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5 Prerequisite criteria

5.2 Labor criteria

5.2.1 Legal compliance

The service provider shall document any non-compliance with applicable labor laws and regulations at federal, state and local levels over the last 3 years.

OR

The service provider's chief executive shall document and attest they are in compliance with applicable labor laws and regulations at federal, state and local levels.

5.2.2 Hiring and compensation practices

The service provider's chief executive, shall document attest that in at least the prior 24 months they have ~~a program to ensure~~ engage in fair employment practices, equal access to employment and promotion, and worker compensation that complies with applicable wage laws or collective agreements including those related to minimum wage, overtime and mandated benefits.

5.2.3 General working conditions

The service provider shall document they have a program or policy to prevent discrimination, harassment, threatening behavior, or physical, sexual, or verbal abuse toward its workers. The service provider, by its chief executive, shall document ~~a program or policy that workweeks shall not exceed the maximum hours set by state or local law~~ attest that within the last 24 months they have been in full conformance with all applicable Federal, state and local anti-discrimination and wage and hour laws.

5.2.4 Collective bargaining

The service provider shall be in full compliance with all applicable laws concerning employee free association and collective bargaining ~~document allowance of free association on a voluntary basis, seek representation, join or be represented by labor unions and bargain collectively.~~

5.2.5 Contractors compliance

The service provider, by its chief executive, shall attest and maintain documentation from each of its contractors ~~document that within the last 24 months its contractors are they have been in full conformance with all applicable Federal, state and local anti-discrimination, collective bargaining and wage and hour laws and regulations. compliance with labor laws and regulations.~~

5.2.6 Health and safety of workers

- a) The service provider shall document and attest that for at least the prior 24 months ~~a management system to ensure~~ it has provided its workers are provided with a safe and healthy work environment in full compliance with all applicable laws and regulations.
- b) The service provider shall document demonstrate that for at least the prior 24 months it has ~~implemented~~ a system to track, classify and report occupational injury and illness.

Comment [m1]: This is covered in section 1.4. "add in international treaties"

Comment [MC2]: Harry Lewis: Although compliance under law is a predetermined requirement, service providers are not necessarily in compliance, or have been within a set prior time period (e.g., 24 months). This information, as it relates to recent prior compliance, could be relevant in determining sustainability based on the social category. Sustainability is not necessarily a single snapshot in time. Additionally, though collective bargaining is thought by some to be a "hot button", it is expressly allowed under conditions prescribed by Congress, and therefore not inappropriate to be included here.

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- c) The service provider shall document that appropriate personal protective equipment (PPE) is provided to workers.

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7 Labor criteria

The labor criteria are designed to assess an organization's policies, programs, and practices that address work performed by its employees, contractors or subcontractors. Labor policies and practices include those related to recruitment, health and safety, industrial hygiene, training and skills development, working conditions, disciplinary actions, termination of employment and remuneration, among others. Labor criteria also cover worker representation and collective bargaining practices.

7.1 General working conditions

The service provider shall earn 1 point for documenting flexible working arrangements (e.g., for child care support, flexible work times, maternity/paternity).

7.2 Disciplinary action

The service provider shall earn 1 point for having a policy that defines and is communicated to workers about its disciplinary procedures.

7.3 Contractors compliance

The service provider shall earn 1 point for documenting a process to ensure all contractors and subcontractors directly engaged in this service contract are notified of the significant health and safety hazards associated with their work for this service provision.

7.4 Health and safety of workers

The service provider shall earn 1 point for each of the following for up to a maximum of 8 points:

- Taking proactive measures to identify, evaluate and eliminate workplace hazards;
- documenting ensuring that all necessary medical treatment for injured workers is provided;
- documenting carrying out investigations of injury and illness cases, identifying root causes, implementing corrective actions to facilitate return of workers to work;
- documenting that the workforce is represented on a joint management-worker health and safety committee to help monitor and provide input on occupational health and safety issues;
- developing and implementing procedures for safeguarding workers from potentially hazardous machinery (e.g., by using barriers, interlocks or periodic inspection and maintenance) associated with service provision;
- developing and implementing procedures to identify, evaluate and control worker exposure to chemical, biological and physical agents under this service contract;

Comment [MC3]: What else is important to consider for sustainability labor criteria?

Comment [MC4]: Harry Lewis: living wage, equal pay, discrimination and harassment, access to healthcare, family and medical leave, minimum wage and overtime, child labor, sweatshops, wage payment...

Comment [m5]: add in criteria here for labor.

Comment [m6]: possibly cover child and forced labor here instead of section SR

Comment [HL7]: How does this promote sustainability? Should this communication occur at the inception of employment (rather than at some later time)? Should there be some provision for appealing disciplinary actions with the choice of either mediation or arbitration, and some assurance that discipline shall be applied fairly and equally? Simply having a policy and communicating it is weak and itself does little to ensure fair treatment of workers.

Comment [HL8]: Several of these provisions appear to restate what may already be required under existing laws and regs. Consequently, it may be better to subtract points for any failures to do these things which are required under federal and state OSHA laws/regs. Perhaps there might be a question which requires disclosure of any failures or infractions, or for requiring respondents to report any injuries sustained under these requirements within the prior 24 or 36 months (or so), where we might assume they are otherwise in compliance of law.

Comment [HL9]: Who determines whether medical treatment is "necessary"? This is a very significant issue which is a common source of litigation and treads deeply into an extensive body of law involving workers compensation and entitlement to benefits. In addition, each state has its own laws on requirements concerning workers compensation, some of which leave the responsibility for seeking medical treatment and applying for compensation for this treatment to the injured workers. Other ...

Comment [HL10]: This provision should somehow deal with the significant issue of coercion and fear of reprisal for workers who may participate on such a committee.

Comment [HL11]: Is this provision intended to go beyond existing federal OSHA and state occupational safety regulations? Or are we merely requiring what is already mandated under existing law?

Comment [HL12]: Again, is this provision intended to go beyond existing federal OSHA and state occupational safety regulations? Or are we merely requiring what is already mandated under existing law?

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- g) developing and implementing procedures to identify, evaluate, and control general safety hazards (e.g., electrical, fire, and slip, trip and fall hazards) associated with service provision; and
- h) conducting periodic (i.e., once every 5 years) industrial hygiene surveys.