



## RBA Trafficked and Forced Labor – “Definition of Fees” January 2021

*(Revised by the RBA Board of Directors on October 5, 2020. This version is effective January 1, 2021)*

### I. DEFINITIONS

1. A **Migrant Worker** is a person who either migrates within their country of origin (internal migration) or outside it (crossing an international border) to pursue employment.
  - (a) A **Foreign Migrant Worker** is an individual that is recruited and migrates from their country of origin to another country where they are not a permanent resident for specific purposes of employment.
  - (b) An **Internal Migrant Worker** is an individual that is recruited and migrates from their habitual place of residence to another state or province within the same country where they are a national for specific purposes of employment.
2. An **Undocumented Migrant Worker** or migrant worker in an irregular situation is a Migrant Worker who is not authorized to enter, to stay or to engage in employment in a State.
3. **Professional Employees** are those engaged in work that is predominantly intellectual and varied in character as opposed to more routine mental, manual, mechanical, or physical work; such work involves the consistent exercise of discretion and judgment in its performance and is of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time.
4. Please refer to the [RBA VAP Definitions](#) document for additional definitions.

### II. SCOPE

1. The RBA recognizes that responsible employment and recruitment, including its associated fees and costs, is critical to the protection of workers and their rights. Workers that are most vulnerable to poor working conditions, abuse and exploitation or, in the worst case, forced labor and human trafficking, require the most protection. Consistent with the RBA Validated Assessment Program (VAP) methodology focusing on production / hourly workers, the provisions outlined here are henceforth applicable to all workers excluding Professional Employees.



### III. PRINCIPLES

1. Overarching Principle:
  - (a) **Workers shall not be required to pay fees for their employment.**
2. Supporting Principles:
  - (a) All In Scope Workers should not be required to pay application, recruiting, hiring, placement, or processing fees at any time (i.e. fees in section IV. 3).
  - (b) All In Scope Workers should not be required to pay any fees once they have been made an offer (i.e. fees in sections IV.3, IV. 4, or IV. 6).
    - (i) Exception 1: If worker travels back to their hometown, village or place of residence before departing the country of origin to start work in the country of destination, they are responsible for those costs.
    - (ii) Exception 2: If a worker initiates the application, presenting themselves to the company at the place of employment, they will have paid or will pay some of the fees in section IV.4 such as passport, visa, residency certificate, transportation and should not expect to be reimbursed as the employer did not seek them out in their country, province, state or region of origin.
  - (c) If a fee is not specifically listed in the Definition of Fees or does not fit any of the categories, Migrant Workers should not pay anything that a Local Worker would not pay.
  - (d) Workers should not expect to be reimbursed for basic items to prepare for the interview such as CV preparation, copies of existing documents and certificates, and incidentals.

### IV. GUIDANCE TO VAP ON RECRUITMENT FEES

1. **Compliance**: Effective January 1, 2016, workers shall not be required to pay fees to obtain or retain their employment. For workers hired prior to January 1, 2016, the maximum amount of fees that a worker can pay is 1 month of gross base wages.
2. **Corrective Action**: Where workers are found to have paid restricted recruitment and service fees outlined in this document, the auditee must ensure the following corrective action is completed to close related VAP non-conformances:
  - (a) New workers do not pay restricted recruitment and service fees. Where workers are found to have paid fees, the workers are reimbursed as soon as practicable but no later than 90 days after commencement of employment. Reimbursement of new workers will still result in a non-conformance, however it will not be a priority non-conformance.
  - (b) Current workers that are found to have paid fees must be repaid within 90 days after the RBA approves the auditees repayment plan.



- (c) Departed workers that are found to have paid fees must be repaid within 90 days of providing relevant details for repayment (i.e. bank information, etc.).
- (d) Please refer to the VAP Operations Manual for details and definitions related to this section.

Note: Documentation of payments should be provided but may not always be required for repayment.

- 3. The following recruitment and service fees are not to be paid by any worker including temporary, migrant, student, contract, direct employees, and any other type of worker:

Application, recommendation, recruiting, skills testing, interviewing, selecting / hiring, placement, and processing fees, of any kind or at any stage, including agent, sub-agent, intermediary, or employer operating, administrative and overhead costs associated with the recruitment, selection, consideration, hiring, and placement of those workers.

- 4. The following recruitment- and service-related costs are not to be paid by **Migrant Workers**:

- (a) Pre-departure fees and costs including but not limited to:

- Skills tests
- Additional Certifications
- Medical exams/screening if required by the employer or law
- Pre-departure training or orientation
- Any other requirements to access the job opportunity
- Any agent or attorneys, or other notary or legal fees
- Language interpretation or translation fees
- Background and reference checks

- (b) Documentation / Permits and associated costs of obtaining such documents and/or permits:

- New passport/identity documents needed for the purposes of obtaining employment, including renewal(s) required for the purposes of retaining employment
- Visas (including renewals)
- Photos for new passport or visas and renewals
- Temporary work or residence permits (including renewals)
- Police clearance fee
- Birth Certification fee
- Certificate of good behavior fee



- (c) Transportation and in-transit subsistence costs (including lodging, meals, and other related expenses) as well as all taxes and fees:
- (i) For Foreign Migrant Workers:
    - Transportation and in-transit subsistence costs after the employment offer has been made and accepted, from their habitual place of residence in their country of origin to the port of departure
    - Transportation from country of origin to receiving country port of entry including but not limited to airfare, or costs of other modes of transportation, terminal fees and travel taxes
    - Transportation from receiving country port of entry to supplier's facility or provided accommodations
    - Border-crossing fees
    - Relocation costs if asked to move once employment has begun
    - Return transportation to employee's habitual place of residence in country of origin at the end of employment, including in-transit, subsistence costs and costs of medical exams/screening if it is requirement to enable the return journey
  - (ii) For Internal Migrant Workers:
    - Transportation and in-transit subsistence costs after the employment offer has been made and accepted, from their habitual place of residence to the place of work
    - Relocation costs if asked to move once employment has begun
- (d) Arrival / On-Boarding including but not limited to:
- New-hire training or orientation
  - Medical exams/screening
  - Immunizations
- (e) Other legal requirements including but not limited to:
- Deposits and/or bonds (including non-legislated)
  - Government-mandated migrant levies and worker welfare funds related to the employment of Foreign Migrant Workers
  - Fees or related costs associated with regularizing Undocumented Migrant Workers for the purpose of employment through government authorized programs
  - Obtaining permanent or temporary labor certification
5. These costs can be paid by worker if noted in their contract and a receipt or record of payment is provided. They must be without markup.
- (a) Basic expense item to prepare for the interview such as CV copies, copies of existing documents and certificates, incidentals
  - (b) Costs to meet minimum qualifications for the job such as degree or certification



- (c) Passport replacement cost due to employee loss or fault. For replacing visas/permits this also includes photo(s), providing/photocopying any documents, etc.
- (d) Dormitory and meals (must be fair market value and meet international health & safety standards)
- 6. All other initial and ongoing agent and employment administrative, legal and service fees, expenses and fees for work-related equipment, tools, and apparel shall be borne by the Employer.
- 7. Termination and Early Leave:
  - (a) If the worker has provided full notice period per their contract or local law – no fees should be charged
  - (b) If the worker has not provided full notice period:
    - (i) Worker can pay at most 60% of 1 month of gross base wages, if there is no legal penalty associated with worker leaving early
    - (ii) Worker cannot pay any fees if the worker had to leave without full notice period because of abuse or threat to safety
- 8. For fees not listed, consult the Principles for guidance.

## V. MATRICES

To help in understanding the fees, the following matrices note what fees the worker **MUST NOT** pay and **MAY** pay. The matrices are divided according to the worker's situation and stage in the recruiting and hiring process. For fees not listed, consult the Principles for guidance.

- **Stage in the Process:** Down the first column are the three stage in hiring: before a job offer has been made and accepted; after a job offer has been made and accepted and once the job has begun.
- **Worker's Situation:** Some workers may choose to present themselves at the facility ready to work and may therefore have incurred costs that may not be reimbursed (e.g., documentation, transportation). This situation is represented in the second column. The third column represents the situation where the recruiting is initiated by the company.



**Matrix 1:** Fees the worker **MUST NOT** pay depending upon the worker's situation and stage in the recruiting, hiring and employment process. Workers never pay Section IV. 3 fees, deposits, or bonds. Items in **bold** are the differences between the two worker situations.

Worker <b>MUST NOT</b> pay fees noted (detailed above) in these	Initiated by Worker where the Facility is located (whether or not a National of the country)	Migrant Workers recruited by the Company
Before a job offer has been made and accepted	<ul style="list-style-type: none"> <li>• Fees noted in section IV.3 (non- legislated fees)</li> <li>• Skills tests, additional Certifications, Medical exams/screening</li> </ul>	<ul style="list-style-type: none"> <li>• Fees noted in section IV.3 (non-legislated fees)</li> <li>• Skills tests, additional Certifications, Medical exams/screening</li> </ul>
After a job offer has been made and accepted	<ul style="list-style-type: none"> <li>• Any other Skills tests, Certifications, Medical exams/screening</li> <li>• Pre-departure training or orientation</li> <li>• <b>Transportation and in-transit subsistence costs and fees IF worker is asked to move to another location</b></li> <li>• Other Legal Requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Any other Skills tests, Certifications, Medical exams/screening</li> <li>• Pre-departure training or orientation</li> <li>• <b>Documentation (incl. Passport, visa) / permits / fees and associated costs, including renewals to retain employment</b></li> <li>• <b>Transportation, in-transit subsistence Costs and fees from habitual place of residence to facility and to return to habitual place of residence at end of employment</b></li> <li>• Other Legal Requirements</li> </ul>
Once job has begun	<ul style="list-style-type: none"> <li>• Arrival and Onboarding</li> <li>• Other Legal Requirements</li> <li>• Ongoing or additional Agent or Employer administrative, service, equipment, tools, apparel fees</li> <li>• Relocation costs if asked to move</li> </ul>	<ul style="list-style-type: none"> <li>• Arrival and Onboarding</li> <li>• Other Legal Requirements</li> <li>• Ongoing or additional Agent or Employer administrative, service, equipment, tools, apparel fees</li> <li>• Relocation costs if asked to move</li> </ul>
At the end of job employment	<ul style="list-style-type: none"> <li>• See also IV. 7: Termination and Early Leave</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Foreign migrant workers - Return transportation to habitual place of residence, including in-transit subsistence costs</b></li> <li>• See also IV.7: Termination and Early Leave</li> </ul>



**Matrix 2:** Fees the worker MAY pay depending upon the worker's situation and stage in the recruiting, hiring and employment process. The employer/facility may choose to pay these fees. Items in **bold** are the differences between the two worker situations.

Worker MAY pay fees noted (detailed above) in these situations...	Initiated by Worker where the Facility is located (whether or not a National of the country)	Migrant Workers recruited by the Company
Before a job offer has been made and accepted	<ul style="list-style-type: none"> <li>• Basic items to prepare for the interview, such as CV copies, photos, copies of existing documents and certificates, incidentals</li> <li>• Costs to qualify for the job</li> <li>• Transportation and Lodging Costs</li> <li>• <b>Initial Passport /visas /residency permits</b></li> </ul>	<ul style="list-style-type: none"> <li>• Basic items to prepare for the interview, such as CV copies, copies of existing documents and certificates</li> <li>• Costs to qualify for the job</li> <li>• Transportation and Lodging Costs</li> </ul>
After a job offer has been made and accepted	<ul style="list-style-type: none"> <li>• Passport replacement due to employee loss/fault, including visas, permits</li> <li>• <b>Transportation and in-transit subsistence Costs unless the worker is asked to move to another location</b></li> </ul>	<ul style="list-style-type: none"> <li>• Passport replacement due to employee loss/fault, including visas, permits</li> </ul>
Once job has begun	<ul style="list-style-type: none"> <li>• Dormitory/meals if disclosed in contract, fair market value, and meet RBA H&amp;S standards</li> </ul>	<ul style="list-style-type: none"> <li>• Dormitory/meals if disclosed in contract, fair market value, and meet RBA H&amp;S standards</li> </ul>
At the end of job employment	<p><b>Return transportation and in-transit subsistence costs to habitual place of residence</b></p> <ul style="list-style-type: none"> <li>• See also IV.7. Termination and Early Leave</li> </ul>	<p><b>Internal Migrants - Return transportation and in-transit subsistence costs to habitual place of residence</b></p> <ul style="list-style-type: none"> <li>• See also IV.7. Termination and Early Leave</li> </ul>

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## REFERENCES

This Definition of Fees (DOF) document is reviewed and revised regularly to support the continued development and implementation of the RBA Code of Conduct, including taking into account new developments in regulatory standards and other principles and guidelines aligned with international labor standards. The following standards were referenced in the updating of the current DOF version and may be a useful source of additional information.

U.S. Government's Federal Acquisition Regulation (FAR) Definition of "Recruitment Fees"

[https://www.ecfr.gov/cgi-bin/text-idx?SID=96caab5b6a949ac000a74a8edd5006d6&mc=true&node=pt48.2.52&rqn=div5#se48.2.52\\_1222\\_650](https://www.ecfr.gov/cgi-bin/text-idx?SID=96caab5b6a949ac000a74a8edd5006d6&mc=true&node=pt48.2.52&rqn=div5#se48.2.52_1222_650)

International Labour Organization (ILO)'s Definition of Recruitment Fees and Related Costs

[https://www.ilo.org/global/topics/labour-migration/news-statements/WCMS\\_682734/lang-en/index.htm](https://www.ilo.org/global/topics/labour-migration/news-statements/WCMS_682734/lang-en/index.htm)