



FORCED LABOR RISK IN SUPPLY CHAINS:

Considerations for the Healthcare and Public Health Sector



Joint Forced Labor Working Group Members



ADMINISTRATION FOR
CHILDREN & FAMILIES
Office on Trafficking in Persons



U.S. Department of Homeland
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Background

These considerations are published by the Joint Forced Labor Working Group (JFLWG) of the [Healthcare and Public Health Sector Partnership](#) under the [Critical Infrastructure Partnership Advisory Council](#). The JFLWG is a public-private working group that exists to mitigate the risk of forced labor in healthcare and public health (HPH) supply chains. It is open to private sector partners across the HPH industry and Federal, State, local, Tribal, and territorial government agencies. For more information or to get involved, visit the [JFLWG webpage](#) and the [Mitigating Human Trafficking Risks in the Health Care Supply Chain](#) resource.

Purpose of this Publication

The purpose of this publication is to provide considerations endorsed by leading HPH agencies in both the private and public sectors to help administrators and supply chain and human resources personnel across the industry—including those in government—take steps toward complying with Federal forced labor laws. Specifically, this publication aims to help the industry mitigate the risk that forced labor presents to their supply chains, in both purchased goods and services, by embedding due diligence on forced labor into its management systems, assessing risk, and mapping high-risk manufacturing supply chains.

The Risk of Forced Labor in Healthcare and Public Health Supply Chains

The International Labor Organization estimates that [27.6 million people](#) are in forced labor globally across various industries. The HPH sector is no exception. In Xinjiang, there have been [reports](#) of the Chinese government forcing members of persecuted groups to produce medical devices, personal protective equipment (PPE), and raw material inputs for other HPH products.

Forced labor wherever it occurs globally puts supply chains at risk of disruption and companies, including those based in the United States, at risk of legal, financial, and reputational harm.

The [Tariff Act of 1930](#) prohibits the import of even essential health products, like PPE, from entering the country if made with forced labor. In 2021, Congress passed the [Uyghur Forced Labor Prevention Act](#) (UFLPA) which created a rebuttable presumption that imports from the Xinjiang Uyghur Autonomous Region of China and entities on the UFLPA Entity List are in violation of the Tariff Act and are prohibited from entry to the United States. Since it went into effect in June 2022, the Federal Government has denied entry, re-exported, or reviewed more than [\\$2 billion](#) in goods tied to forced labor, including shipments of electronics, pharmaceuticals, and health products.

Additionally, the [Victims of Trafficking and Violence Protection Act of 2000](#) (TVPA), as amended by the [National Defense Authorization Act for Fiscal Year 2013](#), prohibits recipients (and subrecipients) of Federal grants or contracts from engaging in trafficking in persons, including forced labor and related conduct. This includes healthcare institutions receiving Federal grants and contracts. Penalties for recipients found to have forced labor in their supply chains can range from termination of the responsible employee or Federal funding to disqualification from future funding and a referral to criminal investigation.

Finally, healthcare and public health organizations can be [criminally](#) and [civilly](#) liable for forced labor in their supply chains under TVPA.

JUST A FEW EXAMPLES OF FORCED LABOR OUTSIDE OF CHINA INCLUDE:

- ▶ Recruitment agencies trafficking migrant workers to make [PPE in Malaysian factories](#)
- ▶ Staffing agencies [trafficking Filipino nurses](#) to work in U.S. hospitals
- ▶ Children in Bolivia and Burma [forced to produce sugarcane](#), which is used to make hand sanitizer

Steps for Implementing a Forced Labor Due Diligence Program

1

Embed strong anti-forced labor policies into organizational management systems

2

Assess forced labor risk

3

Map high-risk supply chains

4

Monitor and measure supplier and/or contractor compliance within those supply chains

5

Remediate forced labor and associated conduct when identified

This document provides considerations for Steps 1–3. For information about the other steps for implementing a forced labor due diligence program, visit [Mitigating Human Trafficking Risks in the Health Care Supply Chain](#) resource and www.acf.hhs.gov/otip/jflwg. The JFLWG reviewed organizational policies, risk assessments, and supply chain mapping practices in the health sector and beyond, as well as promising practices in social compliance and forced labor due diligence to develop the following considerations.



Embed Strong Anti-Forced Labor Policies Into Organizational Management Systems

A. Get buy-in from the top

To establish appropriate accountability and communicate the importance of forced labor due diligence, the person or people with the ultimate responsibility for the program must have the requisite authority to ensure compliance at every level of the organization and its high-risk supply chains. How to secure executive leadership support in your organization may depend on the type of entity you work for and the specific authority needed to implement policies, leverage resources, and take appropriate action.



B. Embed due diligence on forced labor into a broader program of environmental, social, and governance (ESG) due diligence

Your organization likely already engages in due diligence to comply with environmental, social, and governance (ESG) requirements and other business priorities. To leverage the structures and political will that support these efforts, forced labor due diligence activities should be integrated into these existing programs rather than implemented in a silo. For example, the staff overseeing the organization's forced labor due diligence activities should be on the same team as (or otherwise coordinate with) staff responsible for other due diligence efforts. Organizational commitments and expectations pertaining to forced labor can be embedded in existing policies, codes of conduct, and contract clauses already a regular part of the organization's onboarding, procurement, and training protocols, rather than standalone documents that must be developed from scratch and could easily be omitted by accident.

C. Develop and adopt policies, codes of conduct, and contract language

Together, organizational policies, codes of conduct, and solicitation and contract language including Requests for Information (RFIs) and Requests for Proposal (RFPs) can make up an initial blueprint for operationalizing a forced labor due diligence program.

- **Policies** lay out the organizational commitments and expectations on forced labor for all employers, suppliers, recruitment agencies, contractors, and clients to see, setting the tone for the organization and a starting point for internal accountability. These policies can also express the intent to hold external vendors accountable and hold them to the same standards as your organization.
- **Codes of conduct** provide concrete guidelines for employees, suppliers, and recruitment agencies to abide by the organizational policy.
- **Contract language** legally binds suppliers, recruitment agencies, and contractors to abide by an organization's policy and code of conduct and establishes consequences for violations.

A database of existing forced labor policies, codes of conduct, and contract language across the health sector is available at [Mitigating Human Trafficking Risks in the Health Care Supply Chain](#). To add yours, contact endtrafficking@acf.hhs.gov.

D. Establish cascading requirements

The policies, codes of conduct, and due diligence expectations your organization has for its employees, contractors, direct order suppliers, and distributors should cascade to all tiers of your organization's supply chain through contract language. Policies and codes of conduct can easily be incorporated into all contracts, along with a requirement that contractors include identical policies and codes of conduct in their subcontracts.

For high-risk supply chains, organizations can also cascade due diligence requirements. For example, the organization can contractually require a first-tier supplier to report certain due diligence metrics (see section F) and require that the first-tier supplier include an identical reporting requirement in its subcontracts. Training requirements can also be cascaded.

If your organization receives federal contracts, Federal Acquisition Regulation (FAR) 22.17 requires you to include [clause 52.222-50](#) in all subcontracts.



FEDERAL CONTRACTORS OR GRANT RECIPIENTS:

If your organization receives Federal contracts or grants, it is likely subject to the forced labor policies and contract language laid out in subparts [22.15](#) and [22.17](#) of the FAR or [2 C.F.R. 175](#), respectively. Even non-Federal funding recipients can use the policies and contract language in these regulations as a blueprint for developing their own. For more information, see [Federal Statutory and Regulatory Framework on Forced Labor in Healthcare and Public Health Supply Chains](#).

WORKING WITH GROUP PURCHASING ORGANIZATIONS AND STAFFING AGENCIES:

If your organization uses group purchasing organizations (GPOs) or staffing agencies—or otherwise outsources aspects of procurement or recruitment—you might consider collaborating with other customers of those same companies to standardize or adopt uniform forced labor policies, codes of conduct, and contract language. Leveraging a greater market share may help secure buy-in from GPOs and staffing agencies and decrease the administrative burden on these companies that would otherwise have to adhere to multiple customers' similar but slightly different due diligence requirements.

E. Designate responsible officials

In high-risk supply chains, your organization should identify—either directly or through cascading (see section D)—a contact at each supplier who is responsible for overseeing implementation of the due diligence requirements for their respective contract or subcontract, including any reporting or training requirements. To the extent your organization conducts audits related to these requirements, identifying a specific person at each supplier would also allow your organization to have a point of contact and obtain cooperation.

F. Set metrics for measuring compliance

Although the considerations in this document do not cover monitoring and measuring compliance (see p. 3), setting metrics, sometimes called benchmarks or key performance indicators (KPIs), should be part of the first step in developing a due diligence program. Setting benchmarks or KPIs at the outset enables metrics to be embedded in contracts for goods or services with high-risk supply chains and establishes the goalposts for monitoring and measuring compliance once the due diligence program is up and running. Your organization can also consider auditing these metrics at certain intervals to ensure the integrity of the relevant supply chains. For sample metrics, see the Responsible Sourcing Tool's [Sample Benchmarks of Good Practice in Recruitment and Employment](#).

G. Regularly review policies

All policies, codes of conduct, and contract language should be regularly reviewed and revised to incorporate evolving best practices and lessons learned. This process should involve a signoff by senior leadership to renew buy-in from the top. The process should also involve input from the workers that the due diligence program is designed to protect and/or organizations representing these workers (e.g., community-based organizations, unions). For more information on worker engagement, see the Responsible Sourcing Tool's [Worker Engagement tool](#).



Assess Forced Labor Risk and Map High-Risk Supply Chains

A. Assess forced labor risk by product or service, geography, and spend

Procurement and human resources personnel at your organization should develop a forced labor risk assessment to help determine high-risk products, contracts, and services. To do this, your organization can use federal resources, including:

- The U.S. Department of Labor [List of Goods Produced by Child or Forced Labor](#)
- The U.S. Department of Labor [List of Products Produced by Indentured or Forced Child Labor](#)
- The U.S. Department of Homeland Security [Withhold Release Orders and Findings List](#)
- The U.S. Department of Homeland Security [Uyghur Forced Labor Prevention Act Entity List](#)
- The U.S. Department of State [Trafficking in Persons Report](#)
- The U.S. Department of State-Supported tool: [Identify Risks in Your Company's Global Supply Chains](#)

For example, at the time of publication, the previously mentioned sources indicate that latex gloves from Malaysia are on the List of Goods Produced by Child or Forced Labor and have been the subject of several Withhold Release Orders (WROs). The next step would be to identify whether

your organization procures latex gloves manufactured in Malaysia. If so, your organization should implement additional due diligence to determine if those suppliers have procedures in place to prevent forced labor in their supply chains, particularly at points of the contract when your organization has leverage (e.g., before renewing the contract or exercising any options to extend the contract).

All high-spend contracts (for both goods and services) should be evaluated for forced labor risk, even if the products or services do not present an obvious concern. For example, a construction contract to build a new wing of the hospital or a food services contract for the facility's cafeterias should be evaluated for the use of migrant labor, subcontractors, and high-risk products (e.g., brick, cement, fish, rice, cotton). Companies that rely heavily on migrant labor, subcontracting, or high-risk products from high-risk locations should be subject to additional due diligence measures.



B. Embed the forced labor risk assessment in existing due diligence programs

Your organization already has a number of business priorities that factor into procurement decisions (e.g., price, quality, resiliency, sustainability, compliance, social responsibility). When your organization develops a forced labor risk assessment, that assessment should be integrated into existing decision-making frameworks for efficiency. For example, if your organization already uses a certain data provider or platform for assessing other types of risk, the forced labor risk assessment should, ideally, be built into that system. This way, the system flags forced labor risks in the same way it might flag cybersecurity or weather-related risks, without procurement personnel needing to conduct numerous individual assessments. Once a risk has been flagged, vendors and suppliers should be required to provide assurance that their supply chain (and the supply chain supporting your organization) is free of forced labor.

A MATURE RISK ASSESSMENT PROCESS WILL CONSIDER AND INCLUDE, AT A MINIMUM, THE FOLLOWING:

- Geographical location of supplier (e.g., historical and current concerns with forced labor, geo-political climate, etc.)
- Potential connections and relationships for each supplier (e.g., sub-tier supply relationships)
- Finished goods, raw materials, products, and services sourced
- Spend with supplier
- Revenue supported by supplier

THE NATURE OF THIS ASSURANCE MAY DIFFER DEPENDING ON THE MATURITY OF THE VENDOR/SUPPLIER'S INTERNAL FORCED LABOR PROGRAM; HOWEVER, EXAMPLES OF ASSURANCES MAY INCLUDE:

- Legal affidavits
- Evidence of supply chain mapping (inclusive of sub-tiers)
- Assurance from third-party audit providers

C. Assess forced labor risk at the pre-award phase

Your organization should not only assess the risk of existing contracts but also integrate the forced labor risk assessment into the pre-award process. In this way, your organization can better prevent ever contracting with companies that use forced labor.

For example, if the organization issues an RFI about latex gloves, checking the Department of Labor lists and the lists of WROs and Findings to see if there are forced labor concerns associated with this

product may be appropriate. As of October 2024, rubber gloves from Malaysia are on Department of Labor's List of Goods Produced by Child or Forced Labor and some disposable gloves from Malaysia are subject to a WRO, so the responses to that RFI should be assessed for other risk factors. It is known from WROs that the forced labor concerns relate to latex gloves manufactured in Malaysia. So, when suppliers respond to the RFI, the organization will want to know where their products are manufactured. If a supplier's gloves are manufactured in Malaysia, it

does not necessarily mean the organization cannot award the contract to that supplier, but it does indicate the manufacturer's supply chain might be high-risk for forced labor. If that supplier still seems like the best choice, you should do additional due diligence pre-award and during the contract period to determine if the supplier has procedures in place to prevent forced labor in their supply chain. To do this, better-than-average visibility into the supply chain will be required (See sections D and E).

Creating a standard set of questions related to forced labor is a great way to consider this risk in all RFIs the healthcare organization releases.

D. Map high-risk supply chains by verifying data with suppliers rather than relying solely on tech platforms

The first step of mapping a high-risk supply chain is to gather data from the Tier 1 supplier—that is, the supplier with whom the organization has a direct contractual relationship. For hospitals, this is often a GPO or distributor. Know the contact information, location of business, and policies on forced labor. Then survey that supplier on their suppliers' information (i.e., Tier 2 suppliers). Continue this process through the supply chain—all the way to raw materials, if possible. Work with the healthcare organization's legal department or other relevant departments within the organization to establish contractual obligations for Tier 1 suppliers to provide this information about Tier 2 suppliers, and so on. This language may also be built into the GPO's contract language. To learn more about using contract language to cascade due diligence requirements up the supply chain, see [page 6](#).

Due to the complex, international nature of many health sector supply chains, technology platforms that harness the power of large datasets, artificial intelligence, and data visualization can be useful to assist with



the mapping process. Many vendors offer this type of service and have the knowledge and bandwidth to perform these surveys. When selecting a supply chain mapping platform, it is prudent to learn about the quality of a vendor's data, avoiding those that rely exclusively on open-source data, which can be especially inaccurate and/or incomplete. Regardless of where a vendor's data come from, it is important to keep in mind that most tech platforms are a supplement, rather than a substitute for verifying data with suppliers and workers directly.

E. In addition to components of production, map labor recruitment in high-risk supply chains

In addition to products and their components, it is critical to map labor recruitment in high-risk supply chains. At each stage of the supply chain, from raw materials to manufacturing and distribution, there is a chance that the companies rely on labor recruiters to find workers. The use of labor recruiters increases the risk of forced labor because the recruiters might charge recruitment fees that cause workers to fall into debt bondage or use fraud to attract migrant workers to jobs in foreign countries where they do not feel free to leave. If a supplier has labor recruiters in its supply chain, additional due diligence is needed to ensure worker protections.

F. Join with other purchasers to adopt a standardized risk assessment, thereby leveraging market share and reducing the burden on suppliers

GPOs, distributors, and staffing or recruitment agencies play a major role in many health sector supply chains. End users, like hospitals and other healthcare facilities, may face challenges assessing risk and mapping supply chains beyond the GPO tier. Depending on its size, a single healthcare system may not have the financial leverage to demand GPOs, distributors, or staffing or recruitment agencies be responsive to that healthcare system's specific risk assessment and mapping processes.

To combat this imbalanced market dynamic, end user organizations can join together to develop a common risk assessment, supply chain mapping survey, or both. When a critical mass of customers demand the same standards, there is more incentive for GPOs, distributors, and staffing or recruitment agencies

to expend the resources it takes to be responsive. Moreover, it is less of a burden for them to respond to the same risk assessment and supply chain mapping data collections across all customers than it is to reply to a different set of surveys and demands for each end-user organization.

Some health sector organizations have already joined together to adopt [common risk assessments](#) for certain high-risk products, like latex gloves. For more information visit [Mitigating Human Trafficking Risks in the Health Care Supply Chain](#).

