



HSE: Countering Human Trafficking Risks and Strategies for the Oil and Gas Industry





Presented by:
Minal Patel Davis
Special Advisor to the Mayor on Human Trafficking
Office of Mayor Sylvester Turner

Countering Human Trafficking Risks in Post-Disaster Houston: Strategies for the Business Community

Disclaimer
The information contained in this presentation is intended for general awareness only. This information is being provided with the understanding that the authors and publishers are not engaged in rendering legal advice or services. The City of Houston does not warrant or make representations or endorsements as to the content, accuracy, or completeness of the information, text, graphics, links, and other items contained on this resource sheet. Such materials have been compiled from a variety of sources, and are subject to change without notice from the City of Houston as a result of updates and corrections. All service marks, trademarks and copyrighted material included herein are the property of their respective owners.





Countering Human Trafficking Risks in Post-Disaster Houston: Strategies for the Business Community

Introduction & Purpose

- Understand human trafficking and labor exploitation
- Discover post-disaster related risks
- Discuss Lessons from Hurricane Katrina
 - Overview of precedent setting legal cases
- Recommendations:
 - Interventions & prevention of labor exploitation in short and long term disaster recovery, and in non-disaster related operations
 - Tools for the business community

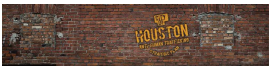



4

City of Houston's Strategic Plan

Human Trafficking: Forced Labor Defined

- Use of force, fraud, or coercion to compel someone to perform a commercial sex or labor act. Victims of labor trafficking are severely limited in their freedom of movement.
- Traffickers utilize illegal debts and recruitment fees, deception, immigration status, threats, physical force and other means to exploit individuals and force them to work:
 - Force: Using physical means to compel work
 - Fraud: Luring and trapping victims through deception
 - Coercion: Debt bondage, threats to victim or family
- The U.S. Department of Labor Estimates that **139 goods from 75 countries** could be made by *forced and child labor*.

5

City of Houston's Strategic Plan

Human Trafficking: Global & Local Estimates



- International Labor Organization & Walk Free Foundation Global estimate:
 - 40 million in modern slavery
 - 25 million in forced labor, of which 16 million exploited in domestic work, construction or agriculture



- Polaris (calls to National Human Trafficking hotline):
 - 2016 Nationwide: 26,727 calls made to the National Human Trafficking Resource Center
 - 2016 Texas: 2,135 calls, 670 cases of which 121 specified labor
 - 2016 Houston: 554 calls, 213 cases of which 36 specified labor
 - 39 cases reported to law enforcement



- Trafficking Prosecutions:
 - FY 2016 Nationwide: 531 prosecutions, 439 convictions
 - 3% of convictions for labor trafficking



6

City of Houston's Strategic Plan

Post Disaster Human Trafficking Risks

- In 2005 Hurricane Katrina displaced hundreds of thousands of people in Louisiana, Mississippi and Alabama, caused more than \$100 billion in damages, and triggered a massive redevelopment effort to rebuild homes, infrastructure and industries.
- Many cities, including New Orleans, faced a worker shortage to fill reconstruction and recovery related jobs. Some companies used force, fraud and deception to fill vacancies with coerced and trafficked labor.
- U.S. DHS lifted certain labor regulations for a period of time to expedite recovery.
- Given the economic opportunity, a scarcity of workers and the need to quickly begin reconstruction, Katrina exposed various risks to businesses utilizing contractors and recruiters to fulfill labor needs.
- Katrina exposed legal and ethical risks to businesses involved in reconstruction efforts, and human rights risks to the workers they employed.



7

City of Houston's Strategic Plan

Scope of Recovery: Lessons from Katrina

- **Workers Needed Across Industries**
- **Short Term:** Clean up & repair of public and private buildings and infrastructure, roads, bridges, homes
 - Workers Needed: welders, pipefitters, carpenters, masons, roofers, etc.
- **Long Term:** Industries and workforce disrupted due to storm
 - Workers Needed: Teachers, nurses, cooks, cleaners, hospitality workers



Federal government plans years-long recovery effort in states hit by Harvey

"An event of this scale can very well take years, and in some cases it may take more than 10 years to actually fully recover from this event."

-David Havens, Imperial Capital, an investment bank



8

City of Houston's Strategic Plan

Who Will do the Work?

- Carpenters, electricians and plumbers flocked to New Orleans after Katrina to help rebuild after \$108 billion in damages. Much of the blue collar jobs attracted immigrants.
- However, unemployment rates were higher during Katrina, thus more workers were available.
- Current nationwide labor shortage in manufacturing and construction puts pressure on employers.
- Shortages can be exploited by illicit recruiters and contractors to fill jobs with forced labor.



Companies can't find workers to rebuild after Harvey and Irma



9

City of Houston's Strategic Plan

Harvey: A Costly Tragedy

Texas Governor Greg Abbott estimated damage from Hurricane Harvey at \$150 billion to \$180 billion, calling it more costly than epic Hurricanes Katrina or Sandy, which devastated New Orleans in 2005 and New York City in 2012.

FORTUNE

The New York Times

An initial damage assessment by the Federal Emergency Management Agency, released early on Wednesday, estimated that almost 60,000 structures were damaged in Texas. More than 25 percent of those structures sustained major damage or were destroyed, and reports of damaged structures are almost certain to grow.

10

City of Houston's Strategic Plan

Post Disaster: Pull Factors

- Natural disasters and hurricanes lead to massive spending by the federal and local governments for cleanup and reconstruction.
- Assistance needs to be dispersed quickly, often bypassing government contracting regulations and traditional worker protections.
- A shortage of labor collides with opportunities and contracts for rebuilding and construction.
- Economists fear the otherwise tight U.S. labor market could hold back reconstruction, compared to previous disasters.

"There is not a significant surplus of labor ready to re-enter the workforce to take relatively higher paying construction jobs that will be available in Houston and across much of Florida".

— Joe Brusuelas, McGladrey LLP, tax & consulting service company

USG + U.S. CHAMBER COMMERCIAL CONSTRUCTION INDEX | Q3 2017

11

City of Houston's Strategic Plan

Risks to Workers and Businesses

In the years since Katrina, companies have been sued by workers and the U.S. Government for relying on forced and trafficked workers to fulfill both skilled and unskilled labor needs.

Operational Challenges	Risks	Vulnerability of Workers
Contractor moves into recovery area to avail of increased public and private short and long term contracts for recovery efforts		Needed rapid response can lead to lesser due diligence of contractor and verification of work sites
Contractor may "underbid" to win the award worth multiple millions		Contractor maximizes profits by procuring the cheapest possible labor—illegally through exploitation
Labor is scarce; Contractor uses H2A, H2B and other guest worker programs to fill labor shortage with foreign workers		Fraudulent contractors recruit foreign workers with false promises of good jobs and wages; High skilled workers also vulnerable
Documented and undocumented workers are vulnerable to exploitation due to limited legal protections and monitoring of construction sites		Foreign workers already in the U.S. can be illegally deployed for relief efforts; Limited grievance mechanisms; Few workers have medical insurance or health care while working in dangerous environments

12

City of Houston's Strategic Plan

Katrina Labor Case 1: Hospitality Industry

- 2006: Decatur Hotels
 - Accused of charging workers exorbitant fees
 - Workers paid \$3,000 - \$5,000 and given less work hours than promised
 - With fees resulted in below minimum wage level
 - Workers were on H2B visas from Central and South America
 - DOL issues clarification on Fair Labor Standards Act that worker fees count towards prevailing wages



The H2B program requires employers to pay at least the prevailing wage. The prevailing wage must be at least the highest wage required by any applicable federal, state or local law; therefore, the required prevailing wage may be higher than the FLSA minimum wage.



Wage and Hour Division (WHD)
U.S. Department of Labor
Employment Standards Administration
Wage & Hour Division
Washington, D.C. 20210
August 23, 2006
FIELD ASSISTANCE BULLETIN NO. 2006-2
MEMORANDUM FOR: REGIONAL ADMINISTRATORS
DISTRICT DIRECTORS
FROM: JOHN L. HANSON
Deputy Administrator
SUBJECT: Travel and the Expenses of H-2B Workers Under the FLSA



13

City of Houston's Strategic Plan

Katrina Labor Case 2: Construction Industry

- 2007: Milton Express Manpower
 - Workers from Thailand won \$1 million default judgement
 - Milton charged workers \$11,000 in fees for agriculture jobs in North Carolina
 - Workers were instead sent to do construction work in Louisiana
 - Workers were held hostage by armed guards who confiscated their immigration documents

The New York Times
Indictment Accuses Firm of Exploiting Thai Workers



14

City of Houston's Strategic Plan

Katrina Labor Case 3: Education Industry

- 2010: Universal Placement Agency (Teacher Shortage)
 - Jury awarded \$4.5 million to Filipino teachers who filed a class action lawsuit finding that UPA violated California Employment and Unfair Competition laws.
 - UPA, a CA based recruiter found teachers for New Orleans School districts.
 - UPA charged 400 recruits \$5,000 - \$6,000 in fees to secure jobs and H1B visas.
 - Threatened teachers with deportation when they complained.

Filipino teachers win \$4.5 million jury verdict, claim they were forced into 'exploitative contracts'



15

City of Houston's Strategic Plan

Associated Image: Katrina Labor Case 4

2003 - 2004: Companies Recruit Workers from India	2006: Victims housed in "Man Camp" in Mississippi	2008: Signal used by workers	2013: Jury awards \$16mm in damages to five Indian guest workers
--	--	------------------------------------	---

2005	2007	2015
------	------	------

2005: Hurricane Katrina strikes Gulf Coast	2005: Workers repair oil rigs and facilities damaged by Katrina	Signal terminates a worker for organizing	2015: EEOC settles Signal lawsuit for \$50m.	2015: Signal declares bankruptcy
---	--	--	---	--

HOUSTON
THE CITY OF ENERGY

17

City of Houston's Strategic Plan

Common Elements: Worker Exploitation

- Recruiter conduct particularly suspect; limited oversight of contractor and recruiter behavior.
- Skilled and unskilled workers exploited.
- Workers charged high fees, retaliation if they complain.
- Exploitation of immigration status, some workers recruited from overseas, others already in the U.S.
- Not all workers exploited for post-disaster efforts, some recruited or trafficked to meet regular labor needs.

18

City of Houston's Strategic Plan

Common Element: Corporate Liability

- Cases create precedent for legal risks to companies
- The Trafficking Victims Protection Act and the Fair Labor Standards Act, along with local statutes, creates legal liability
- Companies can be held liable for contractor and recruiter actions
- Actual costs to companies:
 - Economists estimate that Signal saved **\$8 million** by paying workers illegally low wages and employing deceptive recruitment practices
 - Vs.**
 - Signal found liable for **\$14 million** in damages to workers it exploited
 - Irreparable damage to reputation
 - Declared bankruptcy

THE WALL STREET JOURNAL

Accused of Labor Trafficking, Oil-Rig Repairer Files for Bankruptcy

Signal International faced lawsuits filed by Indian workers who say they lived in cramped bunkhouses with inadequate food



19

City of Houston's Strategic Plan

Need for Proactive Measures

- Recovery and reconstruction creates business opportunities across industries
- Short and long term jobs impacted
- Efforts in Houston are complicated by labor shortages
 - Katrina showed that recruiters and contractors will take advantage of workers to maximize profits
- The business community can take proactive measures to reduce risks, liability and protect workers' rights

Proactive strategies do not need to be limited to post-disaster market opportunities and should be made an integral part of regular business operations



20

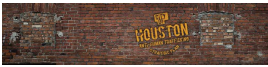
City of Houston's Strategic Plan

Local Government Measure: Mayor Turner's Executive Order

- EO makes counter-human trafficking a priority issue in City purchasing decisions
- Leads by example by ensuring that City does not do business with dubious contractors
- Raises awareness of human trafficking and boosts corporate action
- Encourages contractors to proactively follow ethical employee labor and recruitment practices
- Declares that the City will use its purchasing power to conduct business with enterprises that are taking positive steps to root out human trafficking from their supply chains



EXECUTIVE ORDER
ZERO TOLERANCE FOR HUMAN TRAFFICKING IN CITY
SERVICE CONTRACTS AND PURCHASING



21

City of Houston's Strategic Plan

National and International Disclosure Measures

- **2012: California Supply Chain Transparency Act.** Mandates the disclosure of information by retailers in CA regarding their efforts to eradicate slavery and human trafficking from their supply chains
- **2015: UK Modern Slavery Act.** Requires certain businesses to publish an annual statement about what steps they are taking to abolish slavery from their supply chains
- **2017: French Duty of Care of Parent Companies and Ordering Companies.** Requires companies meeting certain criteria to develop and enact "vigilance plans" that detail steps taken to prevent human rights violations from company, subsidiary, supplier and subcontractor activities
- **2017 (Proposed): Australian Modern Slavery in Supply Chains Reporting Requirements.** If enacted, will require large corporations to publish annual statements outlining actions to combat slavery in their supply chains



22

City of Houston's Strategic Plan

Intervention & Prevention: Recommendation 1

- **Cement In-House Capability:**
 - **Conduct due diligence** and vetting of all labor contractors in the supply chain, with higher level scrutiny of employee recruitment practices
 - Train procurement and supplier management personnel on working with contractors to ensure **ethical recruitment** practices





23

City of Houston's Strategic Plan

Intervention & Prevention: Recommendation 2

- **Work with Your Contractors:**
 - **Insert clauses** in all contracts that delineate expectations around worker recruitment and treatment
 - During the sub-contracting process, **dialog with contractors** about the labor risks they might face
 - Work with them to establish prevention and mitigation plans and strategies
 - Invest in **audits and spot checks** of contractors
 - Ensure that auditors are also collecting information directly from workers in their native language through in-person interviews or technology enabled communication tools.
 - Make results of audits **publicly available** (while protecting proprietary concerns)





24

City of Houston's Strategic Plan

Intervention & Prevention: Recommendation 3

- **Verify Worker Treatment:**
 - Invest in **grievance mechanisms** that workers can securely avail of in their native language. Establish a policy and procedure around restitution for all potential victims
 - Widely publicize worker rights based information in multiple languages in all worksites.
 - Information should include worker rights under local and federal labor, wage, workplace and immigration laws



25

City of Houston's Strategic Plan

Best Practices in Ethical Recruitment

- Map the supply chain and invest in tools to verify worker experiences
- Identify and prioritize risks
- Build support of top management
- Develop policies that mandate:
 - No fees charged to workers for jobs
 - Contracts in workers' languages
 - Workers have access to all personal documents
- Build relationships with suppliers
- Support suppliers in addressing recruitment challenges
- Collaborate with nonprofit and government stakeholders



26

City of Houston's Strategic Plan

Associated Image: Best Practices in Ethical Recruitment

EMERGING BEST PRACTICES

- 1. POLICY:**
 - a. The company recognizes the changing dynamic in the workforce with an increase in migrant workers and strengthens management system focused on recruitment.
- 2. WORK with SUPPLIERS:**
 - a. Supplier has dedicated staff in charge of ongoing oversight of recruitment including the direct hiring of workers and pre-induction session on contract terms and conditions.
- 3. AUDITING TOOLS:**
 - a. Recruitment agencies are included in the scope of audits.
- 4. BEYOND COMPLIANCE:**
 - a. Shared responsibility for reimbursement of recruitment fees (supplier, buyer)—redistribute the costs so workers don't pay.
- 5. LEADERSHIP:**
 - a. Company works with local government; government ministry in home country vets worker contracts and each worker receives a copy of their contract upon hiring.

Best Practice Guidance on Ethical Recruitment of Migrant Workers



27

9

City of Houston's Strategic Plan

Ethical Recruitment Tools for Business

- 
 • Ethical Recruitment tools for Nursing and Education Industry includes model codes of conduct and certification processes (<http://www.cgfnalliance.org/>)
- 
 • ResponsibleSourcingTool.org, includes guides for screening and monitoring recruiters and interviewing workers
- 
 • ResponsibleRecruitmentToolkit.org, launching in 2018 will provide interactive guidance for businesses and labor providers for good, practical practices to ethically recruit workers
- 
 • An Ethical Framework for Cross-Border Labor Recruitment, Verité and the ManpowerGroup
- 
 • Best Practice Guidance on Ethical Recruitment of Migrant Workers, Interfaith Center on Corporate Responsibility

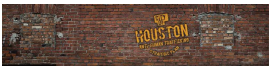


28

City of Houston's Strategic Plan

Conclusion

- Labor exploitation cases post-Katrina exposed the risks to businesses and workers
- The City of Houston is facing a long road to recovery
 - The City has a proud tradition of government and private industry working together to address challenges—this trust will ensure that all workers are protected
- Systems are in place and resources available for the business community to guard against labor exploitation
- Strategies are universal to ridding supply chains of exploitation and ensuring that contractors recruit ethically and should be applied beyond post-disaster recovery efforts

29

Countering Human Trafficking Risks in Post-Disaster Houston: Strategies for the Business Community

Presented by:
Minal Patel Davis
 Special Advisor to the Mayor on Human Trafficking
 Office of Mayor Sylvester Turner

Office: (832) 393-0977
 Cell: (832) 596-9965
 E-Mail: minal.davis@houstontx.gov
 Website: www.humantraffickinghouston.org

 @houantitaffick
  @houantitaffick
  @cohantihumantrafficking



30
