

جامعة نيويورك أبوظبي



NYU | ABU DHABI

LABOR COMPLIANCE UPDATE

OCTOBER 2019



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Introduction

New York University Abu Dhabi (NYUAD) is a research university located in the United Arab Emirates. This report provides the results of joint labor compliance monitoring activities carried out by NYUAD and its Abu Dhabi partner for the period **January to December 2018** (the Report Period).

Background

In May 2018, Impactt Ltd. – NYUAD and its Abu Dhabi partner’s external labor compliance monitor between 2015 and 2017 – issued a Report on External Labor Compliance Monitoring at NYUAD, in which they stated:

“...Impactt’s third-party verification of compliance with the NYUAD Project labor standards identified a good level of compliance among contractors and a high level of satisfaction among workers. Our stakeholder interviews highlighted the level of commitment and effort made by NYUAD and its Abu Dhabi partner to carry out the compliance monitoring activities.”

From January 2018 onwards, the NYUAD Labor Compliance Program has consisted of joint internal labor compliance monitoring conducted by NYUAD and its Abu Dhabi partner, in line with processes and audit methodology recommended by Impactt Ltd. This methodology combines a worker-focused approach with the principles of Sedex Member Ethical Trade Audit (SMETA) methodology.

In 2019, in order to confirm the NYUAD Labor Compliance Program continues to operate in full accordance with best practices, NYUAD and its Abu Dhabi partner retained Impactt Ltd. to conduct a follow-up desktop review and assessment of the current program, in addition to a review of whether this report aligns with the current program.

Executive summary of findings

During the Report Period, the NYUAD Labor Compliance Program monitored and audited all direct contractors, and 80% (12 of 15) of sub-contractors. While 100% of contractors are monitored, the Project takes a risk-based audit approach, and audited 20 out of 23 of the total contractors during the Report Period. This involved techniques including worksite and accommodation inspections, document reviews, and worker and management interviews.

Initial audits identified 67 non-conformances. These non-conformances were classified by severity as critical, major and minor.

Once a non-conformance was identified, additional follow up monitoring and audits were conducted to determine progress on resolving (or “closing”) the non-conformances. The results of follow-up monitoring and auditing activities conducted through December 2018 are reported here. Contractors closed 62 of 67 non-conformances (92.5%) and made progress in rectifying 4 of the remaining 5 non-conformances by the end of the Report Period. Follow-up monitoring and auditing activities were carried out again in May 2019 and all but one non-conformance has been closed (98.5%).

Table 1
NYUAD Project’s main long-term contractors (and subcontractors) and worker interviews

Contractor Type	Total		Audit Sample	
	Entities	Workers	Entities	Worker interviews
Direct Contractors	8	635	8	146
Subcontractors	15	243	12	58
Total	23	878	20	204

Supplier Code of Conduct and Compliance Activities

NYUAD Supplier Code of Conduct

From the NYUAD Project's earliest stages, NYUAD and its Abu Dhabi partner established and continuously updated a set of labor requirements for contractors operating at the NYUAD Project.

As part of an effort to make its labor requirements more transparent and practical to operationalize, NYUAD and its Abu Dhabi partner engaged in a year-long multi-stakeholder consultation to improve and streamline the standards. In 2016, NYUAD and its Abu Dhabi partner publicly released a revised set of standards, the Supplier Code of Conduct 2016 (SCC 2016).

As of October 2017, all Contractors working on the NYUAD Project have been transitioned to the SCC 2016, and the SCC 2016 applies automatically to all new service providers and contractors whose employees work at NYUAD. Additionally, all service providers and contractors who work at the NYUAD campus are required to ensure that any subcontractors they engage to work on the campus are also contractually obligated to comply with the SCC 2016.

Compliance Activities

The NYUAD Labor Compliance Program incorporates ongoing training and awareness programs, from the earliest stages of the procurement process through the conclusion of all contracts, to ensure both contractors and their employees have a clear understanding of the SCC 2016. All contractors on campus are subject to compliance monitoring and audit activities, including but not limited to review of contractors' monthly SCC compliance certification reports, planned and unplanned worker interviews, worksite and accommodation inspections, and document reviews. NYUAD and its Abu Dhabi partner's compliance staff are in direct communication with contractors, on at least a monthly basis, to communicate compliance findings and to receive progress updates from them. Over the Report Period, NYUAD and its Abu Dhabi partner conducted audit activities across 20 of 23 contractors, including subcontractors, on campus. The remaining contractors were deemed low risk based on the assessment of the monitoring.

Additionally, NYUAD's Office of Compliance and Risk Management (OCRM) and Office of Social Responsibility meet regularly to plan and discuss programming provided for the benefit of workers. NYUAD and its Abu Dhabi partner also meet regularly to discuss compliance issues and share information gathered through each organization's monitoring activities.

Labor Compliance Methodology

Following Impactt’s initial recommendations in 2015, the NYUAD Labor Compliance Program includes multiple levels of compliance monitoring to facilitate the detection of contractors’ non-compliance with the SCC 2016, including:

- Principles of SMETA Methodology
- Internal compliance monitoring carried out by the NYUAD Project’s internal compliance teams
- Joint internal compliance monitoring conducted by NYUAD and its Abu Dhabi partner

SMETA Methodology

The NYUAD Project developed its labor compliance methodology by combining the principles of Sedex Member Ethical Trade Audit (SMETA) methodology with its internal and joint labor compliance monitoring programs.¹ As used by Impactt, the NYUAD Project has continued to implement SMETA principles as the appropriate framework for the NYUAD Labor Compliance Program as it has been developed and reviewed through a consultative process involving brands and retailers, non-governmental organizations, industry experts and associations and audit companies around the world.² SMETA is one of the most comprehensive standards in terms of sample size for worker interviews (see Table 2 below) and has provisions for the assessment of third-party service providers, which comprise the majority of contractors at the NYUAD Project.

Table 2 - SMETA sampling guidelines

Auditor days	No. of workers excl. management	Individual interviews	Group interviews	Total employees interviewed	Worker files / time and wage records	Effective time spent on interviews
1	1-100	6 or total workers if <5	1 group of 4	10	10	2.5 hours
2	101-500	6	4 groups of 5	26	26	6 hours
3	501-1000	12	6 groups of 5	42	42	8.5 hours

¹ Sedex is the Supplier Ethical Data Exchange, a global, non-profit membership organization with 40,000 members in 150 countries. Sedex provides members with a platform to share supply chain labor standards data and a methodology to carry out labor standards audits against the Ethical Trade Initiative (ETI) Base Code. The [ETI Base Code](#) is a global labor standard that follows the conventions of the International Labor Organization (ILO) and applies across industries and countries.

² For further information, see [Sedex Stakeholder Forum](#).

Internal Compliance Monitoring

Internal compliance monitoring is carried out by NYUAD and its Abu Dhabi partner through the following activities:

- Worker interviews
- Audits and inspections
- Complaints review and investigation
- Supplier monitoring and engagement

Worker Interviews

The NYUAD Project conducts interviews with an audit sample from all of NYUAD and its Abu Dhabi partner's contracted employees, which is periodically reviewed and adjusted. In determining the appropriate audit sample size, several variables are considered, such as:

- Number of long-term and short-term contracted workers
- Contracted workers' job categories (which factors in the nature of each job category, job duties, worker skill sets, basic wages)
- Demographic information (which includes, gender, nationality, and age)
- Available resources

The primary objectives for conducting monthly interviews with contracted employees include:

- To detect potential non-compliance with the SCC 2016
- To identify issues regarding further review and investigation through other compliance monitoring activities (including audits and inspections)
- To foster an environment that encourages confidential disclosure, protects contracted employees from potential labor compliance violations, improves social welfare, and builds positive working relationships

Interviews are conducted in the native or preferred language of employees where possible. Trained interviewers consist of OCRM and its Abu Dhabi partner's staff. Interviewees are selected from all contracted employees, including long and short-term contractors, which are contractually required to adhere to the SCC 2016.

Audits and Inspections

NYUAD and its Abu Dhabi partner periodically conduct planned and unplanned audits and inspections of employer-provided housing accommodation and contractors' human resources books and records. This activity is carried out to monitor contractors' compliance with the SCC 2016 and to corroborate information regarding potential compliance issues that may be gathered during monthly interviews.

Complaints and Investigations

NYUAD and its Abu Dhabi partner investigate labor compliance complaints and reports of potential non-compliance as appropriate. Labor compliance complaints and anonymous reports are received through various channels, including:

- Worker interviews
- Direct reports by workers to OCRM or its Abu Dhabi partner’s staff (via monthly interviews, walk-ins)
- NYUAD community reports to OCRM
- Supplier reports of worker grievances to OCRM
- Email to OCRM (nyuad.compliance@nyu.edu)
- NYU Global Compliance and Risk Reporting Telephone Hotline

Findings Classification

The NYUAD Labor Compliance Program classifies findings from compliance monitoring and audits into three categories:³

Table 3 - Findings classifications

Where a breach of NYUAD SCC 2016 or local law is identified and cross checked with different sources (documents, management, workers), the auditor will raise the issue as a non-conformance. Non-conformances are classified according to their severity: Critical, Major or Minor.	Critical	A severe breach of a code, an issue which presents imminent risk to workers safety/risk to life and limb or constitutes a significant breach of workers’ human rights, a major issue that has not been addressed or for which no significant improvement has been made by the time of a follow up, an attempt to pervert the course of the audit through fraud, coercion, deception or interference.
	Major	A breach which represents a danger to workers or those on site, a material breach of a code requirement/law, a systematic breaking of a code requirement/law.
	Minor	An occasional or isolated problem, an issue which represents low risk to workers/those on site, a policy issue or misunderstanding where there is no evidence of a material breach.
<p>An observation may be identified in the following three scenarios:</p> <ul style="list-style-type: none"> • Where the auditor identifies a practice which does not contravene the law or SCC 2016 at the time of the audit, but if not addressed could lead to a non-conformance in the future. I.e. it is an opportunity for improvement. • Where a non-conformance is identified but effectively corrected before the end of the audit. • Where a potential breach of the SCC 2016 is identified but the auditor is unable to corroborate the finding with evidence from workers’ testimonies, records or management. 		

³ We use the term “finding(s)” to refer collectively to any statement based on facts or evidence collected by the Audit Team. We use the term “issue(s)” to refer collectively to non-conformances, observations and observations requiring further investigation. For clarity, issues are a sub-set of findings.

Compliance Monitoring Findings

This section presents our findings from compliance monitoring and auditing for the Report Period:

Overall Conformance Levels

The NYUAD Labor Compliance Program identified 67 non-conformances during audits. Follow-up audits showed that contractors closed 66 out of 67 non-conformances (98.5%). As of May 2019, one of these non-conformances remains open. Table 5 summarizes the overall conformance levels of contractor progress in addressing non-conformances.

Table 4 - Overall conformance levels as of December 2018⁴

Category of Noncompliance	Initial Noncompliances	Closed	Progress Made as of December 2018 ⁵	Open as of May 2019
Wages	6	6	n/a	n/a
Employment Contracts	5	5	n/a	n/a
Working Hours	5	4	1	n/a
Overtime	8	7	1	n/a
Paid Annual Leave, Holidays, and Air Travel	9	8	1	n/a
Health Insurance	6	6	n/a	n/a
Accommodation	5	4	1	n/a
Personal Documents	7	6	0	1
Hiring Practices	4	4	n/a	n/a
Health and Safety	1	1	n/a	n/a
Resolution of Work Disputes	3	3	n/a	n/a
Respect, Dignity, and Protection from Harassment or Abuse	6	6	n/a	n/a
Non Discrimination and Equal Opportunity	3	3	n/a	n/a
TOTAL	67	62	4	1

⁴ Follow-up monitoring and auditing activities were carried out again in May 2019 and confirmed that all but one non-conformance was closed.

⁵ Progress made: evidence shows that an issue has not been fully addressed and therefore cannot be closed, however some concrete and intentional steps have been taken towards resolution.

Non-conformances by severity

Table 5 - Contractor conformance level by section as of December 2018

Key for Table 5

Conformant
Non-conformant (minor only)
Non-conformant (major)
Non-conformant (critical)

Contractors	Contractor 1	Contractor 2	Contractor 3	Contractor 4	Contractor 5	Contractor 6	Contractor 7	Contractor 8
Number of Workers at Contractor	204	23	194	36	3	3	408	23
Number of Workers Affected by Non-Conformance	204						4	23
Issue								
Employment Contracts								
Wages								
Working Hours								
Overtime								
Paid Annual Leave, Holidays and Air Travel								
Health Insurance								
Accommodation								
Personal Documents								
Hiring Practices								
Health and Safety								
Resolution of Work Disputes								
Respect, Dignity, and Protection from Harassment or Abuse								

Detailed Compliance Findings

The following sections explore a selection of key issues. Each section begins with a summary of the relevant section of the SCC 2016, provided for illustration purposes.⁶ This is followed by a list of key findings and evidence of improvement. For each finding, we state the number of contractors where the issue was identified and the number of workers affected.

A. Personal Documents

SCC (2016) requirements

SCC Section K includes the following provisions:

- Contractors are prohibited from retaining passports except for the purposes of processing visas

NYUAD Labor Compliance Program Findings

Initial finding	Status of NCs
<p>Contractor retains workers' passports (Critical) Workers affected: 23 Contractor: 1</p>	<p>1/1 open</p> <p><i>Workers indicated that they preferred their employer hold their passports, as they are able to receive it within 24 hours, if needed. No workers have indicated any issues in receiving their passports when requested. This was verified by Impactt Ltd, and included in their report on External Labor Compliance Monitoring at NYUAD (May 2018). Nonetheless, NYUAD and its Abu Dhabi partner continue to work on a resolution with the contractor that considers the preferences of the workers while meeting the terms of the SCC.</i></p>

B. Overtime

SCC (2016) requirements

SCC Section D includes the following provision:

- Overtime must be worked voluntarily and may not exceed 2 hours a day

NYUAD Labor Compliance Program Findings

Initial finding	Status of NCs
<p>Workers worked and were paid for excessive overtime hours in the form of a full day of overtime on weekly basis exceeding the limit of two hours per day. (Major) Workers affected: 204 Contractors: 1</p>	<p>1/1 progress made as of December 2018. This has been closed as of May 2019.</p>

Contractor provided notice to all workers that full days of overtime will no longer be requested, and instead has implemented a 6-day work week which includes both an increased basic wage, and prorated wages for the sixth day of work. This also ensures that end-of-service payments to workers will be based on their actual earned wages, as overtime wages are not factored in when calculating end-of-service payments.

⁶ The SCC 2016 can be downloaded in its entirety [here](#).

C. Working Hours

SCC (2016) requirements

SCC Section C includes the following provision:

- Employees will not be required to work more than eight (8) hours a day, six (6) days a week. Daily meal, tea, rest, and prayer breaks will amount in the aggregate to at least one (1) hour, and such times shall not be counted in working hours

NYUAD Labor Compliance Program Findings

Initial finding	Status of NCs
<p>Workers regularly worked longer hours that were not reflected in their basic salary, but paid in overtime hours instead. (Major)</p> <p>Workers affected: 204 Contractors: 1</p>	<p>1/1 progress made as of December 2018.</p> <p>This has been closed as of May 2019.</p>

All workers were provided notice that they are receiving a wage increase, in addition to being paid for a sixth day of work (which went into effect on April 1).

D. Paid Annual Leave, Holidays, and Air Travel

SCC (2016) requirements

Section E includes the following provision:

- For an Employee who works on the NYUAD campus for twelve (12) months or longer, the Employer will also provide, at no charge to the Employee, a round-trip airline ticket each year to be used in conjunction with annual leave, as specified in the contract between the Employer and the Employee

NYUAD Labor Compliance Program Findings

Initial finding	Status of NCs
<p>Contractor did not provide a round-trip airline ticket each year to workers. (Major)</p> <p>Workers affected: 4 Contractors: 1 (Subcontractor)</p>	<p>1/1 progress made as of December 2018.</p> <p>This has been closed as of May 2019.</p>

All 4 workers were provided an annual ticket.

E. Accommodation

SCC (2016) requirements

Section B includes the following provision:

- Employers that provide accommodation for any Employee who is continuously employed on the NYUAD campus for more than ninety (90) days must have at least four and half (4.5) square meters of living space per person, with no more than four (4) individuals per bedroom

NYUAD Labor Compliance Program Findings

Initial finding	Status of NCs
Employee provided accommodation has 6 people per room. (Major) Workers affected: 4 Contractors: 1(Subcontractor)	1/1 progress made as of December 2018. This has been closed as of May 2019.

Note: Company ensures that workers in company-provided accommodations now house no more than 4 people per room.

Conclusion

Since the establishment of the joint labor compliance monitoring procedures in 2010, the NYUAD Labor Compliance Program has continued to refine and strengthen its policies and processes. NYUAD and its government partner regularly review and assess compliance monitoring and auditing procedures to ensure they remain effective and aligned with international standards. Recommendations provided by Impactt have consistently been implemented since their first program assessment in 2015.

In 2019, in order to confirm the NYUAD Labor Compliance Program continues to operate in full accordance with best practices, Impactt conducted a follow-up desktop review and assessment of the current program.

The complete summary of Impactt's program assessment is as follows:

"This programme has evolved through an evidence and risk-based approach. The resulting offer is nimble and benefits from significant levels of stakeholder input and consultation. The programme has benefited from support at the most senior levels within NYUAD. The programme also benefits from a significant amount of experience which the OCRM staff have accumulated through ongoing monitoring activities and engagement with suppliers and stakeholders. In particular:

- *The Programme has developed a robust relationship with suppliers and internal stakeholders.*
- *The Programme takes a continuous compliance monitoring approach which takes into account the nature of the contractual relationship with the largest suppliers.*
- *The Programme provides workers with multiple avenues to voice questions and concerns such as: walk-ins, continuous assessments, spot-checks.*
- *The Programme staff undergoes regular compliance audit training and benefits from several years of experience in carrying out labor compliance checks at NYUAD.*

We make three main recommendations to further the effectiveness and efficiency of the NYUAD labour compliance programme.

First, the programme could be further developed through the setting of programme objectives and indicators that are linked to worker wellbeing. By aligning programme activities to the objectives, it will be possible to further demonstrate the effectiveness of the programme and the resultant benefits to workers. We recommend linking programme activities and reporting to these objectives.

Second, we recommend enhancing supplier ownership of the labour compliance programme. This entails reviewing the initial communication with suppliers to ensure they understand the overall programme objectives and purpose of monitoring activities. We also recommend involving all suppliers in the monitoring process through self-assessments at the outset of the commercial relationship. And finally, we recommend communicating to suppliers the progress made towards the programme objectives on a regular basis.

Third, we recommend strengthening the documentation of, and streamlining the processes for, determining the applicability of specific labor compliance monitoring activities, and the traceability of the applicability review process. This entails clarifying the language in the Labor Compliance Manual so that is clearer that the term 'applicability' relates to the monitoring process as opposed to the SCC requirements; documenting and providing traceability for applicability decisions; mapping the monitoring activities that take place throughout the 'supplier journey'

with the aim of ensuring robust findings through triangulation whilst mitigating the risk of audit fatigue; and joining the findings of NYUAD and its Abu Dhabi partner into a single master database.

The NYUAD Project is in full support of Impactt's recommendations and continues to take them into account to further enhance the Joint Labor Compliance Program.

In addition to this review and assessment, Impactt also reviewed this report to determine the extent to which the Joint Labor Compliance monitoring procedures were implemented in its preparation.

As a result, Impactt produced a side letter attached to this report as an appendix.

Glossary of terms

Contractor: Any party that has a contractual standing in the NYUAD/Abu Dhabi partner supply chain. This includes direct contractors, who have a direct, contractual relationship with NYUAD/Abu Dhabi partner, as well as the companies that have a contractual relationship with the main contractors.

Finding: A statement of fact based on evidence seen by the Audit Team during the course of NYUAD Labor Compliance Program monitoring and auditing activities. Findings are not necessarily a statement of compliance, for example “the night shift has two supervisors”.

Issue: Collective term which refers to non-conformances, observations and observations requiring further investigation identified during the course of NYUAD Labor Compliance Program monitoring and auditing activities. Issues are a type of audit finding; however not all audit findings will be issues.

NC: Non-conformance.

NYUAD: New York University Abu Dhabi.

NYUAD Project: The construction, maintenance, and services provided to New York University Abu Dhabi and/or its partners in the UAE.

SCC: Supplier Code of Conduct 2016.

SMETA: Sedex Member Ethical Trade Audit (Methodology).

Subcontractor: Any third-party consultant, contractor, or any other persons, including persons who are contractually bound by this Supplier Code of Conduct related to a contract of NYUAD or its Partners contract, appointed or employed by the contractor to provide Services related to the underlying Agreement.

UAE: United Arab Emirates.

Appendix



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Independent limited assurance letter

Independent review of NYUAD's Labor Compliance Update (September 2019)

Impactt Limited (or 'we') were engaged by NYUAD (or 'the Project') to review and assess the monitoring procedures in NYUAD's Joint Labor Compliance Programme and determine the extent to which those procedures were implemented in the preparation of the Labor Compliance Update of September 2019.

Our conclusion

Based on the evidence provided and the review we carried out, nothing has come to our attention to indicate that the Labor Compliance Update of September 2019 has not been prepared in accordance with the Joint Labor Compliance monitoring procedures.

Scope of our work

The scope of our work consisted of a desktop review of NYUAD's Joint Labor Compliance Manual (dated September 2018) and a desktop review of the Labor Compliance Update of September 2019 in light of the processes set out in the Labor Compliance Manual.

We carried out the assessment via desktop and telephone calls with representatives of the Programme. We also considered as a supporting document the NYUAD's Supplier Code of Conduct (December 2016). Our assessment did not include on-site verification of monitoring, non-compliance management or data management activities.

As part of our work, we provided NYUAD with an assessment and recommendations on the existing compliance monitoring procedures.

Criteria

In our assessment of the extent to which NYUAD's Joint Labor Compliance monitoring procedures have been followed in the preparation of the Labor Compliance Update of September 2019, we reviewed the following procedures:

- Scope of the monitoring procedures:
 - All contractors and subcontractors to whom the compliance monitoring procedures apply, following the initial applicability review.
 - Compliance is assessed against NYUAD's Supplier Code of Conduct (December 2016) and local law.
- Methodological principles that underpin the monitoring procedures:
 - Continuous auditing approach of contractors and subcontractors throughout the academic year.
 - Triangulation of information from document checks, management and worker interviews, and visual inspection of work and accommodation sites.
 - Grading of non-compliances by severity.
 - Sharing of information between Project partners for joint reporting purposes.
- Sources of information for the monitoring procedures:
 - Worker interviews
 - Audits and inspections, including document reviews
 - Complaints and investigations

Signed:

Name: Rosemary Hurst

Dated: 19th September 2019

Title: Founder & Director



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