

THIRD PARTY AUDIT SCHEME

(1) Empanelment of Third Party Auditor Firms

a. Eligibility of the Firm:

- I. The Firm Should be registered body corporate in India under appropriate legal framework, such as Companies Act or LLP Act;
- II. The Firm Should be registered in Labour Department (Uttarakhand Dookan and Vanijya Adhistan Adhiniyam).
- III. The Firm should have experience and authorization to undertake and evaluate labour regulatory compliance;
- IV. The Firm should have Labour Law Auditor and Technical Auditor on company payroll.

b. Eligibility of Labour Law and Technical Auditor:

i. Eligibility: Labour Law Auditor:

1. Should be having a minimum of 7 years of experience under Labour Law; OR
Should be having a minimum of 7 years of experience as a legal practitioner under Labour Law; Or
Should have served as Labour Enforcement Officer or above for 7 years.
2. Should not currently be a part-time/full-time employee in any unit/establishment in the State of Uttarakhand or its subsidiaries or branches elsewhere in the country.
3. Should not be of an age more than 65 years on 1st July, 2018.
4. Should be medically fit to carry out inspection procedure.

ii. Eligibility: Technical Auditor

1. Should have one year full time Diploma in industrial safety recognized by the Board of Technical Education or All India Council of Technical Education or recognized university; and
Either of the following qualifications:
 - I. Degree in branch of Chemical, Mechanical, Electrical or Production Engineering and having five years' experience in manufacturing, maintenance, design, project or safety department in the supervisory or above capacity in factories; OR
 - II. Diploma in branch of Chemical, Mechanical, Electrical or Production branch Engineering and having seven years experience in manufacturing, maintenance, design, project or safety department in the supervisory or above capacity in factories; OR
 - III. Degree of Bachelor of Science with Physics and/or Chemistry and having ten years experience in manufacturing or Safety

Department of any factory in the supervisory or above capacity in factories; Or

2. Should not currently be a part-time/full-time employee in any unit/establishment in the State of Uttarakhand or its subsidiaries or branches elsewhere in the country.
3. Should not be of an age more than 65 years on 1st July, 2018.
4. Should be medically fit to carry out inspection procedure.

c. Duties & responsibilities:

- I. To conduct audit under all labour laws which are mandatorily inspected by factory inspectors and labour inspectors when approached by any unit/establishment for third party inspection.
- II. To conduct the audit in compliance with relevant provisions and international best practices in social audit such as Business Social Compliance Initiative (BSCI), SA8000 auditor certification and the SMETA(Sedex Members Ethical Trade Audit) standard developed by Sedex.
- III. To prepare an Audit report mentioning status of compliance based on checklist provided.
- IV. To submit the Audit Report, in a sealed envelop directly to concerned regional authority (Factory & Labour).
- V. The Empanelled Third Party Firm should submit copy of the official receipt issued by the firm of the fees received for the Audit, along with the Audit Report Labour Commissioner Office within 15 days of last day of audit visit.

d. Security Money:

- I. The empanelled third party auditor shall submit the refundable Security money for 2 years in Department of Labour from a scheduled/nationalized bank as cheque/DD in favour of The Labour Commissioner, Department of Labour, Uttarakhand for the amount as defined below:

For Medium risk industries	Rs. 1,50,000
For Medium as well as High risk industries	Rs. 2,50,000

- II. The Auditor, who has submitted the security money as applicable to medium risk industries, intends to undertake the audit for high risk industries and self revise the security money with the department for the amount as applicable to 'Medium as well as High risk industries' before accepting the work from the industry. No interest will be payable on the security money deposited.
- III. The categorization of High and Medium Risk industries is available on labour.uk.gov.in.
- IV. The Security money should be valid for the duration of 2 years or till the validity of latest company audited, or whichever later(Tenure of Auditor) is.

- V. The full Security money shall be forfeited if any observation or non-compliances are found grossly false in the Audit Report.
- VI. The Security money shall be refundable on completion of tenure of Auditor without any observations by the Departmental Inspector or as per the performance evaluation by the Standing Committee formed by Labour Commissioner.

e. Duration of empanelment, Performance evaluation and extension of tenure:

- I. The empanelment of the Third Party Auditor Firm shall be valid for the duration of 2 years from the date of notification of empanelment;
- II. The empanelment of the Third Party Auditor Firm can not accept new work of auditing after the duration of 2 years unless the empanelment has been extended by the committee, even though the security money is still valid;
- III. The subsequent empanelment may be decided by the Standing Committee depending on the history of performance.
- IV. The Standing Committee will evaluate the performance of the empanelled Third Party Audit Firms in the last quarter of second year or whenever there are any compliance issues observed or whenever the Labour Commissioner has reason to evaluate, to be recorded in writing due to reasons such as:
 - 1. Contradiction or discrepancies observed in report filed by Third Party Auditors;
 - 2. Firm charging more than the reasonable fees* for audit; and/or
 - 3. Firm involved in the act of bribery; and/or
 - 4. Firm not submitting audit report within prescribed time-limit without assigning a satisfactory reason; and/or
 - 5. Firm revealing any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties;
 - 6. If found guilty, in case of complaint(s).
- V. For the purpose of performance evaluation, a standing committee constituted by Labour Commissioner will analyze the reports submitted by the audit firm and submit its report within 15 working days from the date of submission of request by the firm of extension of tenure for another term of two years;
- VI. After the review of standing committee's report, if the Empanelled Third Party is found of non-compliant in delivering the duty or misrepresenting fact(s) in the audit report, the Labour Commissioner may, on his discretion, cancel the empanelment of third party audit firm and forfeit the Security money submitted. Also the individual Auditors involved will be blacklisted.
- VII. This procedure and penalty shall be in addition to other judicial recourse available under the laws of the State/Country.

(2) Option of Third Party Audit to Units/Organizations

a. Option to Third Party Audit:

- I. All the Medium and High Risk units/industries, as defined under the notification no. 175(A)/VIII/16-31(Je) 2015 dated 02-March-2016 shall be eligible for application under this scheme;
- II. The scheme shall cover compliance and audit requirements as applicable for all the acts specified in the Uttarakhand Voluntary Compliance Scheme 2016 notified through the notification dated 21 January 2016 as amended from time to time.
- III. Under the above Scheme, the application of inclusion under the Scheme shall be made in triplicate as per Annexure-1 , addressed to the authorized authority of concerned region, with a copy to concerned Deputy Labour Commissioner/Assistant Labour Commissioner/ Labour Superintendent.

(3) Other Provisions

- a. Audit report submitted by the Third Party Auditors will be treated as compliance report. In case of non-compliance, department will issue a notice stating to comply within 10 days' time. Further, failing to above will be subjected to judicial recourse available under the laws of the State/Country. Other provisions related to inspection shall be relevant as per inspection provisions defined in the Uttarakhand Voluntary Compliance Scheme 2016.
- b. This is to be emphasized that this third party audit cannot be considered as a substitute to regular inspection by the Labour Inspectors or any other authorized inspection and department holds the right to inspect any industry whenever there are any compliance issues observed or whenever the Labour Commissioner has reason to evaluate, to be in writing.
- c. All the regulatory compliances, penalties and other provision self-apply after the departmental inspections as per the provisions of the respective acts.

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