Principle 3: Recruitment Practices Are Ethical, Legal, Voluntary, and Free from Discrimination

Workers shall be recruited through ethical and legal means whereby all recruitment shall be free from discrimination and all forms of involuntary labor, slavery, and trafficking. Companies should commit to responsible recruitment in their operations and prohibit the payment of fees by the worker. Conditions of employment shall be transparent and agreed upon in writing prior to commencing work in a language that is understood by the worker.

Introduction

Applying the Building Responsibly principles in practice will be unique in every instance. This guidance note offers discussion around the potential issues and challenges faced and offers suggested good practice options for the implementation of each principle in the Key Components for Consideration section.

In some regions, to secure their jobs, construction workers may rely on recruitment agencies or intermediaries who identify, test, and recruit workers on behalf of the user companies. This process implies several expenses, including the agencies’ recruitment fees as well as associated recruitment costs such as advertising, medical tests, training, pre-departure seminars, skills tests, and, in some cases, visas and airfares.

While the costs of recruitment should not be borne by the worker but by the employer, workers still frequently end up paying to secure their jobs. In most instances, these fees are illegal and are paid to sub-agents or other intermediaries who may or may not work for the recruitment agencies. This can perpetuate an unethical recruitment system that preys on vulnerable workers, particularly low-skill migrants, who may be exploited and end up in bonded labor, often with large and disproportionately high debts to repay.

Key Terms and Definitions

» **Migrant Worker**: person who moves locations for the purpose of employment.

» **Fair Recruitment and Migration**: recruitment process that respects the human and labor rights of migrant workers and offers them opportunities for decent work.

» **Recruitment Fees**: any fees or costs incurred in the recruitment process for workers to secure employment or placement, regardless of the manner, timing, or location of their imposition or collection.

» **Employer Pays Principle**: principle according to which no worker should pay for a job—the costs of recruitment should be borne not by the worker but by the employer.

» **Bonded Labor**: Also known as debt bondage, this occurs when a person is forced to work to pay off a debt.

Key Challenges

**Limited Availability of Local Workforce**

In some countries with large engineering and construction projects, there may be a shortage of local labor or a skills mismatch. As a result, companies rely on migrant workers. These workers are often recruited through complex international recruitment systems where labor abuses may take place.
**Differing Legal and Cultural Environments**
Companies may recruit from countries with different laws and regulations, or no laws and regulations, regarding payment of fees. Navigating this uncertain legal environment is a challenge, in particular where workers might be expecting to pay a fee to secure employment and are unlikely to report this practice to the user company.

**Risks of Abuse during the Recruitment of Workers**
Countries of origin for migrant construction workers may have limited governance of the recruitment industry, weak enforcement mechanisms, and even corruption. These factors exacerbate the risk of unethical recruitment processes. It can be challenging for companies to understand the scale and severity of these risks or to find reliable recruitment agencies.

**Vulnerability of Low-Skilled Migrant Workers**
When low-skilled workers are recruited internationally, they are more vulnerable to abuse as they are less likely to know their rights. Any illegal recruitment fees they may pay will leave them heavily in debt. Low literacy levels, stigmatization, and discrimination may be additional challenges related to migrant workers.

**Costs of Ethical Recruitment**
Recruiting workers ethically, including paying all costs associated with the process, may result in companies’ being less competitive on the price of their proposals for a new project.

**Key Components for Consideration**

- Where possible, companies should limit the use of labor suppliers and recruit directly and locally.
- Companies should identify and conduct due diligence on recruitment agencies to ensure that they are respectable and are not involved in human rights violations.
- Companies should check that the workers have a legal status to reside and work in the country and that they are not undocumented workers.
- Companies should engage partners to understand the cost structure of the recruitment process and should ensure that what they pay is enough to cover it all.
- Companies should adopt the Employer Pays Principle in recruitment agent agreements.
- Companies should ensure there are clear and robust contractual expectations around fair recruitment with recruitment agencies. This could include monitoring, the right to audit partners’ practices, and the right to terminate the relationship in case of serious violations.
- Where possible, companies should limit or control the use of sub-recruitment agents and should develop schemes that incentivize ethical recruitment practices.
- Companies should give partners enough time and notice to recruit the workers needed.
- Companies should ensure workers are provided with comprehensive and transparent information about the conditions of recruitment, employment, and work, agreed upon in writing and in a language that the workers understand before any work begins.
- Where possible, companies should ensure that workers have received information on the labor law and on their rights in the country where they will work. Companies may consider using technology, pre-departure inductions, low literacy handbooks, handbooks in workers’ native languages, etc.
- Where possible, companies should invest in a human resources team to conduct and monitor recruitment. Responsibilities of this team should include visiting recruitment centers and meeting workers before they travel.
Companies should monitor the recruitment, mobilization, work, and termination process to ensure that the candidates are not charged any fees at any stage. This may include dialogue with recruitment agencies or formal audits of their processes to follow-up on contractual clauses and to ask for improvement where needed.

Companies should provide workers with the means to report grievances or any activity that is inconsistent with the principles above. Companies may also use worker surveys to determine the nature and scale of the challenges in this area and to provide a basis for remediation, which should consider the reimbursement of any fees paid by the worker.

Tools and Resources

» Dhaka Principles for Migration with Dignity
» ILO General principles and operational guidelines for fair recruitment & Definition of recruitment fees (2019)
» Human Trafficking and Business: Good Practices to Prevent and Combat Human Trafficking
» Stronger Together, Tackling Modern Slavery in Business Toolkit
» Qatar Foundation Mandatory Standards of Migrant Workers’ Welfare for Contractors & Sub-Contractors
» Danish Institute for Human Rights’ Human Rights Compliance Assessment
» Verité, Ethical Framework for Cross Border Labor Recruitment
» Verité, Fair Hiring Toolkit
» IHRB, Responsible Recruitment Gateway

About Building Responsibly

Building Responsibly is a group of leading engineering and construction companies working together to raise the bar in promoting the rights and welfare of workers across the industry. We have come together to foster and ensure a better working environment for workers in the engineering and construction sector. Doing so will allow us to more effectively respond to client, stakeholder, and regulatory expectations and manage a healthier, more productive workforce.

For more information and resources to support implementation of these Principles, visit www.building-responsibly.org.

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