

CHECKLIST:

BEST PRACTICES FOR THE RESPONSIBLE USE OF LABOUR PROVIDERS (ETTS)



Working Group: Responsible use of labour providers

Index

1. Introduction
2. Fulfilment of the “checklist” sections
3. How to start using a labour provider
4. Checklist of best practices for the responsible use of labour provider agencies (ETTs)
5. Annex 1: Authorization to carry out this checklist
6. Annex 2: List of guiding questions to ask workers from labour provider agencies

INTRODUCTION

What is this document for?

This document has been created as a complementary tool to the best practice [guide for the Responsible use of labour providers \(ETTs\)](#). On the one hand, the guide offers a series of best practices and recommendations in various areas of the daily management of labour provider agencies (LP). On the other hand, this "checklist" has been made with the goal of providing a tool that allows the user company to evaluate the adequacy of the labour provider agencies practices, with a reference framework set in the most relevant areas that may pose risks to workers.

The use of temporary workers in the Spanish agricultural industry is a common practice. Forced labour and modern slavery have become one of the labour risks, among many others¹, that companies in the agricultural sector can face. Adding the type of profile of these workers² along with other aspects that make them more vulnerable, they can be subject to some type of labour exploitation.

The user company must ensure decent working conditions for each and every one of its workers (whether they are company employees or hired through labour provider agencies). This document has been created collaboratively between various Ethical Trade Forums members with special collaboration from [Stronger Together](#).

Who is this tool for?

This tool is intended to be used by companies contracting the services of labour providers (user companies). The complementary guide provides a detailed explanation of best practices and highlights aspects that user companies need to watch out for with caution. This "checklist" offers the possibility of translating the guide into a control document to assess best practices and situations that may pose a specific risk for both the company and the workers.

How is this tool used?

This "checklist" contains a series of simple questions that the user company can ask the labour provider agency to make a balance of the situation regarding the implementation of best practices and risk assessment for the subsequent agreement of corrective actions where necessary.

The end user of this guide must be a person or team from the user company, with knowledge of the agreement signed with the labour provider agency and sufficient responsibility to start a conversation and continuous follow-up with the LP.³

¹ Other risks that user companies face may be non-compliance with collective agreements, identity theft, lack of training in occupational risks and piecework.

² The type of profiles that are most exposed to risk are: seasonal workers, workers recruited by third parties, immigrant workers, workers with a low educational level, women. More information in the section "Who is at risk?" (page 24) of the [Stronger Together guide](#).

³ It is recommended that the User Company signs or includes a prior agreement with the Labour provider agency whenever possible. An example of this agreement can be found in [Annex 5 of the Stronger Together guide \(p. 78\)](#).

Each section of this “checklist” refers to the relevant chapters of the best practice [guide for the Responsible use of labour providers \(ETTs\)](#). If the end user is in doubt about a practice that doesn't look right, it is always important to investigate each cause more thoroughly. The complementary guide offers a valid interpretation in the context of labour provider agencies, but the corresponding legal framework should always be applied.

Like the guide, this “checklist” is based on the principles of continuous improvement and due diligence and tries to establish a framework of action in which both, the user companies and the labour provider, can agree on actions to be completed and to guarantee the correct ethical performance by both parties.

FULFILMENT OF THE “CHECKLIST”

The tool has different sections, and each section has a series of questions. Where appropriate, some context is provided at the bottom of each question as a 'explanatory note'.

The type of indicator reveals the importance that each question has, this characterization being as follows:

- **Critical:** matters of absolute importance that always need to be at an adequate level since, if this is not the case, it could carry a very high risk in terms of possible exploitation of workers. Critical indicators that need improvement or are Not Adequate have to be addressed immediately (a matter of days).
- **Major:** issues of great importance that have to be brought to an adequate level in a relatively short period of time recommended between 4 and 8 weeks.
- **Minor:** important issues but not as relevant as the "Major". They have to be brought to an adequate level in a recommended period of time between 8 and 20 weeks.

The “checklist” indicators can be assigned different levels of compliance. Those are:

- **Adequate:** means that the specific indicator meets an adequate level of compliance and does not need any type of action.
- **Needs Improvement:** it means that the specific indicator partially meets the compliance level, but some corrective action would have to be taken to bring it to an adequate level.
- **Not Adequate:** it means that the specific indicator does not meet the required level of compliance and actions are needed to reach the appropriate level.

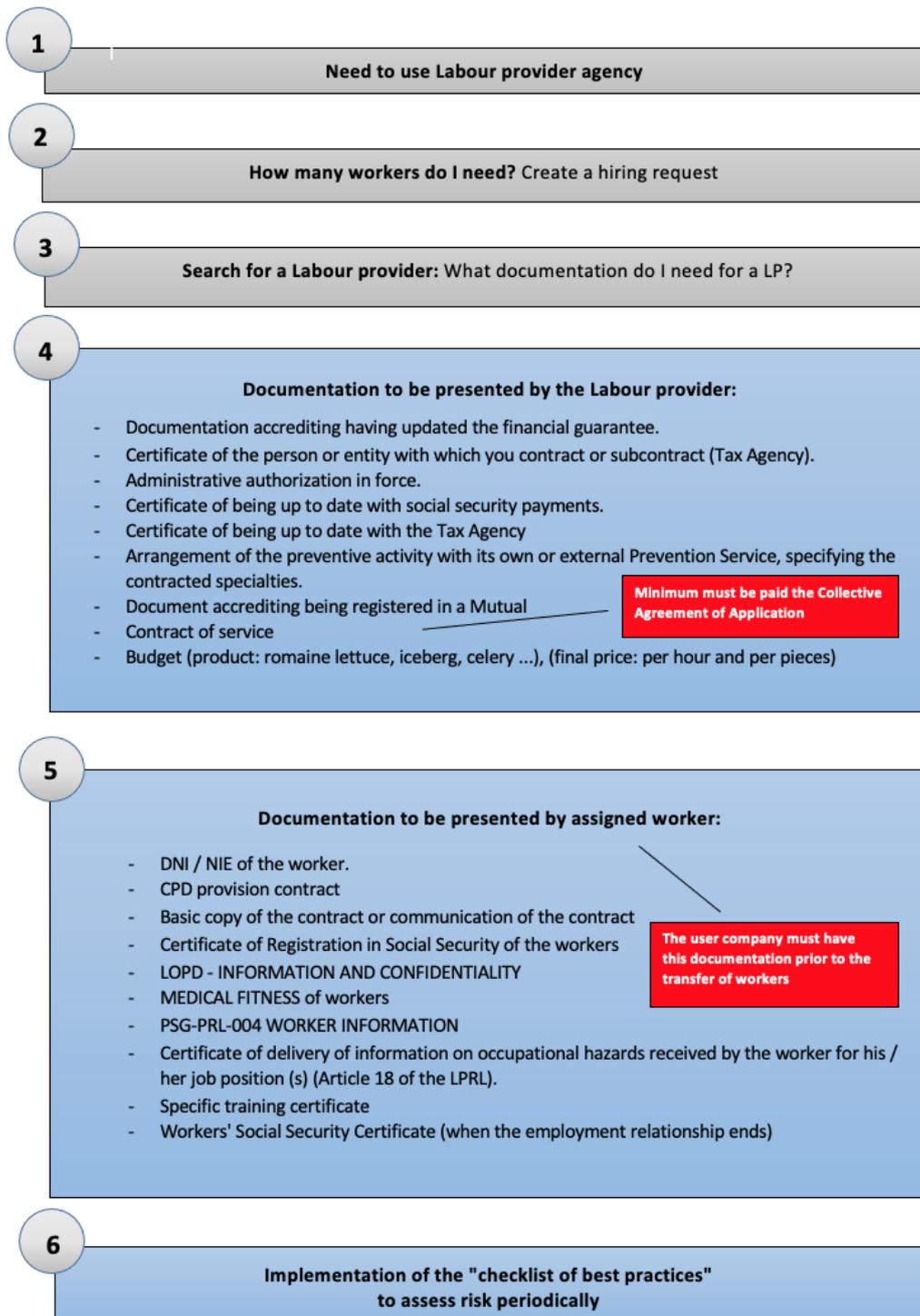
Once the "level of compliance" has been indicated, a brief description of its "justification" should be made, as well as a mention of the corrective actions to be taken and the deadlines agreed with the labour provider to shift the indicator in question to an "adequate" level.

Annexes

- **Annex 1:** Authorization to carry out this checklist
- **Annex 2:** List of guiding questions to ask workers from Labour provider agencies.

HOW TO START USING A LABOUR PROVIDER

For companies that are evaluating the use and contracting of Labour provider agencies, this diagram provides the essential steps to take into account in a summarized way.



CHECKLIST OF BEST PRACTICES FOR THE RESPONSIBLE USE OF LABOUR PROVIDER AGENCIES (ETTS)

Labour Provider Name	
LP Address	
LP Contact	
User Company Name	
User Company Contact	

Section 1: Management Systems					
Indicators	Type	Compliance level (Mark with an X)			Justification and agreed corrective actions (brief explanation addressing the associated level of compliance, corrective actions and agreed deadlines to bring the indicator to an "adequate" level)
		A	NI	NA	
1.1 Is the Labour provider licensed, is it a legally registered entity? Can you confirm that you do not know of any reason why a person named on the LP license is not "fit and suitable" (in relation to fraud, violence, human trafficking, intimidation, harassment)?	Critical				
Explanatory notes: The labour provider agency has a registration number indicating the name of the company, type of company, name of the owner. The licensee, the principal authority and any person named or specified in the license must act at all times in an appropriate manner.					
1.2 Does the LP have a compliance system in place to ensure its processes?	Major				
Explanatory notes: The LP, for the adequate compliance and due diligence of its activities, must have a management system that addresses compliance with the legal and contractual requirements with the workers and user companies.					
1.3 Does the personnel in charge of managing the worker's documentation have the necessary capability / training to perform this function?	Minor				
Explanatory notes: The responsible person must have a clearly defined role and responsibilities to adequately manage the risks of forced labour in the work centre. Have the managers received any kind of training in this area?					

1.4	Has the LP signed a service provider contract that includes a commitment to comply with current legislation? Can the LP demonstrate knowledge of the applicable legislation? Evidence of the contract.	Critical				
	Explanatory notes: Evidence of this contract in this case would have to be reviewed.					
1.5	Has the LP carried out any risk assessments in relation to the identification, prevention and mitigation of forced labour cases?	Minor				
	Explanatory notes: This risk assessment can take any form. From a review of the identity documents of the workers, housing address, bank accounts, etc.					

Section 2: Salary, Benefits and Employment Conditions

Indicators	Type	Compliance level (Mark with an X)			Justification and agreed corrective actions (brief explanation addressing the associated level of compliance, corrective actions and agreed deadlines to bring the indicator to an "adequate" level)
		A	NI	NA	
2.1	Does the labour provider have an ethical policy or code of conduct that governs its recruitment activities?	Minor			
	Explanatory notes: policy that covers all the points indicated in the base code of the ethical trade initiative (ETI base code) or similar, signed by the LP.				
2.2	Can the LP provide records of all employed persons?	Major			
	Explanatory notes: there must be a document maintenance system that keeps all worker records for a minimum of 5 years.				
2.3	Can you prove, with the most recent payroll, that the actual hours worked recorded on the timesheet and that the payroll system accurately calculates the pay for all workers (including overtime) are paid according to the provincial collective agreement of the field?	Critical			
	Explanatory notes: payment of wages. <ul style="list-style-type: none"> - A worker must receive his salary in accordance with the provincial agreement of the field. - Sufficient records must be kept to verify payment. 				

	- The LP must provide the worker with a statement / payroll detailing their salary and hours worked. The payroll must reflect the following concepts: the base salary, the arrears of extra pay and holidays, the incentives where appropriate, the overtime, night and holiday hours where appropriate, the supplements where appropriate and any other concept not included in the collective agreement applicable in the user company. The deductions will be the regulations of the Social Security worker quota and the corresponding tax, as well as if any discount for advance payments were to be made.					
2.4	Method of wages payment to workers and how often?	Major				
	Explanatory notes: there are payrolls that indicate how workers are paid and when. If employees are paid by cash or check, they should receive such payment during work hours, at the workplace, and in a sealed envelope. Does the LP systematically check workers' bank accounts to cross data and see if unrelated workers have the same account?					
2.5	Can the LP demonstrate that the workers' payrolls show at least: - The gross salary - The deduction percentages and the purposes for which they are made (taxes, Social Security and other deductions) - The net salary - Evidence of the payroll itself delivered to the worker	Critical				
	Explanatory notes: the LP must provide workers with detailed pay receipts at the time the salary is paid or before. The receipt or pay slip must contain the gross and net amount of the salary and the deduction amounts.					
2.6	Can the LP demonstrate that workers receive holidays according to a provincial agreement? How is paternity / maternity leave managed? Sick leave?	Critical				
	Explanatory notes: the LP must maintain documents that demonstrate that a worker receives payment for holidays, sickness, maternity leave, paternity leave.					
2.7	Have the workers been given the proper employment contract?	Critical				
	Explanatory notes: the employment contract must be available to each worker, where the requirements for the function of the service to be performed are clearly established.					
2.8	Have workers been informed of their rights and responsibilities regarding the role to be performed?	Major				
	Explanatory notes: there are attendance and / or training records that show that the content of their contract has been explained to the workers. It can include meetings that take place in the workplace.					

2.9	Do workers have to give the LP a monetary amount or their original identification documents to secure employment? Can there be any other indicator of risk? <i>** Initial verification through confidential interview with workers.</i>	Critical				
<p>Explanatory Notes: See Annex 2 for more information on how to address these questions. Workers are normally interviewed to verify this information, but if this is not possible, the documentary checks should at least show that the labour provider does not keep the original identity documents. In addition, it must be verified that, in the first payroll, no monetary deductions are observed, other than: withholding taxes or embargoes. The LP could be deducting other items such as Personal Protective Equipment (PPE), work tools, transportation, accommodation.</p>						
2.10	Are workers informed about the conditions and functions of the job before they are hired?	Major				
<p>Explanatory notes: workers are normally interviewed to verify this information, but if this is not possible, there must be a documented record that shows that the workers received this information. The LP must provide the worker with the employment details in writing.</p>						
2.11	Awareness / training / information on the recognition, prevention and treatment of forced labour, trafficking and labour exploitation of third parties is provided to all those involved in the LP, including all employees.	Minor				
<p>Explanatory Notes: There should be a clear procedure outlining what steps management, supervisors, and employees would take to prevent forced labour and what steps it would take if such practices were identified within the company.</p>						
<p><i>For more information on topics covered in this section, see sections 6, 7 and 8 of the best practice guide for the Responsible use of labour providers</i></p>						

Section 3: Young Workers and Child Labour

Indicators	Type	Compliance level (Mark with an X)			Justification and agreed corrective actions (brief explanation addressing the associated level of compliance, corrective actions and agreed deadlines to bring the indicator to an "adequate" level)
		A	NI	NA	
3.1 Policy / Procedure for workers' minimum age? Evidence of the age of all workers. Explanatory notes: the LP must have a procedure on the minimum age of its workers. In addition, you must have a copy of all the identity documents of all the workers.	Critical				
3.2 Are there contracted workers with ages between 16-18? If so, evidence of the contract, is it signed by your legal guardians? Do the terms and conditions of employment comply with the law? Explanatory notes: workers contracts between these ages are signed by the legal guardians / representatives and the working conditions comply with the legislation	Major				

For more information on topics covered in this section, see section 3 of the best practice [guide for the Responsible use of labour providers](#)

Section 4: Grievance Mechanisms / Suggestions System and Freedom of Association / Collective Bargaining

Indicators	Type	Compliance level (Mark with an X)			Justification and agreed corrective actions (brief explanation addressing the associated level of compliance, corrective actions and agreed deadlines to bring the indicator to an "adequate" level)
		A	NI	NA	
4.1 Is there some form of worker representation that facilitates communication between workers and management? Explanatory notes: it is stated in Law 14/1994 that labour provider agency workers can contact the legal representatives of the user company. This can be an individual delegate or an existing works council in the user company.	Major				
4.2 Is there a grievance mechanism system through which workers can file a complaint? Have the workers been informed of this system?	Major				

	Explanatory notes: the LP has a complaints procedure and action procedure. All workers are aware of this policy and procedure, there must be training or meeting records. All records of disciplinary action taken are documented and kept.				
4.3	Does the LP keep documented records of all disciplinary cases?	Major			
	Explanatory notes: there is documentary evidence that details disciplinary cases.				
<i>For more information on topics covered in this section, see section 5 of the best practice guide for the Responsible use of labour providers</i>					

Section 5: Health and Safety					
Indicators	Type	Compliance level <i>(Mark with an X)</i>			Justification and agreed corrective actions <i>(brief explanation addressing the associated level of compliance, corrective actions and agreed deadlines to bring the indicator to an "adequate" level)</i>
		A	NI	NA	
5.1	Is there an occupational risk assessment by the user company that covers all the activities carried out by its workers?	Major			
	Explanatory notes: documented risk assessment where all the activities to be carried out by the LP workers are covered				
5.2	Have workers received basic health and safety training?	Major			
	Explanatory notes: health and safety training records for workers. Attendance records.				
5.3	Who is responsible for occupational risk prevention and first aid?	Major			
	Explanatory notes: training in occupational risk prevention and first aid.				
5.4	Does the Labour provider have evidence of medical examinations of all workers?	Major			
	Explanatory notes:				
5.5	If transportation is provided, is it safe, has the inspection in force, and is it in good condition? Evidence of the driver's driving license.	Critical			
	Explanatory notes:				
<i>For more information on topics covered in this section, see sections 4 and 10 of the best practice guide for the Responsible use of labour providers</i>					

Section 6: COVID-19

Indicators	Type	Compliance level <i>(Mark with an X)</i>			Justification and agreed corrective actions <i>(brief explanation addressing the associated level of compliance, corrective actions and agreed deadlines to bring the indicator to an "adequate" level)</i>
		A	NI	NA	
6.1	Does the company have a COVID-19 policy in place?	Major			
	Explanatory notes: this policy must be adapted to the particular activity carried out by the company				
6.2	If there is a suspected or confirmed COVID-19 case among workers, how is it managed?	Major			
	Explanatory notes: the company must have a protocol for action against employees with COVID-19 infection				
6.3	Do workers receive protective masks and are they free?	Critical			
	Explanatory notes: type of masks and must comply with COVID-19 regulations				
<i>For more information, consult the resources available on the website of The Ethical Trade Forums on Covid-19</i>					

ANNEX 1: AUTHORIZATION TO CARRY OUT THIS CHECKLIST

With this template you can request consent from the labour provider to be able to carry out this checklist. This text can be included in the initial contract between the user company and the LP.

This text is illustrative and can be adapted to the context and needs of each company.

The Labour provider agency (ETT): with administrative authorization: undertakes to comply with the ethical, social, legal and human rights principles of the user company: with CIF:

In order to comply with these principles, the user company:, may carry out checking actions to evaluate best practices and occupational risks and verify all the documentation related to the workers assigned by the labour provider:, Under the legal and Data Protection terms, which have been agreed in the service provision contract. Committing to ensure compliance with the corrective actions and their respective deadlines that derive from any social audit by third parties or from the implementation of the “checklist” of the best practice guide for the Responsible use of labour providers of the Ethical Trade Forums.

ANNEX 2: LIST OF GUIDING QUESTIONS TO ASK WORKERS FROM LABOUR PROVIDER AGENCIES

For the right implementation of this "checklist" it is of vital importance that a series of questions or interviews are carried out in a confidential manner by the user company to the workers assigned by the LP. It is important that questions and interviews be approached in a way that is not counterproductive and puts the worker at risk (for example, interviewing in small groups, or not interviewing a worker who shows signs of having a close relationship with the external recruiters).

In order to be able to assess best practices by the temporary agency or, on the contrary, to identify risks, this annex lists a series of guiding questions to be able to determine the labour status of the workers.

Important: interviews with workers must always be confidential, and it is strictly forbidden to pass data related to interviews with workers and / or their testimonies to the labour provider.

Workers in any of these situations have the right to receive help.

- Have you paid to get your job?
- Have your identification documents (visa, passport or birth certificate) been withheld?
- Is there verbal, physical or sexual abuse?
- Do they monitor or restrict their movements and communications?
- Do they control your money, or do you not get paid for your work?
- Are they (and their families) threatened with physical harm or deportation?

If any of these occur, it is important to conduct an investigation of the incidents. [Annex 6 of the Spanish Stronger Together guide](#) offers a series of steps to conduct this research. If you have questions about how to act in a risky situation, you can contact:

- Police: free line 900 10 50 90 or email trata@policia.es
- Guardia Civil: free line 062 or email to trata@guardiacivil.es

Other questions to ask workers in interviews:

1. How did you hear about the job?
2. Did you have to pay an amount or commission for the job?
3. Have you paid, and if so, how much, who or what, to get this job?
4. How did you travel to Spain?
5. Who organized and paid for the trip?
6. Where is your passport or identification document?
7. Does someone else keep your passport or identification document? If so, who?
8. How much did you get paid last week? Was the payment correct?
9. Do they receive your payroll? If the answer is yes: is it clear and do you understand it?
10. What deductions are made from your salary?
11. Can you open and collect from the bank account what you need? Does anyone else use your bank account?
12. How have you been treated since you've been here?
13. Have they provided you with PPE (masks) and necessary material for the job, such as jackets when it's cold, tools, gloves, etc.? Who paid for the cost of the PPE and the work tools?
14. Has part of your salary been withheld as a deposit for the cost of PPE and work tools?
15. Do you know what a union is, who are the representatives in the company and how they can help you?
16. If there was a problem or incident at work, what would you do?
17. If you wanted to report a problem or incident, but without anyone knowing, would you know how to do it? Where, to whom?