

COALITION FOR FAIR LABOR STATEMENT ON “ADDITIONAL INFORMATION ABOUT THE NYUAD SUPPLIER CODE OF CONDUCT”

January 23, 2017

Late last year, the Coalition for Fair Labor (CFL) issued a [statement](#) regarding NYU Abu Dhabi’s new Supplier Code of Conduct (SCC), now the only public document governing labor at NYUAD. In December, NYUAD and Tamkeen, its government partner, published a [reply](#) to our concerns. **In response to the CFL statement, NYUAD and its government partner Tamkeen have made it a contractual obligation for any NYUAD supplier to inform workers of their rights. Also in response to the CFL statement, NYUAD and Tamkeen have announced that Impactt, the monitor commissioned to oversee labor compliance, will issue quarterly reports on its field audits of worker conditions.** These are both significant improvements to workers’ rights. However, there are several outstanding issues raised in the CFL statement that the NYUAD response does not adequately address.

Prior to the CFL statement, NYUAD merely told employers to inform employees of their rights as part of the employers’ onboarding process with NYUAD. Now, the SCC has an additional requirement under Part A. Employment Contracts, which reads:

“6. The Employer will ensure that each Employee receives a copy of this Supplier Code of Conduct, in a language that he/she understands and to be provided by NYUAD, prior to beginning work on the NYUAD Campus.”

The SCC explains, *inter alia*, what behavior employers must comply with, such as paying workers on time, creating a safe workplace and housing, and providing health insurance. Now workers will know how their employers are obligated to act towards them on these issues. CFL commends NYUAD and Tamkeen’s decision to add this requirement to the SCC. The strength of the NYUAD grievance process turns on workers actually knowing what their entitlements are under the SCC.

In addition, and in response to the CFL statement, NYUAD and Tamkeen have announced that Impactt, the monitor commissioned to oversee labor compliance, will publish quarterly reports on its field audits of worker conditions. We do not know the “terms of reference” under which Impactt has been commissioned, but we expect to see these outlined in the Spring 2017 report, the first to be issued by Impactt.

While we appreciate that NYUAD is engaging directly with our recommendations -- to the direct benefit of workers on NYUAD’s campus -- the NYUAD response does not provide sufficient clarity on several outstanding issues.

SCC Drafting

NYUAD states that the SCC is “the result of extensive research and consultation.” The Task Force that drafted the SCC had “members” from NYUAD, NYU New York, and Tamkeen, a subsidiary of the UAE Executive Affairs Authority that, among other things, is responsible for NYUAD operations. The membership included compliance professionals (presumably from the NYUAD compliance team) and one faculty representative. The Task Force “consulted” with outside experts.

NYUAD’s response clarifies that the SCC was developed by NYUAD and their government partner. No information has been issued on what “extensive research” constituted. Informal consultation with outside experts on migrant labor in the Gulf is laudable, though without further information about the experts, the discipline of their expertise, the consultation and ultimate inclusion in the SCC, it is hard to know how this contributed to the authority of the SCC. As always, and especially in light of NYUAD’s past record, we recommend fuller transparency

Recruitment

NYUAD highlights its provisions to promote ethical recruitment, and these are indisputably in the text of the Supplier Code of Conduct. However, the Nardello Report made it clear that there was a gap between NYUAD's policy on paper to reimburse fees and the strict documentation requirements which effectively made reimbursement an extremely rare occurrence. However, in response to the CFL statement, NYUAD has now publicly stated that:

“NYUAD’s compliance team has broad purview to consider all requests for reimbursement, and *to consider proof of payment beyond an actual receipt*.[emphasis added], which may be difficult for workers to provide ... NYUAD may reimburse workers directly...”

While we commend the public summary of this previously undisclosed policy, it is not clear that all sub-contracted and contracted workers at NYUAD are actually given information about their eligibility. If the policy exists more than on paper, then we would expect to see a greater number of NYUAD employees applying for reimbursement (because they had been informed of their eligibility) and also an account of the percentage of applications accepted and denied. *Given that reimbursement has been a policy of NYUAD throughout the period Impactt has been monitoring compliance, we expect to see discussion of this in the Spring 2017 report.*

Wages

NYUAD has now announced publicly for the first time that NYUAD sets and negotiates wage levels with its suppliers after conducting wage surveys. It claims that “operational workers on campus are paid at the top of the market in their respective fields.” Because contract negotiations themselves are outside the Impactt compliance monitoring process, NYUAD will not have to report about the process by which wages are set. *However, we expect to see discussion of compliance monitoring of wage payment in the Spring 2017 Impactt report.*

Monitoring

We agree that NYUAD’s compliance monitoring team is “in-house” and “dedicated” exclusively to compliance. However, we do not know what “on the ground” means in this context -- specifically whether compliance extends its accommodation inspections and worker interviews to subcontracted workers, if any. We expect this to be the case, given that subcontractors are required to submit monthly reports to NYUAD under requirement W.3.c.

Notwithstanding NYUAD’s stated commitment to compliance monitoring, in the absence of information about the scope of employer compliance reporting -- the contents of the monthly reports that employers submit to NYUAD -- it is impossible to know whether every provision of the SCC is being monitored regularly by NYUAD. *We expect that the Spring 2017 Impactt report will contain much more information about the scope of compliance monitoring.*

Risks to labor at NYUAD

We agree that the risk profile for the 1000 workers on operational contracts is *lower* than for the tens of thousands of construction workers involved in building NYUAD -- but that does not mean the risk is low. NYU operates in the UAE, where the guestworker visa system for low-wage workers (*kefala*) can lead to forced labor conditions, as has been extensively documented on Saadiyat Island itself. Especially low-wage manual workers like cleaners, landscapers, and construction repairmen face the same risks under the *kefala* system as construction workers.

Though the Nardello report’s scope was a retrospective look at the construction of the NYUAD campus, it identified non-transparency as a major source of the failure of compliance during that period. In its most recent statement, CFL pointed out that the SCC process has not been any more transparent than policymaking was during the time Nardello covered. The Spring 2017 Impactt report is the direct product of CFL negotiations with NYUAD, as was the decision to contractually require employers to provide employees with copies of the SCC.

We hope these responses represent a new willingness on the administration’s part to solicit wider input into deliberations over its labor policies. Input has so far been limited to NYU’s formal government structures--an arrangement that proved to be inadequate during the pre-Nardello report of campus construction. Greater

transparency could both help prevent the kinds of oversight detailed in the Nardello Report and, as seen in this instance, improve outcomes for NYUAD workers.