factories in key countries. A snapshot of the e-learning is available at: <https://www.youtube.com/watch?v=dnGtGly1GDQ&feature=youtu.be>
  - Face-to-face training: Meiyume offers face-to-face training on responsible recruitment in key production countries.
- ii. Due diligence: Meiyume is working with external partners to help identify good recruitment agencies in Vietnam, Bangladesh and other key sending countries. We can also share guidelines and best practices.
- iii. Resources: Please visit: <https://responsiblerecruitmenttoolkit.org/> Create a free account to access the Guide “Eliminating Worker-Paid Recruitment Fees and Related Costs: A Practical Step-by-Step Guide for Retailers, Brands, Employers and Labour Providers in Global Supply Chains

**Q11. *If workers do not perform well during the first 2-3 months’ probation, violate factory regulations and/or get sick, can the factory charge back partial recruitment fees to workers?***

- Factories cannot charge back recruitment fees to workers as this may place them at risk of debt bondage. Factories may want to take out insurance or make a contractual arrangement with the labor brokers to cover the cost of various contingencies that arise during the interim period of employment.

**Q12. *If workers want to resign and move to another company, can the factory charge back partial recruitment fees or related costs from workers?***

- Factories cannot charge back recruitment fees to workers as this may place them at risk of debt bondage. If workers want to break their contract early to work at another factory, factories should consider asking the new company to take on the remaining portion of the workers’ fees.

**Q13. *If workers are directly hired by a factory in the destination country but paid recruitment fees with a past employer, is the current factory still responsible for repaying the fees?***

- No, factories will not be penalized for workers paying recruitment fees with previous employers.

If you have any questions, please contact Meiyume Compliance [janporter@meiyume.com](mailto:janporter@meiyume.com)

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V.1	05 March, 2020