

[POEA MEMORANDUM CIRCULAR NO. 04, SERIES OF 2007, December 19, 2007]

GUIDELINES ON THE DIRECT HIRING OF FILIPINO WORKERS

Pursuant to Article 18 of the Labor Code of the Philippines, as amended, and Governing Board Resolution No. 04, Series of 2007, the following guidelines are hereby issued to govern the direct hiring of Filipino workers for overseas employment.

I. COVERAGE

These Guidelines shall cover employees wishing to directly hire Filipino workers who may be classified into any of the following:

1. Individual Employers

- a. Members of the diplomatic corps and international organizations
- b. Immediate members of royal family and family of heads of State/government
- c. Ministers, Deputy Ministers and other senior government officials of the host country
- d. Employers residing in countries where foreign placement agencies do not operate
- e. Filipino expatriates and residents with capacity to hire Filipino workers
- f. Others as may be approved by the Secretary of Labor and Employment

2. Institutional Employers

- a. Employers who are hiring on a one time basis
- b. Employers who need workers immediately and have submitted an Undertaking to tie-up with licensed Philippine agencies for its next recruitment.

II. PRE-QUALIFICATION OF EMPLOYERS WISHING TO DIRECTLY HIRE FILIPINO WORKERS

Employers wishing to directly hire Filipino workers shall be pre-qualified by the Philippine Overseas Labor Office and the POEA under the following criteria:

- 1. No derogatory track record at the jobsite and in the Philippines
- 2. No involvement of an intermediary in the recruitment process whether in the Philippines or in the jobsite
- 3. Submission of all the following documentary requirements:
 - a. Business/commercial registration and/or identification documents
 - b. Sample employment contract for the workers to be directly hired
 - c. Proof of capability to hire Filipino workers under the terms and

conditions offered

d. Undertaking by the employer relating to the following:

- i. No charging of placement fee from the worker
- ii. Provision of a performance bond equivalent to the worker's three months salary to guarantee compliance of the employer with the provisions of the employment contract
- iii. Provision of a repatriation bond in the amount of US \$5,000 or its peso equivalent to guarantee the following:

iii.a. actual cost incurred for the repatriation of remains and subsequent burial following death from any cause;

iii.b. actual cost incurred for repatriation from other causes such as violation/non-compliance with the contract, rules and regulations of the company and Philippine laws as well as the laws of the host country, except when violation is attributable to the worker or when worker voluntarily resigns or returns to the Philippines

iv. Provision of a medical insurance for the worker at an amount equivalent to those provided to nationals of the host country.

III. PROCEDURES FOR THE DIRECT HIRING OF FILIPINO WORKERS

1. Employers directly hiring Filipino workers shall submit their request for direct hiring to the Philippine Overseas Labor Office (POLO) for pre-qualification. Upon evaluation and pre-qualification by the POLO, the same shall be forwarded to POEA. In case there is no POLO in the jobsite, the pre-qualification/authentication of employment contract shall be performed by Philippine Embassy in the jobsite.

The request for direct hiring as pre-qualified by the POLO shall be sent to POEA by the POLO. The authenticated documents of employers in jobsites where there is no POLO shall be sent directly to POEA by the employer.

2. The POEA shall evaluate the documents from the POLO/employer and endorse the request to the Office of the Secretary of Labor and Employment. The approval of the request to directly hire Filipino workers by the Secretary of Labor and Employment shall be communicated directly to the POLO and POEA.

3. Upon receipt of the approval by the Secretary of Labor and Employment, the POLO shall verify the employment contract(s) of the worker(s).

4. The employment contract verified by the POLO shall be submitted to POEA by the worker(s). The POEA shall evaluate and process the documents subject to compliance with the documentary requirements as provided in these guidelines.

5. The process cycle time from the time of filing of the request by the employer up to the issuance of the POEA exit clearance shall not exceed one month, unless for any delay caused by either the employer or the worker.