

Earthworm Foundation Human Rights Based Due Diligence Tool on Ethical Recruitment





Why is Ethical or Responsible Recruitment Important?

Responsible businesses, consumers, international organisations and civil society are calling for ethical recruitment of workers in supply chains to promote workers rights and to eradicate forced labour and human trafficking.

In Malaysia, complex government policies on the recruitment of migrant workers, lengthy administrative procedures, and the need for registered agents for hiring in countries of origin has often resulted in employers depending on recruitment agents, brokers and contractors to source migrant workers. While most companies conduct some form of basic due diligence on their recruitment and generally pay legally mandated fees in Malaysia, few look into the human rights impacts of their recruitment processes. Companies also have limited oversight on recruitment process and fees paid by workers they employ.

It is important to note that deception in recruitment, contract substitution and debt bondage are indicators of forced and bonded labour. This contradicts the No Exploitation commitments made by many major palm oil buyers and producers. Thus, due diligence is required by companies to ensure their operations and supply chains are not at risk of labour exploitation while promoting decent work opportunities.

For these reasons, when using recruitment agents in their hiring process, companies need to ask themselves:

1. What are you paying your recruitment partners for?
2. Do you know about the practices of your recruitment partners?
3. Are your workers being exploited without your knowledge?

It is imperative for companies to get as closely involved in the recruitment process as operationally possible to minimize the risk of being exposed to exploitation of workers.

What is the purpose of this tool?

The primary purpose of implementing this tool is to assist companies to fulfil their corporate responsibilities to respect workers' rights, particularly, their commitment on ethical recruitment practices. By undertaking a human rights due diligence on their recruitment practices, the companies will be able to:-

1. increase transparency of recruitment practices, processes and costs
2. assess the risks of its recruitment practices, and to prevent any unintended negative consequences to the company, business partners and suppliers as well as the workers
3. understand the strength and gaps of its recruitment practices, and to undertake necessary actions to mitigate risks
4. support information gathering to remedy any negative impacts resulting from any forms of unethical recruitment practices
5. support reporting on recruitment practices to buyers, brands or other interested stakeholders

Who is this tool for?

This tool is designed to be used by company representatives who are responsible for the recruitment of migrant workers and the hiring of contractors, human resources, and those who are involved in sustainability or responsible sourcing units.

When should this tool be used?

It is strongly recommended that any company that has not done any due diligence of its recruitment practice - to immediately implement this tool.

This tool should be used with your company's other regular internal due diligence processes, compliance-based audits and other processes.

How frequently should HRDD be conducted?

The company is recommended to conduct thorough due diligence at least once in 2 years, or upon any significant policy updates, organizational changes or changes to recruitment partners or processes in the company.

What is this tool about?

This tool is divided into 6 steps, as follows:-

Step 1: Recruitment Profile

Step 2: Review of Recruitment Experiences of Migrant Workers

Step 3: Review of Recruitment Cost

Step 4: Review of Recruitment Policy

Step 5: Review of Recruitment Process and Other Related Practices

Step 6: Summary of Risks Identified and Areas for Further Examination

NOTE: The company is highly encouraged to complete all steps



Step 1: Recruitment Profile

This section will assist you to begin your human rights based due diligence process by gathering all relevant information relating to the recruitment of migrant workers and the contact details of all those involved.

Please add columns/rows where further inputs are required, and also amend sections called ‘Other’ with the relevant input/category required.

A: Identify the person in charge of managing your migrant worker recruitment process

Understand which department and PIC in your company is responsible for the recruitment of migrant workers. Knowing who is responsible will assist you to complete the other sections of this tool.

Subject	Name/s of PIC	Department / Divisions	Role / Function
Senior Management - Decision Maker for recruitment matters			
Overall person in charge (PIC) for recruitment matters			
PIC to liaise with the government & embassies			
PIC to liaise with the recruitment agents			
PIC for contractors and subcontractors			
Others - Please specify:			



B: Identify your company's methods of recruitment

Understand the different methods your company uses to source migrant workers. For each method, please select the relevant nationality, if applicable.

Methods of recruitment of migrant workers	By Nationality of Migrant workers						
	Indonesia	Bangladesh	India	Nepal	Myanmar	Pakistan	Other
Recruitment via walk-in							
Recruitment via a referral system from your current or previous workers							
Recruitment via other informal or unregistered intermediaries / networks in Malaysia							
Recruitment via recruitment agents in Malaysia							
Recruitment via recruitment agents in country of origin							
Recruitment using a Government-to-Government (G-to-G) Scheme							
Recruitment using a Government-to-Business (G-to-B) Scheme							
Hiring through labour contractor or sub-contractor in Malaysia							
Hiring through an outsourcing company in Malaysia							

Note(1) Previously licensed Outsourcing Companies (registered under the Ministry of Home Affairs) were banned as of 31 March 2019. Employees under these arrangements may be absorbed by the company concerned. Please contact the Ministry of Home Affairs for further information and new updates.

Note(2) A company may have a combination of one or more types of sourcing of migrant workers

C: Identify your company's migrant worker population

Collect information on the number of migrant workers, based on their nationality and gender.

[illegible]



D: Identify your recruitment agents in Malaysia

List all recruitment agents in Malaysia that support your company's recruitment process, and ensure you keep necessary records of all agents and sub-agents (if any).

Subject	Recruitment Agents in Malaysia				
	Agent #1	Agent #2	Agent #3	Agent #4	Agent #5
Name of company					
Company registration no.					
License type (A/B/C)					
Address of company					
Phone number of company					
Email of the company					
Website of the company					
Contact person's name					
Contact person's contact details					
Declared list of sub-agents (in Malaysia) involved in recruitment					
Declared list of sub-agents (outside Malaysia) involved in recruitment (if any)					



D: Identify your recruitment agents in countries of origin

List all recruitment agents in the countries of origin that support your company's recruitment process, and ensure you keep necessary records of all agents and sub-agents (if any).

Subject	Recruitment Agents in migrant workers' country of origin				
	Agent #1	Agent #2	Agent #3	Agent #4	Agent #5
Countries of origin of workers					
Name of company					
Company registration no. / type					
Address of company					
Phone number of company					
Email of the company					
Website of the company					
Contact person's name					
Contact person's contact details					
Declared list of sub-agents involved in recruitment (include name, contract details and business registration number)					



E: Identify your company's use of outsourced, contracted or sub-contracted workers

If you have outsourced, sub-contracted workers in your operations, please identify the companies that deploy them to your operations, the type of activities or services they provide and the typical duration of their services.

Subject	Outsourcing, Contractors and Sub-Contractors in Malaysia				
	Contractor #1	Contractor #2	Contractor#3	Contractor #4	Contractor #5
Countries of origin of workers					
Name of company					
Company registration no. / type					
Address of company					
Phone number of company					
Email of the company					
Website of the company					
Contact person's name					
Contact person's contact details					
Entity's declared list of agents/sub-agents involved in recruitment (include name, contract details and business registration number).					



Name of Contractor / Sub-Contractor (from above)	Type of services or activities provided	Number of contracted / sub-contracted workers provided	Nationality of workers involved	Typical duration of services (i.e., days / months/years/temporary or permanent)

Note (1) This section may be completed at a group level if the same person/ department is responsible for recruitment for the group, or by individual entities (plantations, mills, refinery) if recruitment is managed by each entity separately.

NOTE:

If the services are short or fixed term and of a temporary nature- or not related to your core business activities (eg. temporary construction workers), this would reflect a standard sub-contracting arrangement that does not inherently expose your company to risk. However, to ensure that the contractor is applying the full extent of the labour law for those workers and meets industry standards that your company adheres to (NDPE policies, MSPO, RSPO certification requirements), due diligence will be required.

If the services are long term or of undefined length, on-going, and workers live in your company provided workers quarters (eg. auxiliary security services, spraying or harvesting services), then there is potential for an unclear employment relationship between your company, the contractor and the workers. You will need to conduct due diligence to ensure that both your company and the contractor is applying the full extent of the labour law in addition to any industry standards that your company adheres to (NDPE policies, MSPO, RSPO certification requirements).



Step 2: Review of Recruitment Experiences of Migrant Workers

This section assists the company to understand the recruitment experiences of its migrant workers, as well as the actual and potential risks the workers face. For the initial interviews with migrant workers, it is recommended the company engage independent third party support. If this is not possible, the company and the staff conducting interviews should ensure that appropriate non-reprisal and non-retaliation measures are in place such that workers are informed and assured that anything they share will not be used against them in any way.

The below questions are a guide for interview questions. It is recommended that the company extracts this step into their format of choice for engagement with migrant workers, and capture results by nationality of the worker to identify trends. While there is no fixed number of migrant workers to complete this step, companies are recommended to engage a sample of each batch of recruited migrant workers (directly employed and contracted or sub-contracted workers).

A: Migrant Workers’ Experiences throughout the Application, Recruitment and Post-Arrival Process

This sub-section assists the company to understand the experiences and risks facing migrant workers throughout their job application, recruitment and post-arrival process.

1. Can you describe your experiences and grievances (if any) during the job application process in your country of origin [stages listed in the table are a sample of stages that the worker may have gone through, and can be adjusted]

No.	Stages / Activities	Describe your experience & timeline	Person(s) involved	Grievance (if any)
1	During job search	<i>e.g. I have to go to nearby township to get update about job vacancy</i>	<i>e.g. relatives and local recruiter</i>	<i>e.g. local recruiter did not reveal all vacancies</i>
2	During job application			
3	<i>Please add other relevant activity here...</i>			
4	<i>Please add other relevant activity here...</i>			



2. Can you describe your experiences and grievances (if any) during the recruitment process in your country of origin [stages listed in the table are a sample of stages that the worker may have gone through, and can be adjusted]

No.	Stages / Activities	Describe your experience & timeline	Person(s) involved	Grievance (if any)
1	During interview process	<i>e.g. interview was done far from my hometown</i>	<i>e.g. manpower</i>	<i>e.g. I didn't understand the language</i>
2	During screening process (e.g., medical screening, visa application)			
3	Upon acceptance of employment offer (contract signing)			
4	During training and pre-departure briefing			
5	During pre-departure period (in transit before Malaysia)			
6	<i>Please add other relevant activities here...</i>			

3. Can you describe your experiences and grievances (if any) during the post-arrival process in Malaysia

No.	Stages / Activities	Describe your experience & timeline	Person(s) involved	Grievance (if any)
1	Upon arrival at any Malaysia's official entry point (e.g. KLIA terminal)	<i>e.g. no company representative present</i>	<i>e.g. labour agent representative</i>	<i>e.g. labour agent did not brief us properly on the next steps.</i>
2	Upon arrival at temporary receiving centre (if applicable)			
3	Upon arrival at company's workplace			
4	<i>Please add other relevant activities...</i>			
5	<i>Please add other relevant activities...</i>			



B: Contract of Employment

This sub-section assists the company to understand the issues and risks related to the issuance of the contract of employment to its migrant workers.

1. Can you share the following information about your contract of employment:

No.	Information related to Employment Contract	Workers' response and observation (if any)	Yes	No	Unsure	Other Observation
1	Did you sign a copy of your contract in your country of origin?					
a	Were you given a copy of the contract in your country of origin?					
b	Were you given a copy of your contract in your native language/ language you understand?					
c	Did you understand the terms in the contract you signed at your country of origin?					
d	Is the job offered in your country of origin the same as the job you are doing right now?					
2	Did you sign another contract in Malaysia?					
a	Were you given a copy of the contract you signed in Malaysia?					
b	Were you given a copy of your contract in your native language/ language you understand that you signed in Malaysia?					
c	Did you understand the terms in the contract you signed in Malaysia?					
d	Are the terms in the contract you signed in Malaysia same as the one you signed at your home country?					



C: Recruitment Cost Borne by Migrant Workers

This sub-section assists the company to understand the costs borne by migrant workers throughout their job application, recruitment and in post-arrival process. Please note that the workers may not know the specific breakdown of the costs they incurred.

1. Can you share any costs that you have paid throughout your job application/pre-selection process

No.	Stages / Activities	Cost you have paid [use consistent currency]	Purpose of paid costs
1	During job searching	<i>e.g. 15,000 rupees</i>	<i>e.g. fee to broker</i>
2	During job application		
3	<i>Please add other relevant activity here...</i>		
4	<i>Please add other relevant activity here...</i>		

Note (1) Please use consistent currency

2. Can you share any costs that you have paid throughout your recruitment process

No.	Stages / Activities	Cost you have paid [use consistent currency]	Purpose of paid costs
1	During interview process	<i>e.g. 15,000 rupees</i>	<i>e.g. manpower</i>
2	During screening process (e.g. medical screening, visa application)		
3	Upon acceptance of employment offer (contract signing)		
4	During training and pre-departure briefing		
5	During pre-departure period (in transit before Malaysia)		
6	<i>Please add other relevant activity here...</i>		

Note (1) Please use consistent currency



3. Can you share any costs that you have paid throughout your post-arrival process (costs incurred after arriving in Malaysia)

No.	Stages / Activities	Cost you have paid [use consistent currency]	Purpose of paid costs
1	"Upon arrival at any Malaysia's official entry point (e.g. KLIA terminal)"	e.g.	e.g.
2	Upon arrival at temporary holding centre (if applicable)		
3	Upon arrival at company's workplace		
4	Please add other relevant activities...		
5	Please add other relevant activity here...		

Note (1) Please use consistent currency



Step 3: Review of Recruitment Cost

This is a sample template for recruitment related costs and fees that can assist your company to understand what recruitment fees are involved, which actor pays for them upfront, and if there is any reimbursement.

List all costs and fees covered by your agent in the country of origin or your agent in Malaysia; paid by your company or paid by the worker. Then list any amounts that are reimbursed.



Type of Recruitment Fees (By Process)	Paid by (in RM)				Reimbursed by (in RM) (if applicable) - to workers		
	“Recruitment Agent (Country of Origin)”	“Recruitment Agent (in Malaysia)”	Company / Employer	Worker	“Recruitment Agent (Country of Origin)”	“Recruitment Agent (in Malaysia)”	Company / Employer
1) APPLICATION PROCESS:							
Service fee for labour agent in Malaysia (if any)							
Levy fee							
Embassy attestation fee							
Others: [Please specify]							
TOTAL COST							
2) RECRUITMENT PROCESS:							
Candidate screening to signing contract in the country of origin							
Service fee for labour agent in source country							
Service fee for individual (including friend/ relative/ informal broker) involved in arranging for selection/ interview session with labour recruiter							
Service fee for NGO/ community-based organization involved in arranging for selection / interview session with labour recruiter							
Passport fee							
Lodging / hostel during recruitment							
Meals during recruitment							
Transportation during recruitment							
Documentation preparation cost							
Employment contract attestation fee							
Translation cost / fee							
Medical check-up fee (BESTINET)							
Migrant Insurance Scheme / Welfare fund							
Others: [Please specify]							
Preparation for journey to Malaysia							
Training cost (any kind of pre-departure training including skills, language and cultural training)							
Training fee or pre-departure awareness training fee							
Lodging / hotel (while waiting to travel to Malaysia)							
Meals (while waiting to travel to Malaysia)							
Documentation preparation cost							
Translation cost / fee							
Calling Visa fee							
Airfare cost (ticket to Malaysia)							
Ferry/ land transportation cost							
Airport tax or any form of departure tax							
Other airport entry or other clearance fees or charges							
Miscellaneous official government fees (by Malaysian government)							
Miscellaneous official government fees (by government of origin country)							
Others: [Please specify]							
TOTAL COST							



Type of Recruitment Fees (By Process)	Paid by (in RM)				Reimbursed by (in RM) (if applicable) - to workers		
	"Recruitment Agent (Country of Origin)"	"Recruitment Agent (in Malaysia)"	Company / Employer	Worker	"Recruitment Agent (Country of Origin)"	"Recruitment Agent (in Malaysia)"	Company / Employer
3) POST-ARRIVAL PROCESS:							
Training cost (any kind of training including language and cultural training after arrival)							
Induction or company's briefing (if different to training)							
Lodging / hotel (during training/induction/placement)							
Meals (during training/ induction/placement)							
Allowance during training/induction/placement (other than workers' salary)							
Airport tax or any form of arrival tax							
Translation or interpreter cost							
Transportation cost (in Malaysia)							
Medical check-up fee (FOMEMA)							
Documentation preparation cost							
Work Permit /Work pass fee (PLKS)							
Security bond / Bank Guarantee							
Immigration Security Clearance (ISC) fee							
Insurance - Migrant worker Compensation Scheme (FWCS) fee / SOCSO							
Insurance - Health Insurance Protection Scheme Migrant workers (SPIKPA) fee							
Miscellaneous official government fees (by Malaysian government)							
Airfare cost (return - at departure)							
Others: [Please specify]							
TOTAL COST							
GRAND TOTAL (TOTAL COSTS 1, 2 & 3)							



Type of Recruitment Fees (By Process)	Paid by (in RM)				Reimbursed by (in RM) (if applicable) - to workers		
	“Recruitment Agent (Country of Origin)”	“Recruitment Agent (in Malaysia)”	Company / Employer	Worker	“Recruitment Agent (Country of Origin)”	“Recruitment Agent (in Malaysia)”	Company / Employer
INDIRECT COST IN COUNTRY OF ORIGIN							
Expedite issuance of passport							
Expedite issuance of visa & work permit							
Expedite exit clearance process at country of origin							
Expedite issuance of birth certificate & identity document							
Other informal payments/ facilitation / gifts to agent, broker, runner or any middle person at country of origin							
Fees to facilitate border crossing (regular or irregular crossing)							
Others: [Please specify]							
INDIRECT COST IN MALAYSIA							
Expedite issuance of quota approval							
Expedite issuance of immigration card (I-Card)							
Expedite issuance of passport renewal or replacement							
Expedite issuance of work permit / work pass							
Expedite issuance of insurance							
Expedite issuance of medical report/ result							
Expedite/ facilitate entry process in Malaysia							
Other informal payments/ facilitation / gifts to agent, broker, runner or any middle person in Malaysia							
Others: [Please specify]							
TOTAL COST							

NOTE:

Indirect costs are often costs that do not have receipts and are not official in nature. They must also be accounted for to better understand the real cost of recruitment for employers, agents and workers. Your company can request information about the range of such costs from agents or other recruitment related business partners in Malaysia – who can in turn request from the recruitment agents in the countries of origin if you do not have a direct relationship with them.

NOTE:

The Institute for Human Rights and Business (IHRB) and the Leadership Group for Responsible Recruitment (2016) outline that the key principle for recruitment fees is that: “No worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer.” The costs and fees associated with recruitment, travel and processing of migrant workers shall be covered by the employer from their home country to the workplace, and return when the relocation is not permanent. These include:

1. Pre-departure fees and costs eg. skills tests, medical examinations
2. Costs associated with documentation and/or permits
3. Transportation and lodging costs
4. Arrival / Orientation / On-Boarding
5. Costs associated with return to country of origin, when the contract is temporary



Step 4: Review of Recruitment Policy

This section will provide you the background understanding required to consider your company's values in relation to ethical recruitment, and can assist you to develop your company's human rights based policy commitment on the topic of ethical recruitment.

A: Identify existing written policy / code of conduct / procedure on the recruitment or hiring of migrant workers

Evaluate if your company has a written policy / code of conduct / procedure on the recruitment or hiring of migrant workers.

1. Does your company have a dedicated written policy / code of conduct / procedure on the recruitment or hiring of migrant workers?

Please check box below

- | | |
|--------|-----------------------|
| Yes | <input type="radio"/> |
| No | <input type="radio"/> |
| Unsure | <input type="radio"/> |

If your answer is unsure, please clarify: _____

NOTE:

UN Guiding Principles on Business and Human Rights provides guidelines to ensure companies have comprehensive human rights related policies.

To be effective, your company policy should:

- Be approved at the most senior level
- Informed by relevant internal and/or external expertise
- Stipulate the company's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services
- Be made publicly available and communicated internally and externally to all personnel, business partners and other relevant parties
- Reflected in operational policies and procedures necessary to embed it throughout the business enterprise.

Resources

Resources available to help guide the development of your company's policy:

[Sample Policy](#)

[Sample Code of Conduct](#)

[Sample Benchmarks of Good Practice in Recruitment and Hiring](#)
[Source: Verité's Fair Hiring Toolkit]

B: Assess your Policy Alignment to Existing Standards, Regulations and Good Practices

1. If your answer above is “Yes”, please check whether your existing policy/code of conduct is aligned to the existing standards, regulations and good practices.

Policy Alignment to Existing Standards, Regulations and Good Practices		Please check if applicable
1	Our policy is aligned to national laws, regulations and standards	
2	Our policy is aligned to International labour standards, including key ILO Conventions and Standards (e.g. ILO Declaration on Fundamental Principles and Rights at Work, ILO Minimum Age Convention)	
3	Our policy is aligned to key human rights principles as enshrined under the Universal Declaration of Human Rights (UDHR) and other international human rights treaties, standards and principles (e.g. UN Guiding Principles on Business & Human Rights)	
4	Our policy clearly states a company's commitment on the zero cost of recruitment principle - where migrant workers shall not bear any cost of recruitment.	
5	Our policy clearly provides a process of worker fee reimbursement if fees were paid.	
6	Our policy requires recruitment agents to adopt our policy on the recruitment of migrant workers.	
7	Our policy requires labour contractors to adopt our policy on the recruitment of migrant workers.	
8	Our policy applies to all our own operations, throughout Malaysia as well as operations outside Malaysia	
9	Our policy requires ethical conduct and takes a stand on anti-corruption/anti-bribery principles	
10	Our policy applies to all our third party suppliers and other business partners, even if not involved specifically in recruitment of migrant workers	



Step 5: Review of Recruitment Process and Other Related Practices

As baseline understanding is slowly built while carrying out this due diligence process, your company can begin to take small steps in in the right direction with the growing transparency. This section is meant to help you identify and assess key risk areas where workers are vulnerable to exploitation and focuses on what you can do as a company to remediate any negative impacts on your migrant workforce. Some resources are highlighted where available for your reference. We hope to grow these resources in the future.

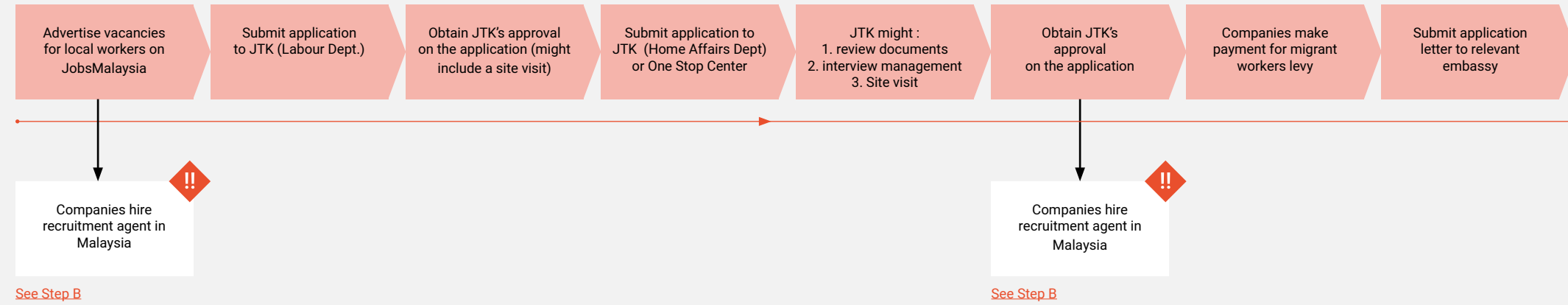
A: Understand your migrant worker recruitment process and identify key risk areas

Tip: Establish the activities your company undertakes to embark on the recruitment process, and identify key risk areas where migrant workers are put into situations where they become vulnerable to exploitation.

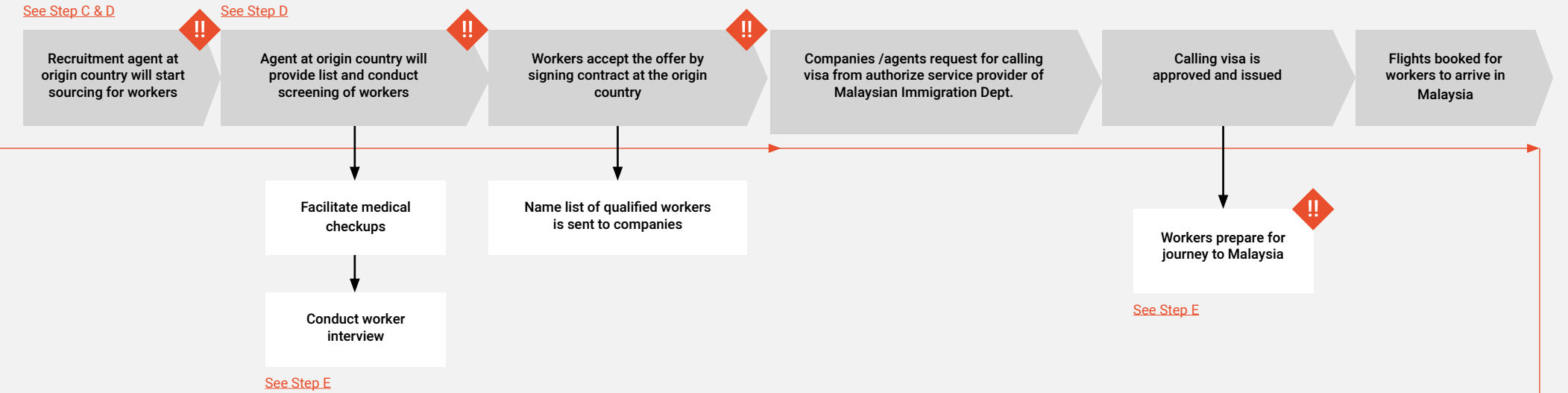
The following shows a sample migrant worker recruitment process flow where recruitment agents are used in Malaysia and country of origin. When companies use an agent for recruitment, they lose control and visibility over the conditions of recruitment and potentially be exposed to risks of debt and deception in their hiring process. Therefore, to minimize the risk of forced labour, debt bondage and trafficking in your supply chain, it is helpful for companies to take accountability and be as involved in the recruitment process as operationally feasible.



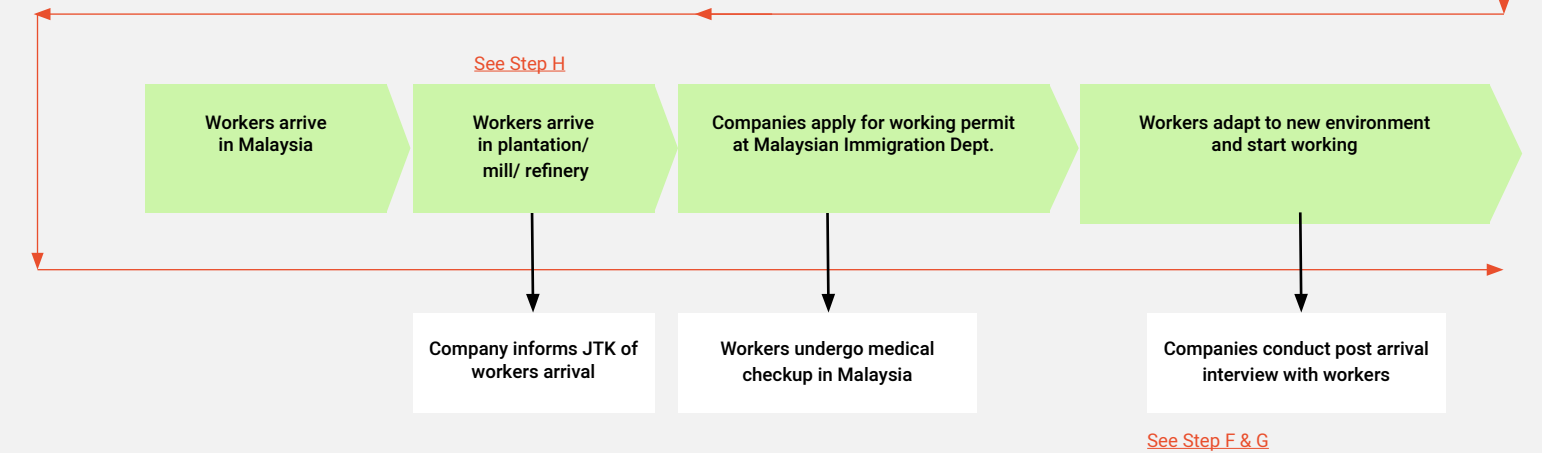
1 Application Process:



2 Recruitment Process:



3 Receiving Process:



Legend:
Key risk area identified by companies for mitigation/ intervention



B: Assess your company's processes for the selection of labour agents

Tip: It is recommended that companies take pro-active measures to mitigate the risk of unethical recruitment, beginning with the selection of credible recruitment agents with good track records and transparent practices.

Resources:

Resources available to help guide the screening of recruitment agents
[List of approved recruitment agents](#)

[International Recruitment Integrity System \(IRIS\) standard for labour recruiters](#)
Referring to Step 2 can be helpful for this segment.

1. Select the criteria used by your company to select your labour / recruitment agent for migrant workers.

Selection Criteria	Please check if applicable
Entity must be a registered labour agent in Malaysia (under the Private Employment Agencies Act), with a 'C' license.	
Entity must be registered as a company under Companies Commission Malaysia (CCM) as a management consultancy or similar functions	
Entity must be a registered labour agent in the country of origin of migrant workers.	
Entity must have a dedicated written policy / code of ethical conduct / procedure on the recruitment of migrant workers ensuring:	
i. The recruiter has a policy stating that workers are not charged recruitment fees.	
ii. The recruiter has a policy to ensure that workers' contracts meet legal and company requirements.	
iii. The recruiter has a procedure for verifying that workers are not charged fees by agents in the country of origin (e.g. worker interviews, a plan for periodic worker surveys, receipt review, etc.).	
iv. The recruiter has a procedure to prevent the substitution of original contract terms and conditions, as well as details of working conditions, without the consent of the worker.	
Entity must have a good practice of transparency and be open to stakeholder engagement	
Entity must have good reputation and track record.	
Entity has an established network in Malaysia and in source country.	
Entity charges reasonable service fee to the company	
Entity charges transparent recruitment fees to the migrant workers (without hidden costs)	
Entity charges no fees to the migrant workers	
“Others - Please specify: _____”	



C: Contact the embassies based on the nationality of your workers to screen agents in the country of origin

Tip: Obtain list of recruitment agents in country of origin used by your recruitment agent in Malaysia. Based on the nationality of your migrant workers, contact the foreign missions, consulates or embassies and request more information about the agent to perform basic due diligence on the agent at country of origin.

1. Select the criteria used by your company to select your labour / recruitment agent for migrant workers.

Selection criteria for labour/recruitment agent in country of origin	Please check if applicable
Entity must be a registered labour agent/recruiter in the country of origin of the workers.	
Entity must be not be banned or blacklisted.	
Reference of attache' / embassy recommendation	
Others - Please specify:	

Resources:

Resources available to help guide the screening of recruitment agents

Please refer to the Foreign Workers Centralised Management System Malaysia website at <https://fwcms.com.my> for the current list of accredited recruitment companies.



D: Assess the process and information used by recruitment agents to recruit workers at the country of origin

1. Select the relevant information provided to your company's Recruitment Agents and Contractors about the company, its policies and expectations that is used in the recruitment of workers in the country of origin.

Information provided to labour recruitment agents		Please check if applicable
The company has provided the following information to the recruitment agent:		
i.	The legal name of the company and its headquarters.	
ii.	The exact location of the company premises, including where the worker will be based.	
iii.	Description of the job and working conditions, skills required.	
iv.	Description of terms and conditions expected for all workers on site (hours, wages, annual leave, sick leave and other benefits)	
v.	Description of living conditions, rules relating to the accommodation and location of labour quarters.	
vi.	Details about company policy in case of sickness/accident/death: access to medical facilities, workmen's compensation/hospitalisation insurance in Malaysia/ access to onsite and offsite	
vii.	Details about recruitment/placement fees and clear statement that these fees should not be borne by the workers/company grievance process and other options for access to remedy	
viii.	Details about the company grievance process and other options for access to remedy	
ix.	Workers selection criteria	
x.	Others [please specify]:	

NOTE: Workers Selection Criteria

It is important that the company ensure that all migrant workers are treated equally throughout the recruitment process and are not discriminated against. Common areas used to discriminate individuals for employment are on the basis of race, ethnicity, sex, gender and gender identity, national or social origin, nationality, caste, age, political affiliation, religion, sexual orientation, union membership, physical ability, health, pregnancy, marital or family status. The company should ensure that its criteria for selection are free of bias, based on objective factors linked directly to the specific job function or to promote positive discrimination of minorities or vulnerable groups, or to promote diversity, in accordance with applicable law.



E: Assess the contract management and pre-departure process used by recruitment agents at the country of origin

1. Examine what information your company currently verifies about the contract management process and pre-departure process prior to starting work on site.

Contract management and pre-departure process		Please check if applicable
The contract management process is directly supervised by a representative of the company in the country of origin.		
The company has verified the following with the recruitment agent:		
i.	Workers sign an employment contract in the country of origin prior to departure.	
ii.	Workers are given an opportunity to review the contract prior to signature	
iii.	The contract is written in the native language of the worker.	
iv.	Workers are given their own copy of the employment contract.	
v.	A copy of the contract is kept at the company's management office	
The company has been provided with the following information / documents by the recruitment agent:		
i. A copy of employment contract signed by all workers		
ii. A copy of medical, security clearance and calling visa documents		
iii. A copy of relevant receipts / invoices paid by labour agents on behalf of workers		
iv. Others - Please specify:		

Resources:

[EF Tools for Transformation Resources on Employment Contracts](#)



F: Examine your company's post-arrival processes in Malaysia

1. Select whether the following activities has been completed for new workers:

Post-Arrival Process in Malaysia	Please check if applicable
Company provides an induction programme for all new migrant workers	
Company provides relevant training for all new migrant workers	
Company provides inductions and training in workers native language or provide interpretation	
All new migrant workers are taken for medical test (FOMEMA)	
i. Migrant workers that fail their FOMEMA medical test are provided medical care and access to their medical report while awaiting repatriation or an appeal (re-test)	
If there is a new employment contract signed by migrant workers in Malaysia, please check the following:	
i. The new employment contract is signed by all migrant workers.	
ii. The terms and conditions of employment are the same as or better than originally offered to the worker in the country of origin.	
iii. The new employment contract is written in the native language of the worker.	
iv. The new contract is based on Standard Employment Contracts from Embassies or the Ministry of Human Resources.	
v. The new contract is based on the company's own template for contracts.	
Company organizes interviews for all new migrant workers about their recruitment experience and any fees paid.	
Others - Please specify:	



G: Review practices related to loan provision [For Company and Other Stakeholders]

1. Verify whether your company and other stakeholders provide loans and/or cash advances to migrant workers during the recruitment process or upon arrival to cover recruitment related costs.

Subject (loan provision)	Response (please check if applicable OR fill your answer below)							
	Your Company		Labour Recruitment Agency in Malaysia		Labour Recruitment Agency in Origin Country		Other Stakeholder (e.g., contractor)	
	Yes	No	Yes	No	Yes	No	Yes	No
Do you provide loans to migrant workers for the purpose of their recruitment?								
If yes, what is the interest rate? (please state “0” if no interest)								
If yes, how long is the repayment period?								
If yes, are migrant workers asked to sign a contract of agreement for the loan provision?	Yes	No	Yes	No	Yes	No	Yes	No
If yes, do you deduct migrant workers’ salary for the purpose of their loan repayment?	Yes	No	Yes	No	Yes	No	Yes	No
If you deduct migrant workers’ salary, do you have permission from the Labour Department?	Yes	No	Yes	No	Yes	No	Yes	No
Do you provide advance cash (other than loan) to migrant workers for the purpose of their recruitment?	Yes	No	Yes	No	Yes	No	Yes	No
If yes, what is the interest rate? (please state “0” if no interest)								
If yes, how long the repayment period?								
If yes, do you deduct migrant workers’ salary for the purpose of their loan repayment?	Yes	No	Yes	No	Yes	No	Yes	No
If you deduct migrant workers’ salary, do you have permission from the Labour Department?	Yes	No	Yes	No	Yes	No	Yes	No

RECOMMENDATIONS:

- There should be a clear point of contact to oversee all loan and advance related matters and the workers should be fully aware of who has this responsibility.
- Loans or advances should not exceed 1 month of a workers basic salary.
- Companies should not charge any interest on loans or advances provided to avoid situations of worker indebtedness.
- The company must ensure workers repayment of any legal deductions do not exceed 50% of their basic salary according to Malaysian Law.
- All terms of repayment must be transparent to both workers and company staff and kept in writing as part of a SOP.
- Workers should be provided written documentation detailing the terms and conditions of the loan or advance.
- Workers should be provided updates on the outstanding balance of their loan or advance. This could be in their payslip or separately.
- Any advance or loans with subsequent deductions require a permit from the Labour Department.

Resources:

Resources available to support on wages and deductions

[EF Tools for Transformation website resource page on Wages & Working Hours](#)



H: Review the grievance processes your employees and sub-contracted/outsourced workers have access to

1. Select if the following is applicable with regards to your company's process and whether you are aware of your stakeholders' grievance management processes.

Availability and Management of Grievances	Response (please check if applicable OR fill your answer below)							
	Your Company		Labour Recruitment Agency in Malaysia		Labour Recruitment Agency in Origin Country		Other, please state_____	
	Yes	No	Yes	No	Yes	No	Yes	No
Do you provide a general grievance mechanism at workplace?								
Do you socialize the grievance mechanism to all new migrant workers?								
Do migrant workers channel their grievances related to their recruitment?								
If yes (above), what are the common grievances they raised?								
If workers raise grievances, what are the common steps your company take?								

Resources: Resources available to support on grievances and access to remedy

EF Tools for Transformation website resource page on Access to Remedy



Step 6: Summary of Risks Identified and Areas for Further Examination

Please complete this section with the summary of risks identified and/or missing information and other observations for follow up.

By Step	Summary of risks and gaps identified	Other observations for follow up and risk mitigation
Step 1 Recruitment Profile		
Step 2 Review of Recruitment Experiences of Migrant Workers		
Step 3 Review of Recruitment Cost		
Step 4 Review of Recruitment Policy		
Step 5 Review of Recruitment and Related Practices		



Glossary

This section will provide you the list of terms used in this tool

Contractor / Sub-Contractor	Refers to entity who is given a contract by a company to undertake activities in its business operations
Cost of Recruitment	Refers to any direct and indirect costs associated with recruitment of migrant workers
Deployment	Refers to activity and responsibility of employer/labour recruiter and worker between “completion of selection of workers in origin country” and “arrival in Malaysia”
Migrant Worker/Employee	Refers to the category of migrant worker under Malaysian policy, hired directly by employer.
Employers Recruitment Cost	Refers to any recruitment cost borne by the employer. This is calculated as all expenditure on recruitment by the employer, minus any deductions made by the employer to the migrant worker (or any other party) for recruitment related expenses.
Indirect Cost of Recruitment	Refers to any recruitment cost or fee that is not formally required under the laws and policies of Malaysia and/or the origin country, where there are no receipts provided.
Informal Labour Recruiter / Individual	Refers to any person or party that is not registered under the law but involved in the recruitment and supply of workers in Malaysia and in origin country
Labour Recruiter / Agent	Refers to a registered entity that is involved in the recruitment and supply of migrant workers, in Malaysia and/or in the worker's country of origin
Post - Arrival	Refers to the period of time after migrant workers arrive in Malaysia (until the termination of their employment with the company)
Pre-Selection	Refers to the processes undertaken by workers, the potential employer, labour recruiter and any other third party involved in connecting, transporting and assisting workers to get to the point of an interview or recruitment session
Selection Process	Refers to the processes by the employer/labour recruiter and worker during interview process and administrative arrangement upon selection of eligible workers
Sub-Contracted/Outsourced Worker	Refers to a worker who is hired by a third party (contractor / sub-contractor/outsourcing) company to work in the company's operations/sites
Third Party	Refers to contractor, sub-contractor or any stakeholder involved, directly or indirectly in palm oil activities of the selected company
Undocumented Worker	Refers to a migrant worker who is not in possession of a valid working pass (pas lawatan kerja sementara - PLKS) in Malaysia

