



**POEA Rules and Regulations  
Governing the Recruitment and Employment  
of Land-based Overseas Workers**

**PART I  
GENERAL PROVISIONS**

**RULE I  
STATEMENT OF POLICY**

It is the policy of the Administration:

- a. To uphold the dignity and fundamental human rights of Filipino migrant workers and promote full employment and equality of employment opportunities for all;
- b. To protect every citizen desiring to work overseas by securing the best possible terms and conditions of employment;
- c. To allow the deployment of Filipino migrant workers only in countries where their rights are protected;
- d. To provide an effective gender-sensitive mechanism that can adequately protect and safeguard the rights and interest of Filipino migrant workers;
- e. To disseminate and allow free flow of information which will properly prepare individuals into making informed and intelligent decisions about overseas employment;
- f. To ensure careful selection of Filipino workers for overseas employment in order to protect the good name of the Philippines abroad;
- g. To institute a system to guarantee that migrant workers possess the necessary skills, knowledge or experience for their overseas jobs;
- h. To recognize the participation of the private sector in the recruitment and placement of overseas workers to serve national development objectives;
- i. To deregulate recruitment activities progressively taking into account emerging circumstances which may affect the welfare of migrant workers;
- j. To support programs for the reintegration of returning migrant workers into Philippine society; and
- k. To cooperate with duly registered non-government organizations, in a spirit of trust and mutual respect, in protecting and promoting the welfare of Filipino migrant workers.

**RULE II  
DEFINITION OF TERMS**

For purposes of these Rules, the following terms are defined as follows:

1. Accreditation – shall refer to the grant of authority to a foreign principal to recruit and hire Filipino workers through a licensed agency for overseas employment.
2. Administration – shall refer to the Philippine Overseas Employment Administration (POEA).
3. Administrator – shall refer to the Administrator of the POEA.
4. Agency – shall refer to a private employment agency as defined herein.

5. Corporate Recruitment – shall refer to the act of providing the required manpower for all facets of an overseas project.
6. Department – shall refer to the Department of Labor and Employment (DOLE).
7. Derogatory record – refers to the existence of negative information such as, but not limited to, illegal recruitment, falsification, swindling or estafa, and/or conviction for crimes involving moral turpitude.
8. Documentation cost – shall refer to actual cost incurred in the documentation of an applicant-worker in relation to his/her application for overseas employment, such as, but not limited to passport, NBI/ Police/Barangay clearance, authentication, birth certificate, Medicare, PDOS, trade test, inoculation and medical examination fees.
9. Employment Contract – shall refer to an individual written agreement between the foreign principal/employer and the worker which is based on the master employment contract.
10. Foreign Placement Agency – shall refer to a foreign principal indirectly engaging the services of Overseas Filipino Workers.
11. Joint and Solidary Liability – refers to the nature of liability of the principal/employer and the recruitment/placement agency, for any and all claims arising out of the implementation of the employment contract involving Filipino workers for overseas deployment. It shall likewise refer to the nature of liability of officers, directors, partners with the company over claims arising from employer-employee relationship.
12. License – shall refer to the document issued by the Secretary or his duly authorized representative authorizing a person, partnership or corporation to operate a private employment agency.
13. Master Employment Contract – shall refer to the model employment agreement submitted by the foreign principal for verification and approval which contains the terms and conditions of employment of each worker hired by such principal.
14. Name Hire – shall refer to a worker who is able to secure an overseas employment opportunity with an employer without the assistance or participation of any agency.
15. New Market – shall refer to a principal or a foreign placement agency which is not in the active list of registered of accredited principals/foreign placement agencies for the past six months or more or which has never been registered or accredited to any licensed landbased agency; Provided that in the case of a foreign placement agency, its direct employer(s) are identified and are likewise not in the active list of registered or accredited employer of any licensed landbased agency for the past six months or more or has not been registered or accredited to any licensed landbased agency;
16. NLRC – shall refer to the National Labor Relations Commission.
17. Non-Licensee – shall refer to any person, partnership or corporation who has no valid license to engage in recruitment and placement of Overseas Filipino Workers or whose license is suspended.
18. Overseas Employment – shall refer to employment of a Filipino worker outside the Philippines covered by a valid contract.
19. Overseas or Migrant Filipino Worker – shall refer to any person, eighteen years of age or above, as provided in RA 8042, who is to be engaged, or is engaged or has been engaged in a remunerated activity in a state of which the worker is not a legal resident;
20. Placement Fee – shall refer to the amount charged by a private employment agency from a worker for its recruitment and placement services, as prescribed by the Secretary.

21. Principal – shall refer to a foreign person, partnership, or corporation hiring Filipino workers through a licensed agency.
22. Private Employment Agency – shall refer to any person, partnership or corporation engaged in the recruitment and placement of workers for a fee, which is charged, directly or indirectly, from the workers or employers or both.
23. Provisional License – refers to a license issued to a new agency with a limited period of one (1) year within which an applicant shall comply with its undertaking to deploy 100 workers to its new market.
24. Recruitment Agreement – shall refer to an agreement by and between the principal and the private employment agency or the Administration defining their rights and obligations.
25. Recruitment and Placement – shall refer to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers and includes referrals, contract services, promising or advertising for employment abroad, whether for profit or not; provided that any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement.
26. Registration - shall refer to the act of recognizing and entering in the official records of the Administration the existence of a foreign principal/employer or project whose documents have been verified in the job site by the appropriate officials of the Philippine government. It shall also refer to the act of entering in the official records of the Administration the names of name hires and workers on leave who will depart for overseas employment.
27. SEC – shall refer to the Securities and Exchange Commission.
28. Secretary – shall refer to the Secretary of Labor and Employment.
29. Service Contractor – shall refer to any person, partnership or corporation duly licensed by the Secretary of Labor and Employment to recruit workers for its accredited projects or contracts overseas.
30. Service Fee – shall refer to the amount charged by a licensee from its foreign principal as payment for actual services rendered in relation to the recruitment and placement of workers.
31. Special Recruitment Authority – shall refer to the authority granted to an agency to conduct recruitment outside its registered business address approved by the Administration.
32. Valid Employment Contract – shall refer to an individual written agreement between the foreign principal/employer and the worker which is based on the master employment contract approved by the Administration.
33. Verification - shall refer to the act performed by a Philippine Overseas Labor Officer, or any other officer designated by the Secretary of Labor and Employment in the Philippine Embassy or Consulate, in reviewing and verifying the recruitment documents of foreign principals, including the employment contracts of Filipino nationals, with the view to establish the existence of the employing person, company or project, its capability to hire workers at the acceptable rates, and at desirable working conditions in conformity with the minimum standards prescribed by the Administration and taking into consideration the labor laws and legislations of the host government.
34. Worker-on-Leave – shall refer to an overseas worker who is on vacation or on leave and is returning to the same employer.

**PART II  
LICENSING AND REGULATION**

**RULE I  
PARTICIPATION OF THE PRIVATE SECTOR IN THE  
OVERSEAS EMPLOYMENT PROGRAM**

Section 1. Qualifications. Only those who possess the following qualifications may be permitted to engage in the business of recruitment and placement of Filipino workers:

- a. Filipino citizens, partnerships or corporations at least seventy five percent (75%) of the authorized capital stock of which is owned and controlled by Filipino citizens;
- b. A minimum capitalization of Two Million Pesos (P2,000,000.00) in case of a single proprietorship or partnership and a minimum paid-up capital of Two Million Pesos (P2,000,000.00) in case of a corporation; *Provided* that those with existing licenses shall, within four years from effectivity hereof, increase their capitalization or paid up capital, as the case may be, to Two Million Pesos (P2,000,000.00) at the rate of Two Hundred Fifty Thousand Pesos (P250,000.00) every year.
- c. Those not otherwise disqualified by law or other government regulations to engage in the recruitment and placement of workers for overseas employment.

Section 2. Disqualification. The following are not qualified to engage in the business of recruitment and placement of Filipino workers overseas:

- a. Travel agencies and sales agencies of airline companies;
- b. Officers or members of the Board of any corporation or members in a partnership engaged in the business of a travel agency;
- c. Corporations and partnerships, when any of its officers, members of the board or partners, is also an officer, member of the board or partner of a corporation or partnership engaged in the business of a travel agency;
- d. Persons, partnerships or corporations which have derogatory records, such as but not limited to the following:
  - 1) Those certified to have derogatory record or information by the National Bureau of Investigation or by the Anti-Illegal Recruitment Branch of the POEA;
  - 2) Those against whom probable cause or prima facie finding of guilt for illegal recruitment or other related cases exists;
  - 3) Those convicted for illegal recruitment or other related cases and/or crimes involving moral turpitude; and
  - 4) Those agencies whose licenses have been previously revoked or cancelled by the Administration for violation of RA 8042, PD 442 as amended and their implementing rules and regulations as well as these rules and regulations.

All applicants for issuance/renewal of license shall be required to submit clearances from the National Bureau of Investigation and Anti-illegal Recruitment Branch, POEA, including clearances for their respective officers and employees.

- e. Any official or employee of the DOLE, POEA, OWWA, DFA and other government agencies directly involved in the implementation of R.A. 8042, otherwise known as Migrant Workers and Overseas Filipino Act of 1995 and/or any of his/her relatives within the fourth civil degree of consanguinity or affinity; and
- f. Persons or partners, officers and Directors of corporations whose licenses have been previously cancelled or revoked for violation of recruitment laws.

## **RULE II ISSUANCE OF LICENSE**

Section 1. Requirements for Licensing. Every applicant for license to operate a private employment agency shall submit a written application together with the following requirements:

- a. A certified copy of the Articles of Incorporation or of Partnership duly registered with the Securities and Exchange Commission (SEC), in the case of corporation or partnership or Certificate of Registration of the firm or business name with the Department of Trade and Industry (DTI), in the case of a single proprietorship;
- b. Proof of financial capacity: In the case of a single proprietorship or partnership, verified income tax returns of the proprietors or partners for the past two (2) years and a savings account certificate showing a maintaining balance of not less than P500,000.00, provided that the applicant should submit an authority to examine such bank deposit.
- c. In the case of a newly organized corporation, savings account certificate showing a maintaining balance of not less than P500,000.00 with authority to examine the same. For an existing corporation, submission of a verified financial statement, corporate tax returns for the past two (2) years and savings account certificate showing a maintaining balance of not less than P500,000.00 with the corresponding authority to examine such deposit.
- d. Proof of marketing capability
  1. A duly executed Special Power of Attorney and/or a duly concluded. Recruitment/ Service Agreement;
  2. Manpower request(s) or visa certification from new employer(s)/ principal(s) for not less than one hundred (100) workers; and
  3. Certification from Pre-Employment Services Office of POEA on the existence of new market.
- e. Clearance of all members of the Board of Directors, partner, or proprietor of the applicant agency from the National Bureau of Investigation (NBI) and other government agencies as may be required; appropriate clearance in case of persons with criminal cases; provided that where the member or partner concerned is a foreigner, clearance from his country of origin shall be required.
- f. A verified undertaking stating that the applicant:
  1. Shall select only medically and technically qualified recruits;
  2. Shall assume full and complete responsibility for all claims and liabilities which may arise in connection with the use of the license;
  3. Shall assume joint and solidary liability with the employer for all claims and liabilities which may arise in connection with the implementation of the contract, including but not limited to payment of wages, death and disability compensation and repatriations;
  4. Shall guarantee compliance with the existing labor and social legislations of the Philippines and of the country of employment of the recruited workers;
  5. Shall assume full and complete responsibility for all acts of its officials, employees and representatives done in connection with recruitment and placement;
  6. Shall negotiate for the best terms and conditions of employment;
  7. Shall disclose the full terms and conditions of employment to the applicant workers;
  8. Shall deploy at least 100 workers to its new markets within one (1) year from the issuance of its license;
  9. Shall provide orientation on recruitment procedures, terms and conditions and other relevant information to its workers and provide facilities therefor; and
  10. Shall repatriate the deployed workers and his personal belongings when the need arises.

For the purpose of compliance with item (1), the agency may require the worker to undergo trade testing and medical examination only after the worker has been pre-qualified for employment.
- g. In case of corporation or partnership, verified undertaking by its officers, directors, partners that they will be jointly and severally liable with the company over claims arising from employer-employee relationship.

- h. Individual income tax return of the proprietor, partners, stockholders/incorporators, as the case may be, for the past two (2) years.
- i. Proof of possession by the sole proprietor, partner or chief executive officer, as the case may be, of a bachelor's degree and three years business experience.
- j. List of all officials and personnel involved in the recruitment and placement, together with their appointment, bio-data and two (2) copies of their passport-size pictures as well as their clearances from the National Bureau of Investigation and the Anti-illegal Recruitment Branch of the Administration.
- k. Copy of contract of lease or proof of building ownership, indicating the office address, providing for an office space of at least one hundred (100) square meters.
- l. Proof of publication of notice of the application with the names of the proprietor, partners, incorporators and officers.
- m. Certificate of attendance of owner and/or chief executive officer in a pre-application seminar conducted by the Administration.

Only applications with complete supporting documents shall be processed.

Section 2. Payment of filing fee. Upon receipt of an application with complete requirements, the Administration shall require payment of a non-refundable filing fee of P10,000.00 and submission of proof of payment thereof.

Section 3. Action upon the application. Within fifteen (15) calendar days from receipt of an application with complete requirements including proof of payment of the filing fee of P10,000.00, the Administration shall evaluate the pertinent documents, inspect the offices and equipment and determine whether or not to grant or deny the application. Denial of an application will result in the forfeiture of the filing fee.

Section 4. Payment of Fees and Posting of Bonds. Upon approval of the application, the applicant shall pay a license fee of P50,000.00. It shall submit an Escrow Agreement in the amount of P1,000,000.00, confirmation of escrow deposit with an accredited reputable bank and a surety bond of P100,000.00 from a bonding company acceptable to the Administration and accredited with the Insurance Commission.

Agencies with existing licenses shall, within four years from effectivity hereof, increase their Escrow Deposit to One Million Pesos .

The bonds and escrow shall answer for all valid and legal claims arising from violations of the conditions for the grant and use of the license, and/or accreditation and contracts of employment. The bonds and escrow shall likewise guarantee compliance with the provisions of the Code and its implementing rules and regulations relating to recruitment and placement, the Rules of the Administration and relevant issuances of the Department and all liabilities which the Administration may impose. The surety bonds shall include the condition "that notice to the principal is notice to the surety and that any judgment against the principal in connection with matters falling under POEA's/NLRC's jurisdiction shall be binding and conclusive on the surety. The surety bonds shall cover the validity period of the license.

Section 5. Provisional License. Applicants for new license shall be issued a provisional license which shall be valid for a limited period of one (1) year within which the applicant should be able to comply with its undertaking to deploy 100 workers to its new principal. The license of a complying agency shall be upgraded to a full license entitling them to another three years of operation. Non-complying agencies will be notified of the expiration of their license.

Section 6. Validity of the License. Except in case of a provisional license, every license shall be valid for four (4) years from the date of issuance unless sooner cancelled, revoked or suspended for violation of applicable Philippine law, these rules and other pertinent issuances. Such license shall be valid only at the place/s stated therein and when used by the licensed person, partnership or corporation.

Section 7. Non-Transferability of License. No license shall be transferred, conveyed or assigned to any person, partnership or corporation. It shall not be used directly or indirectly by any person, partnership or corporation other than the one in whose favor it was issued.

In case of death of the sole proprietor and to prevent disruption of operation to the prejudice of the interest of legitimate heirs, the license may be extended upon request of the heirs, to continue only for the purpose of winding up business operations.

Section 8. Change of Ownership/Relationship of Single Proprietorship or Partnership. Transfer or change of ownership of a single proprietorship licensed to engage in overseas employment shall cause the automatic revocation of the license.

A change in the relationship of the partners in a partnership duly licensed to engage in overseas employment which materially interrupts the course of the business or results in the actual dissolution of the partnership shall likewise cause the automatic revocation of the license.

Section 9. Upgrading of Single Proprietorship or Partnerships. License holders which are single proprietorships or partnerships may, subject to the guidelines of the Administration, convert into corporation for purposes of upgrading or raising their capabilities to respond adequately to developments/changes in the international labor market and to enable them to better comply with their responsibilities arising from the recruitment and deployment of workers overseas.

The approval of merger, consolidation or upgrading shall automatically revoke or cancel the licenses of the single proprietorships, partnerships or corporations so merged, consolidated or upgraded.

Section 10. Derogatory Record After Issuance/Renewal of License. The license of a single proprietorship or a partnership shall be suspended until cleared by the Administration should any derogatory record be found to exist against the single proprietorship or any or all of the partners, as the case may be. The appointment of any officer or employee of any licensed agency may be cancelled or revoked at any time with due notice to the agency concerned, whenever said officer or employee is found to have any derogatory record, as herein contemplated.

Section 11. Appointment/Change of Officers and Personnel. Every appointment of agents or representatives of a licensed agency shall be subject to prior approval or authority of the Administration. The acknowledgment or approval may be issued upon submission of or compliance with the following:

- a. proposed appointment or special power of attorney;
- b. clearances of the proposed representative or agent from National Bureau of Investigation (NBI)/Anti-Illegal Recruitment Branch, POEA; and
- c. sworn or verified statement by the designating or appointing person or company assuming full responsibility for all acts of the agent or representative done in connection with the recruitment and placement of workers.

Every change in the composition of the Board of Directors of a corporation, appointment or termination of officers and personnel shall be registered with the Administration within thirty (30) calendar days from the date of such change. The agency shall be required to submit the minutes of proceedings duly certified by SEC in case of election of new members of the Board of Directors with their bio-data, ID pictures and clearances.

The Administration reserves the right to deny the acknowledgment or appointment of officers, employees and representatives who were directly involved in recruitment irregularities.

Section 12. Publication of Change of Directors/Other Officers and Personnel/ Revocation or Amendment of Appointment of Representatives. In addition to the requirement of registration with and submission to the Administration, every change in the membership of the Board of Directors, termination for cause of other officers and personnel, revocation or amendment of appointment of representatives shall be published at least once in a newspaper of general circulation, in order to bind third parties. Proof of such publication shall be submitted to the Administration.

Section 13. Transfer of Business Address. Any transfer of business address shall be effected only with prior authority or approval of the Administration. The approval shall be issued only upon formal notice of the intention to transfer with the following attachments:

- a. In the case of a corporation, a Board Resolution duly registered with the SEC authorizing the transfer of business address; and
- b. Copy of the contract of lease or proof of building ownership.

The new office shall be subject to the regular ocular inspection procedures by duly authorized representatives of the Administration.

A notice to the public of the new address shall be published in a newspaper of general circulation.

Section 14. Establishment of additional offices. Additional offices may be established subject to the prior approval of the Administration.

Section 15. Conduct of Recruitment Outside of Registered Office. No licensed agency shall conduct any provincial recruitment, jobs fair or recruitment activities of any form outside of the address stated in the license or approved additional office(s) without first securing prior authority from the Administration.

Section 16. Renewal of License. An agency shall submit an application for the renewal of its license on or before its expiration. Such application shall be supported by the following documents:

- a. Surety bond duly renewed or revalidated;
- b. Renewed escrow agreement in the amount of P1,000,000.00 with a commercial bank to primarily answer for valid and legal claims of recruited workers as a result of recruitment violations or money claims;
- c. Audited financial statements for the past two years with verified corporate or individual tax returns. In case the equity of the agency is below the minimum capitalization requirement, it shall be given thirty (30) days from release of the renewed license to submit proof(s) of capital infusion, such as SEC certification of such infusion or bank certification corresponding to the amount infused and treasurer's affidavit duly received by the SEC. Otherwise, the license shall be suspended until it has complied with the said requirement;
- d. Clearances from the National Bureau of Investigation and the Anti-illegal Recruitment Branch for the Board of Directors and responsible officers; and
- e. Other requirements as may be imposed by the Administration.

Section 17. Monitoring Compliance with Conditions of License. The Administration shall monitor the compliance of the agencies with their undertakings in connection with the issuance or renewal of the license. Appropriate sanctions shall be imposed for non-compliance with any of their undertakings.

Section 18. Non-expiration of License. Where the license holder has made timely and sufficient application for renewal, the existing license shall not expire until the application shall have been finally determined by the Administration. For this purpose, an application shall be considered sufficient if the applicant has substantially complied with the requirements for renewal.

Section 19. Action on Renewal of License. Within forty eight (48) hours from receipt of the application for renewal with the complete requirements, the Administration shall undertake evaluation and inspection and determine the grant or denial of the application. Licenses of agencies which fail to meet the requirements set by the Administration shall not be renewed.

Only applications for renewal submitted with complete requirements shall be processed.

Section 20. Late Filing of Renewal. Any agency which failed to file an application for renewal of license may be allowed to renew within thirty (30) days from expiry thereof but shall pay a fine of P10,000.00.

Section 21. Escrow Deposit as Garnished. As soon as an Order or Notice of Garnishment is served upon the Bank, and the same is correspondingly earmarked, the deposit in escrow of an agency shall no longer be considered sufficient. The Administration shall forthwith serve the agency a notice to replenish its escrow deposit.



Section 22. Replenishment of Surety Bonds/Deposit in Escrow. Within fifteen (15) calendar days from date of receipt of notice from the Administration that the bonds/deposit in escrow, or any part thereof had been garnished, the agency shall replenish the same. Failure to replenish such bonds/deposit in escrow within the said period shall cause the suspension of the license.

Section 23. Release of Deposit in Escrow. A licensed agency which voluntarily surrenders its license shall be entitled to the release of the deposit in escrow, only after posting a surety bond of similar amount valid for four (4) years from expiration of license and submission of the necessary clearances from the National Labor Relations Commission (NLRC) and the Administration.

Section 24. Classification, Ranking and Incentives. The Administration shall undertake the classification and ranking of agencies. In recognition of their exemplary performance, the Administration shall issue guidelines for entitlement of agencies to schemes for incentives and rewards such as extension of validity of license, express processing and in-house documentation

### **RULE III INSPECTION OF AGENCIES**

Section 1. Inspection for Purposes of Establishment/Transfer of Office. Before issuance of a license, the Administration shall conduct an inspection of the premises and facilities including the pertinent documents of the applicant. Inspection shall likewise be conducted on the new premises in case of transfer of office.

Section 2. Routine/Regular Inspection. All agencies shall be subject to periodic inspection of offices, studios or pre-departure orientation seminar (PDOS) venues by the Administration to determine compliance with existing rules and regulations.

Section 3. Spot Inspection. Inspection may be conducted by the Administration upon receipt of a complaint or report of violation of existing rules and regulation.

Section 4. Authority to Inspect. An authority to inspect shall be issued by the Administration before any inspection may be conducted.

Such authority, stating the purpose and subject of inspection, shall be presented to the agency before inspection.

Section 5. Scope of Inspection. Depending on the purpose of inspection, the Administrator or his duly authorized representative may inspect the premises and require the presentation of necessary documents, records and books of accounts of the agency and examine the same.

Section 6. Inspection Program and Procedures. The Administration shall conduct inspection in accordance with the Inspection Program and Procedures of the POEA.

Section 7. Violations Found in the Course of Inspection. Violations found in the course of inspection such as non-compliance with the existing laws, rules and regulations, shall be grounds for the imposition of appropriate sanction or for the denial of application for issuance or renewal of license. A copy of the results of inspection shall be endorsed to the appropriate unit for the conduct of necessary proceedings.

### **RULE IV LICENSING OF POEB - REGISTERED COMPANIES**

Section 1. Issuance of License. POEB-registered companies with overseas projects duly accredited by the POEB may apply for a license subject to the following requirements:

- a. Articles of incorporation
- b. A certified true copy of its POEB certificate of registration; and
- c. Proof of payment of non-refundable filing fee of P10,000.00.

However, application for a license by POCB-registered companies without POCB-accredited overseas projects shall be subject to the usual requirements for issuance/renewal of license as prescribed in Rule II, Part 2 of these Rules.

Section 2. Payment of Fees. Upon approval of the application, the contractor company shall:

- a. Pay a license fee of P50,000.00; and
- b. Post a surety bond in the amount of P50,000.00 and escrow deposit of P200,000.00.

Section 3. Validity of License. The license shall be valid for four (4) years from date of issuance and co-terminus with the validity of the POCB registration, unless sooner cancelled, revoked by the Secretary of Labor and Employment, or suspended by the Administration for violation of the Labor Code and its rules relevant decrees, orders and issuances and rules and regulations of the Department of Labor and Employment. Such license shall be valid only at the place stated therein and when used by the licensee or authorized POCB registered company.

Section 4. Requisites for Renewal. Upon expiration of the license, the POCB registered company shall submit a written application together with the following requirements:

- a. Certified copy of POCB Certificate of Renewal of Registration;
- b. Proof of renewed surety bond of P50,000.00; and
- c. Certificate from the bank that the escrow deposit of P200,000.00 is still intact.

## **RULE V FEES, COSTS AND CONTRIBUTIONS**

Section 1. Service Fee. Agencies shall charge from their principals a service fee to cover services rendered in the recruitment, documentation and placement of workers. The Administration shall provide incentives to agencies and employers who are able to comply with this rule.

Section 2. Fees and Costs Chargeable to Principals. Unless otherwise provided, the principal shall be responsible for the payment of the following:

- a. visa fee;
- b. airfare
- c. POEA processing fee; and
- d. OWWA membership fee

Section 3. Fees/Costs Chargeable to the Workers. Except where the prevailing system in the country where the worker is to be deployed, either by law, policy or practice, do not allow the charging or collection of placement and recruitment fee, a landbased agency may charge and collect from its hired workers a placement fee in an amount equivalent to one month salary, exclusive of documentation costs.

Documentation costs to be paid by the worker shall include, but not limited to, expenses for the following:

- a. Passport
- b. NBI/Police/Barangay Clearance
- c. Authentication
- d. Birth Certificate
- e. Medicare
- f. Trade Test, if necessary
- g. Inoculation, when required by host country
- h. Medical Examination fees

In the event that the recruitment agency agrees to perform documentation services, the worker shall pay only the actual cost of the document which shall be covered by official receipts.

The above-mentioned placement and documentation costs are the only authorized payments that may be collected from a hired worker. No other charges in whatever form, manner or purpose, shall be imposed on and be paid by the worker without prior approval of the POEA.

Such fees shall be collected from a hired worker only after he has obtained employment through the facilities of the recruitment agency.

## **RULE VI RECRUITMENT OUTSIDE REGISTERED OFFICE**

Section 1. Conduct of Recruitment Outside Registered Office. Except for recruitments conducted under the Public Employment Service Office Act of 1999 (RA 8759), no licensed agency shall conduct recruitment activities of any form outside of the address stated in the license or acknowledged additional office(s) without securing prior approval from the Administration. A special recruitment authority shall be issued upon compliance with the documentary requirements prescribed by the Administration.

Section 2. Venue. Recruitment activities outside the registered office of the agency shall be conducted only at venues authorized by the Administration, and shall be supervised by the Administration, the DOLE, or the appropriate local government unit.

Section 3. Validity of Special Recruitment Authority. The special authority granted to an agency to conduct recruitment activities outside of its registered office based on its manpower requirements shall be valid for a specified period unless otherwise extended, modified or revoked by this Administration or any of its regional offices concerned.

Section 4. Cancellation of Authority. The Administration reserves the right to cancel a special recruitment authority issued to an agency for violation of the conditions set in the authority such as venue, representative, duration and compliance with these rules.

Section 5. Submission of Report. The agency shall submit a terminal report to the Administration within thirty (30) days from termination of the recruitment activity conducted outside its registered office. No subsequent authority shall be issued until the agency has submitted its report.

## **RULE VII ADVERTISEMENT FOR OVERSEAS JOBS**

Section 1. Advertisement for Actual Job Vacancies. Licensed agencies may advertise for actual job vacancies without prior approval from the Administration if covered by manpower requests of registered/accredited foreign principals and projects. The advertisements shall indicate the following information:

- a. Name, address and POEA license number of the agency;
- b. Work site of prospective principal/project;
- c. Skill categories and qualification standards; and
- d. Number of available positions

Section 2. Advertisement for Manpower Pooling. Licensed agencies may advertise for manpower pooling without prior approval from the Administration subject to the following conditions:

- a. The advertisement should indicate in bold letters that it is for manpower pooling only and that no fees will be collected from the applicants; and
- b. The advertisement indicates the name, address and POEA license number of the agency, name and worksite of the prospective registered/accredited principal and the skill categories and qualification standards.

Section 3. Foreign Advertisers for Overseas Job Vacancies. Foreign principals/employers who wish to advertise overseas job vacancies may do so only through a POEA-licensed agency or through the Administration.

## **RULE VIII SKILLS TEST AND MEDICAL EXAMINATION FOR OVERSEAS EMPLOYMENT**

Section 1. When to Refer for Skills Test. An applicant for overseas employment shall be referred for skills test to a TESDA-accredited skills-testing center only after the agency and/or its foreign principal or employer has interviewed and pre-qualified him to an existing overseas position duly covered by an approved job order by the Administration.

Section 2. Scope of Skills Test. The agency shall ensure that the test shall only be for the skill category that the worker has applied for.

Section 3. When to Refer for Medical Examination. The agency shall refer an applicant for overseas employment medical test to a DOH-accredited medical clinic only after the agency and/or its foreign principal or employer has interviewed him and pre-qualified him for an existing overseas position duly covered by an approved job order by the Administration.

Section 4. Scope of Medical Examination. The agency shall ensure that the medical examination shall be conducted in accordance with the requirements of the employer.

## **RULE IX DEPARTURE AND ARRIVAL OF OVERSEAS FILIPINO WORKERS**

Section 1. Departure of Workers. All departing OFWs shall be monitored through the POEA assistance centers established by the Administration at international airports and other exit points in the country to ensure that they are properly documented before proceeding to their overseas job sites. Workers without proper documents shall not be cleared by the center.

Section 2. Overseas Employment Certificate (OEC) Issuance at the Center. Departing overseas Filipino workers may secure overseas employment certificate at the labor assistance centers under such circumstances as may be determined by the Administration. POEA shall cease issuing OECs as soon as the computerized ID system is implemented.

Section 3. Arrival of Workers. The LAC shall support OWWA and other government agencies in providing assistance to arriving workers particularly those who are in distress.

Section 4. POEA Clearance for Special Cases. The POEA shall issue special clearances for travel abroad in accordance with guidelines which may be issued by the Administration.

## **RULE X LEGAL ASSISTANCE AND ENFORCEMENT MEASURES**

Section 1. Acts Constituting Illegal Recruitment. Illegal Recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers and includes referrals, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority. Provided, that any such non-licensee or non-holder who, in any manner, offer or promises for a fee employment abroad to two or more persons shall be deemed so engaged.

It shall likewise include the following acts committed by any person whether or not a holder of a license or authority:

- a. To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary or to make a worker pay the recruiter or its agents any amount greater than that actually loaned or advanced to him;
- b. To furnish or publish any false notice or information or document in relation to recruitment or employment;
- c. To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under the Labor Code;
- d. To induce or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;

- e. To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency;
- f. To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines as may be prohibited by law or duly constituted authority;
- g. To obstruct or attempt to obstruct inspection by the Secretary or by his/her duly authorized representative;
- h. To fail to submit reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary under penalty of law;
- i. To substitute or alter to the prejudice of the worker, employment contract approved and verified by the DOLE from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the DOLE;
- j. For an officer or agent of a recruitment or placement agency to become an officer or member of the Board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of a travel agency;
- k. To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations other than those authorized under the Labor Code and its implementing rules and regulations;
- l. To fail to actually deploy without valid reason as determined by the DOLE; and
- m. To fail to reimburse expenses incurred by the worker in connection with his/her documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the worker's fault.

Section 2. Anti-Illegal Recruitment Programs. The Administration shall adopt policies and procedures, prepare and implement programs toward the eradication of illegal recruitment activities such as, but not limited to the following:

- a. Providing legal assistance to victims of illegal recruitment and related cases;
- b. Assistance in the prosecution of suspected illegal recruiters;
- c. Special operations such as surveillance of persons and entities suspected to be engaged in illegal recruitment; and
- d. Information and education campaign.

Whenever necessary, the Administration shall coordinate with other appropriate entities in the implementation of said programs.

Section 3. Legal Assistance. The Administration shall provide free legal assistance to victims of illegal recruitment and related cases including but not limited to, legal advice, assistance in the preparation of complaints and supporting documents, institution of criminal actions and whenever necessary, provide counseling during preliminary investigation and hearings.

Section 4. Receiving Complaints for Illegal Recruitment. Victims of illegal recruitment and related cases may file with the Administration a report or complaint in writing and under oath for assistance purposes.

In regions outside the National Capital Region, complaints and reports involving illegal recruitment may be filed with the appropriate regional office of the Administration or DOLE.

Section 5. Action on the Complaint/Report. Where the complaint/report alleges that illegal recruitment activities are on-going, surveillance shall be conducted and if such activities are confirmed in the preliminary examination, issuance of closure order may be recommended to the POEA Administrator through the Director of the Licensing and Regulation Office (Director-LRO).

If sufficient basis for criminal action is found, the case shall be immediately forwarded to the appropriate office for such action.

Section 6. Surveillance. The Administrator and/or designated official in the DOLE regional offices may, on his own initiative, conduct surveillance on the alleged illegal recruitment activities.

Within two (2) days from the termination of surveillance, a report supported by an affidavit, shall be submitted to the Director-LRO or the Regional Director concerned, as the case may be.

Section 7. Issuance of Closure Order. The Secretary or the Administrator or the DOLE Regional Director of the appropriate regional office outside the National Capital Region, or their duly authorized representatives, may conduct an ex-parte preliminary examination to determine whether the activities of a non-licensee constitute a danger to national security and public order or will lead to further exploitation of job seekers. For this purpose, the Secretary, the Administrator or the Regional Director concerned or their duly authorized representatives, may examine personally the complainants and/or their witnesses in the form of searching questions and answers and shall take their testimony under oath. The testimony of the complainants and/or witnesses shall be reduced in writing and signed by them.

If upon the preliminary examination or surveillance, the Secretary, the Administrator or DOLE Regional Director is satisfied that such danger or exploitation exists, a written order may be issued for the closure of the establishment being used for illegal recruitment activity.

In case of a business establishment whose license or permit to operate a business was issued by the local government, the Secretary, the Administrator or the Regional Director concerned shall likewise recommend to the granting authority the immediate cancellation/ revocation of the license or permit to operate its business.

Section 8. Implementation of Closure Order. Closure order shall be served upon the offender or the person in charge of the establishment subject thereof. The closure shall be effected by sealing the establishment and posting a notice of such closure in bold letters in a conspicuous place in the premises of the establishment. Whenever necessary, the assistance and support of the appropriate law enforcement agencies may be requested for this purpose.

Section 9. Report on Implementation. A report on the implementation of the closure order executed under oath, stating the details of the proceedings undertaken shall be submitted to the Director-LRO or the Regional Director concerned, as the case may be, within two (2) days from the date of implementation.

Section 10. Institution of Criminal Action. The Secretary, the Administrator or the Regional Director concerned, or their duly authorized representatives or any aggrieved person, may initiate the corresponding criminal action with the appropriate office.

Where a complaint is filed with the Administration and the same is proper for preliminary investigation, it shall file the corresponding complaint with the appropriate officer, with the supporting documents.

Section 11. Motion to Lift A Closure Order. A motion to lift a closure order which has already been implemented may be entertained only when filed with the Licensing and Regulation Office (LRO) within ten (10) calendar days from the date of implementation thereof. The motion shall clearly state the grounds upon which it is based, attaching thereto the documents in support thereof. A motion to lift which does not conform with the requirements herein set forth shall be denied.

Section 12. Who May File. The motion to lift a closure order may be filed only by the following:

- a. The owner of the building or his/her duly authorized representative;
- b. The building administrator or his/her duly authorized representative;
- c. The person or entity against whom the closure order was issued and implemented or the duly authorized representative; or
- d. Any other person or entity legitimately operating within the premises closed/padlocked and whose operations/activities are distinct from the recruitment activities of the person/entity subject of the closure order.

Section 13. Grounds for Lifting/Re-Opening. Lifting of the closure order and/or re-opening of the office closed or padlocked may be granted on any of the following grounds:

- a. That the office is not the subject of the closure order;
- b. That the contract of lease with the owner of the building or the building administrator has already been cancelled or terminated. The request to re-open shall be duly supported by an affidavit of undertaking either of the owner of the building or the building administrator that the same will not be leased/rented to any other person/entity for recruitment purposes without the necessary license from the Administration;
- c. That the office is shared by a person/entity not involved in illegal recruitment activities, whether directly or indirectly; or
- d. Any other ground that the Administration may consider as valid and meritorious.

Lifting of a closure order is without prejudice to the filing of a criminal complaint with the appropriate office against the person alleged to have conducted illegal recruitment activities.

Section 14. Appeal. The order of the POEA Administrator denying the motion to lift may be appealed to the Secretary within ten (10) days from the service or receipt thereof.

Section 15. Re-Padlocking of Office. Where a re-opened office was subsequently confirmed to be used for illegal recruitment activities, a new closure order shall be issued which shall no longer be subject to a motion to lift.

### **PART III PLACEMENT BY THE PRIVATE SECTOR**

#### **RULE I VERIFICATION OF DOCUMENTS AND REGISTRATION OF FOREIGN PRINCIPALS, EMPLOYERS AND PROJECTS**

Section 1. Verification of Documents. Recruitment documents of foreign principals, employers and projects shall undergo verification at the work site prior to registration with POEA. The Philippine Overseas Labor Office (POLO) nearest the worksite shall review and verify the recruitment documents, including the master employment contract with the view to establish the existence of the employing person, company or project, its capability to hire workers at the applicable rates and at desirable working conditions that are in conformity with the minimum standards prescribed by the Administration and/or with the labor laws and legislations of the host country.

Section 2. Documentary Requirements for Verification. The following documents shall be submitted to the POLO for verification:

- a. Special Power of Attorney issued by the principal or employer to the licensed Philippine agency, or recruitment agreement or service agreement;
- b. Master employment contract which incorporates, among others the minimum provisions of employment contracts of land based workers, as follows:
  1. Guaranteed wages for regular work hours and overtime pay, which shall not be lower than the prescribed minimum wage in the host country or not lower than the appropriate minimum wage standards set forth in a bilateral agreement or international convention, if applicable, or not lower than the minimum wage in the country, whichever is highest;
  2. Free transportation to and from the worksite, or offsetting benefit;
  3. Free food and accommodation, or offsetting benefit;
  4. Just/authorized causes for termination of the contract or of the services of the workers taking into consideration the customs, traditions, mores, practices, company policies and the labor laws and social legislations of the host country;
- c. Manpower request indicating the position and salary of the workers to be hired;
- d. Valid business license, registration certificate or equivalent document.

Section 3. Application for Registration of Foreign Principals and Projects. Only duly licensed entities may file for the registration of foreign principals and projects.

Section 4. Documentary Requirements for Registration of Principals/Projects. The following verified documents shall be submitted to the POEA, through the Philippine licensed agent for registration of the principal, employer or project:

- a. Special power of attorney or recruitment agreement, or service agreement, as the case may be;
- b. Master employment contract of the foreign principal; and
- c. Manpower request of the foreign principal indicating the position and salary of the workers to be hired;

POCB-registered projects shall also be registered with the Administration without however undergoing the foregoing procedures, subject to guidelines as may be prescribed.

Subsequent manpower requests from the registered principal/project shall be submitted to the Administration.

Section 5. Registration of Foreign Placement Agencies. Foreign placement agencies or similar entities may be registered as principals if they are authorized to operate as such in their respective countries and subject to such guidelines as may be prescribed by the Administration.

Section 6. Validity of Registration of Foreign Principals and Projects. Upon compliance with the documentary requirements, the foreign principal or project shall be registered by the POEA valid for a maximum of four (4) years, unless sooner revoked or cancelled by the Administration on any of the following grounds:

- a. Expiration of the principal's business license;
- b. Upon written mutual agreement by the parties to pre-terminate the Agreement;
- c. False documentation or misrepresentation in connection with the application for registration; and
- d. Final judgment in a disciplinary action against the foreign principal.

Provisional registration may be granted for a period of ninety (90) days for a principal that substantially meets the registration requirements.

The expiration of the agency's license shall not cause the automatic expiration or cancellation of the registration which shall only be suspended until the renewal of the license.

Section 7. Renewal of Registration. The registration shall be renewed upon request by the agency provided that the documents required for initial registration are still valid.

Section 8. Open Registration. A foreign principal that acts as direct employer may be registered to more than one Philippine agency, provided that

- a. A uniform compensation package shall be adopted by the principal and the agency; and
- b. The principal has a verified job order of at least 50 workers; or
- c. That the principal must have hired at least 50 workers within a period of one year immediately preceding the registration;

Section 8. Dual Registration. A principal that is licensed to operate as foreign placement agency by its government may be registered to a maximum of two (2) Philippine agencies, provided that:

- a. A uniform compensation package shall be adopted by the principal and the agency; and
- b. The principal has a verified job order of at least 50 workers; or
- c. That the principal must have hired at least 50 workers within a period of one year immediately preceding the registration;

Section 9. Transfer of Registration. The registration of a foreign placement agency may be transferred to another agency provided the compensation package previously approved by the Administration shall be maintained; and provided further the transferee shall assume full and complete responsibility for all contractual obligations of the principals to its workers originally recruited and processed by the former agency.

Section 10. Action on Application for Registration of Principals With Outstanding Obligations. Claims for money or enforcement of obligations arising out of business relations between principals and their existing agencies may be conciliated by the Administration. However, the pendency of the



conciliation shall not prevent the Administration from acting on the request for registration, if public interest so requires.

Section 11. Registration of Principals in Countries with Special Conditions of Employment. The registration of principals in countries with unique or special conditions of employment shall be governed by guidelines prescribed by the Administration.

## **RULE II ACCREDITATION OF FOREIGN PRINCIPALS EMPLOYERS AND PROJECTS**

Section 1. Accreditation of Foreign Principals Employers and Projects. Foreign principals, employer or projects in countries or work sites where there are no POLOS to verify recruitment documents shall undergo accreditation at the POEA.

Section 2. Documentary Requirements for Accreditation. The principal/employer shall submit the following documents to the POEA through the Philippine licensed agency for evaluation and accreditation:

- a. Special power of attorney or recruitment agreement, or service agreement with the Philippine licensed agency;
- b. Master employment contract of the direct employer or foreign placement agency containing the minimum requirements for contracts of employment of land based workers as provided for in Section 2(b), Rule 1, Part III of these Rules.
- c. Manpower request indicating the position and salary of the workers to be hired;
- d. Valid business license, registration certificate or equivalent document or proof of existence of project validated or certified by the issuing authority in the host country; and
- e. Visa assurance or any equivalent document validated by the issuing authority.

Section 3. Validity of Accreditation. The accreditation of a foreign principal, employer or project shall be valid for four (4) years unless sooner revoked or cancelled by the POEA on any of the following grounds:

- a. Expiration of the principal's business license;
- b. Upon written mutual agreement by the parties to pre-terminate the Agreement;
- c. False documentation or misrepresentation in connection with the application for registration; and
- d. Final judgment in a disciplinary action against the foreign principal.

Section 4. Renewal of Accreditation. The accreditation shall be renewed upon request by the agency provided that the documents required for initial accreditation are still valid.

Section 5. Open Accreditation. A foreign principal that acts as direct employer may be accredited to more than one Philippine agency, provided that:

- a. A uniform compensation package shall be adopted by the principal and the agency; and
- b. The principal has a verified job order of at least 50 workers; or
- c. That the principal must have hired at least 50 workers within a period of one year immediately preceding the accreditation.

Section 6. Dual Accreditation. A principal that is licensed to operate as foreign placement agency by its government may be accredited to a maximum of two (2) Philippine agencies, provided that:

- a. A uniform compensation package shall be adopted by the principal and the agency; and
- b. The principal has a verified job order of at least 50 workers; or
- c. That the principal must have hired at least 50 workers within a period of one year immediately preceding the accreditation.

## **RULE III DOCUMENTATION OF LANDBASED WORKERS BY THE PRIVATE SECTOR**

Section 1. Documentation of New Hires. Based on the master employment contract, request for processing should include the names, positions and salaries of workers using the prescribed form of

the Administration. The agency shall provide every worker a copy of the approved employment contract or service contract.

Section 2. Payment of Documentation Fees. Payment of the required documentation fees shall be made to the Administration upon request for processing.

Section 3. Period to Deploy. An agency shall deploy its recruited/hired workers within sixty days (60) days from the date of issuance of the overseas employment certificate.

Section 4. Cancellation of Worker's Documents. If the deployment of the worker does not materialize within thirty (30) days from the lapse of the period to deploy, the agency shall report the non-deployment and the reasons therefor and apply to the Administration for the cancellation of the worker's processed documents.

If the deployment of the worker does not materialize due to his fault, the agency may charge the worker for actual expenses incurred in connection with his recruitment, duly supported by official receipts.

Section 5. Registration of Worker-on-Leave. Workers who are considered as Workers-on-Leave as defined in these Rules, shall submit the following documents to the Administration or to its designated centers or units in the country or overseas for registration:

- a. valid passport; and
- b. re-entry visa, work permit, or any equivalent document.

Section 6. Registration of Name Hires. Name hires, as defined in these Rules, shall be registered by the Administration, subject to such guidelines as the Administration may prescribe, and upon submission of the following documents:

- a. employment contract
- b. valid passport
- c. employment visa or work permit, or equivalent document
- d. certificate of medical fitness
- e. certificate of attendance to the required employment orientation/briefing

The Administration shall ensure that the worker is made fully aware of the terms and conditions of his employment.

The Administration reserves the right to disapprove employment contracts which are contrary to law, morals, and public policy.

The Administration shall transmit on a regular basis the list of registered name hires to the various Philippine Embassies/Consulates or POLOs in countries that host overseas Filipino workers for proper monitoring.

Section 7. Payment of Registration Fees. Payment of the prescribed fees shall be made upon registration by the name hire or the Worker-on-Leave.

Section 8. Ban on Direct Hires. No foreign principal or employer may hire a Filipino worker for overseas employment except through the boards and entities authorized by the Secretary. Direct hiring by members of the diplomatic corps, international organizations and such other employers as may be allowed by the Secretary is exempt from this provision.

Section 9. In-House Processing Facility. The Administration shall extend to qualified agencies an in-house processing facility for the documents of workers who are scheduled for deployment. Agencies that qualify to enjoy the privilege shall comply with the documentary requirements.

The agencies shall be subject to regular audit and/or inspection by the Administration to ensure compliance with the prescribed guidelines on in-house processing facility.

The Administration reserves the right to recall the privilege and incentive being enjoyed by an agency should there be an established case of violation of POEA rules and regulations. Automatic preventive suspension shall be imposed in case of violation of the prescribed guidelines.

The agencies shall submit a monthly report on the utilized or missing overseas employment certificates to the Administration.

Section 10. One Stop Shop Processing Center. A one stop shop-processing center shall be established to house all governmental activities pertaining to overseas employment.

**PART IV  
PLACEMENT BY THE ADMINISTRATION  
RULE I  
RECRUITMENT AND PLACEMENT  
THROUGH THE ADMINISTRATION**

Section 1. Hiring through the Administration. The Administration shall recruit and place workers primarily on government-to-government arrangements and shall therefore service the hiring of foreign government instrumentalities. It shall also recruit and place workers for foreign employers in such sectors as the policy may dictate. In pursuance thereof, the Administration shall, among others:

- a. Administer programs and projects that may support the employment development objectives of the Administration ;
- b. Set parameters in servicing other foreign clients; and
- c. Undertake, in coordination with POEA Regional Centers and Extension Units as well as Regional Offices of the Department of Labor and Employment and concerned local government units, organized recruitment activities in the provinces in aid of the employment dispersal efforts of the government.

Section 2. Recruitment and Placement of Workers. All employers, whether government or private, hiring through the Administration shall undertake the recruitment and placement of workers through the facilities of the Administration. The activities shall include but not be limited to interview and selection; referral to medical examination; processing of contracts; assistance in securing of passport and appropriate visas; pre-employment orientation; pre-departure orientation; and travel arrangements.

Section 3. Foreign Employer's Guarantee Trust Fund. A Guarantee Trust Fund shall be established for all workers hired on a government-to-government arrangement for the purpose of covering monetary claims of the workers arising from breach of contractual obligations.

**PART V  
EMPLOYMENT STANDARDS  
RULE I  
FORMULATION OF EMPLOYMENT STANDARDS**

Section 1. Employment Standards. The Administration shall determine, formulate and review employment standards in accordance with the market development thrusts and welfare objectives of the overseas employment program and the prevailing market conditions.

Section 2. Minimum Provisions of Employment Contract. Consistent with its welfare and employment facilitation objectives, the following shall be considered the minimum requirements for contracts of employment of landbased workers:

- a. Guaranteed wages for regular work hours and overtime pay, as appropriate, which shall not be lower than the prescribed minimum wage in the host country, not lower than the appropriate minimum wage standard set forth in a bilateral agreement or international convention duly ratified by the host country and the Philippines or not lower than the minimum wage in the Philippines, whichever is highest;
- b. Free transportation to and from the worksite, or offsetting benefit;
- c. Free food and accommodation, or offsetting benefit;
- d. Just/authorized causes for termination of the contract or of the services of the workers taking into consideration the customs, traditions, norms, mores, practices, company policies and the labor laws and social legislations of the host country;
- e. The Administration may also consider the following as basis for other provisions of the contract:

1. Existing labor and social laws of the host country;
2. Relevant agreements, conventions, delegations or resolutions;
3. Relevant bilateral and multilateral agreements or arrangements with the host country; and
4. Prevailing condition/realities in the market.

Section 3. Freedom to Stipulate. Parties to overseas employment contracts are allowed to stipulate other terms and conditions and other benefits not provided under these minimum requirements; provided the whole employment package should be more beneficial to the worker than the minimum; provided that the same shall not be contrary to law, public policy and morals, and provided further, that Philippine agencies shall make foreign employers aware of the standards of employment adopted by the Administration.

Section 4. Disclosure of Terms and Conditions of Employment. The agency and the worker shall fully disclose all relevant information in relation to the recruitment and employment of the worker in accordance with the guidelines set by the Administration.

## **PART VI RECRUITMENT VIOLATION AND RELATED CASES**

### **RULE I JURISDICTION AND VENUE**

Section 1. Jurisdiction. The Administration shall exercise original and exclusive jurisdiction to hear and decide all cases which are administrative in character, involving or arising out of violations of recruitment rules and regulations including refund of fees collected from workers and violation of the conditions for issuance of license to recruit workers.

Section 2. Grounds for imposition of administrative sanctions:

- a. Charging, imposing or accepting directly or indirectly, any amount of money goods or services, or any fee or bond for any purpose whatsoever before employment is obtained for an applicant worker;
- b. Charging or accepting directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary, or making a worker pay any amount greater than that actually received by him as a loan or advance;
- c. Charging or collecting placement fee for deployment to countries where the prevailing system, either by law, policy or practice, do not allow the charging or collection of placement and recruitment fees.
- d. Collecting any fee from a worker without issuing the appropriate receipt clearly showing the amount paid and the purpose for which payment was made;
- e. Engaging in act/s of misrepresentation in connection with recruitment and placement of workers, such as furnishing or publishing any false notice, information or document in relation to recruitment or employment;
- f. Inducing or attempting to induce an already employed worker to transfer from or leave his employment for another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;
- g. Influencing or attempting to influence any person or entity not to employ any worker who has not applied for employment through his agency;
- h. Obstructing or attempting to obstruct inspection by the Secretary, the Administrator or their duly authorized representatives;
- i. Substituting or altering to the prejudice of the worker, employment contracts approved and verified by the Administration from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Administration;

- j. Failure to submit reports related to overseas recruitment and employment within the specified time, as may be required by the Secretary or the Administration;
- k. For the owner, partner, or officer/s of any licensed agency to become an officer or member of the Board of any corporation or partnership engaged directly or indirectly in the management of a travel agency;
- l. Withholding or denying travel or other pertinent documents from workers for considerations other than those authorized under existing laws and regulations;
- m. Engaging in recruitment activities in places other than that specified in the license without previous authorization from the Administration;
- n. Appointing or designating agents, representatives or employees without prior approval from the Administration;
- o. Falsifying or altering travel documents of applicant worker in relation to overseas recruitment activities;
- p. Deploying workers whose employment and travel documents were not processed by the Administration or those agencies authorized by it;
- q. Deploying workers to principals not accredited by the Administration.
- r. Failure to deploy a worker within the prescribed period without valid reason;
- s. Disregard of orders, notices and other legal processes issued by the Administration;
- t. Coercing workers to accept prejudicial arrangements in exchange for certain benefits that rightfully belong to the workers;
- u. Withholding of workers' salaries or remittances without justifiable reasons or shortchanging of remittances;
- v. Deploying underage workers;
- w. Engaging in act/s of misrepresentation for the purpose of securing a license or renewal thereof, such as giving false information or documents;
- x. Engaging in the recruitment or placement of workers in jobs harmful to public health or morality or to dignity of the Republic of the Philippines;
- y. Transfer or change of ownership of a single proprietorship licensed to engage in overseas employment;
- z. Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, where deployment does not take place without the worker's fault;
- aa. Failure to comply with the undertaking to deploy the required number of workers within the period provided in these Rules;
- bb. Failure to comply with the undertaking to provide Pre-Departure Orientation Seminar to workers
- cc. Non-compliance with any other undertaking in connection with the issuance or renewal of the license;
- dd. Allowing persons who are otherwise disqualified to participate in the overseas employment program under existing laws, rules and regulations to participate in the management and operation of the agency; and

ee. Violation of other pertinent provisions of the Code and other relevant laws, rules and regulations, guidelines and other issuances on recruitment and placement of workers for overseas employment and the protection of their welfare;

Section 3. Venue. Any complaint arising out of recruitment violation or violation of conditions of license may be filed with the Adjudication Office of this Administration or at the POEA Regional Centers/Extension Units exercising territorial jurisdiction over the place where the complainant was recruited at the option of the complainant. The Office with which the complaint was first filed shall take cognizance of the case.

Where the complainant was recruited within the National Capital Region, the complaint shall be filed with the Adjudication Office of the Administration.

In the case of reports received by the Administration, the report shall be investigated by the Adjudication Office, or by the appropriate Regional Center/Extension Unit of the Administration.

However, the venue of cases filed with the Adjudication Office of the Administration may be transferred to the POEA Regional Center/Extension Unit before the respondent files its answer upon request of either party and approved by the Administration.

For the purpose of hearing and receiving of evidence, the DOLE Regional Office exercising territorial jurisdiction over the place where the complainant was recruited may be deputized by the Secretary of Labor to take cognizance of the case for submission of its findings and recommendations to the Administrator.

## **RULE II FILING OF COMPLAINTS**

Section 1. Who May File. Any aggrieved person may file a complaint in writing and under oath for violation of the Labor Code and the POEA Rules and Regulations and other issuances relating to recruitment.

For this purpose, an aggrieved person is one who is prejudiced by the commission of a violation.

However, the Administration, on its own initiative, may conduct proceedings based on reports of violation POEA Rules and Regulations and other issuances on overseas employment subject to preliminary evaluation.

Section 2. Contents of Complaint. All complaints must contain, among others, the following:

- a. The name/s and address/es of the complainant/s;
- b. The name/s and address/es of the respondent/s;
- c. The nature of the complaint;
- d. The substance, cause/grounds of the complaint;
- e. When and where the action complained of happened;
- f. The amount of claim, if any;
- g. The relief/s sought.

The complaint shall be under oath and must be accompanied by supporting documents and a certificate of non-forum shopping.

Section 3. Docket and Assignment of Cases. Complaints duly received shall be docketed and raffled for investigation and hearing.

## **RULE III ACTION UPON COMPLAINT**

Section 1. Answer. Upon receipt of the complaint, the Administration shall issue an order, together with the complaint and supporting documents, if any, directing the respondent/s to file a verified Answer and not a Motion to Dismiss within ten (10) calendar days from receipt, attaching proof that a copy was sent to the complainant.

Section 2. Failure to File Answer. In case of failure to file Answer, the investigation /hearing shall proceed.

An Answer filed out of time shall not be admitted except on meritorious grounds and upon motion.

Section 3. Motion for Extension. Only one motion for extension of time to file Answer shall be allowed. The OE Adjudicator, upon receipt of such motion may, upon meritorious grounds, grant a non-extendible period of ten (10) calendar days. Except where allegations in the complaint refers to facts or circumstances which occurred abroad making it necessary to verify with the concerned foreign principal, a longer period may be granted. A ruling on the motion may be made by the OE Adjudicator during the proceedings and entered in the minutes or sent by personal service or by registered mail.

Section 4. Proof and Completeness of Service. The contents of the return shall be proof of the facts stated therein. Service by registered mail is complete upon receipt by the addressee or agent; but if the addressee or agent fails to claim his mail from the postmaster, service shall take effect after the date of the last notice. Where the present location of the addressee is unknown, service made at the last known address shall be sufficient.

Personal service made in any registered office or officer or personnel of the private recruitment agency shall likewise be sufficient.

Section 5. Nature of Proceedings. The proceedings shall comply with the requirements of due process without strictly adhering to the technical rules of procedure and evidence applicable to judicial proceedings. The OE Adjudicator may avail himself of all reasonable means to ascertain the facts of the case.

Section 6. Preliminary Hearing. The OE Adjudicator shall set the date, time and place of the preliminary hearing with due notice to the parties, with the end view of arriving at an amicable settlement and for purposes of simplifying the issues, marking of evidence and stipulation of facts.

Section 7. Clarificatory Questions. At any stage of the proceedings and before the case is submitted for resolution, the OE Adjudicator may initiate clarificatory questions to the parties or their witnesses to further elicit relevant facts or information.

The OE Adjudicator may set a hearing where the parties shall be given an opportunity to be present but without right to examine or cross-examine. If the parties so desire, they may submit questions to the OE Adjudicator who may ask the parties or witnesses concerned.

Section 8. Service of Order to Appear/To Produce Documents. The Administration may issue an order to appear/to produce documents specified in the order.

The process server who personally served the order to appear/produce documents, notice order, resolution or decision shall submit his return within five (5) calendar days from the date of his service thereof, stating legibly in the return his name, the mode/s of service, the name/s of the other person/s to whom it was served and the date/s of receipt. If no service was effected, the serving officer shall state the reason. The return shall form part of the records of the case.

Section 9. Failure or Refusal to Obey Order to Appear/to Produce Documents. The license of any agency whose officers or employers fail or refuse to comply with an order to appear/to produce documents without justifiable reason shall be suspended until other wise ordered. This is without prejudice to the outcome of the investigation where the proper penalty may be imposed.

Section 10. Summary Judgment. Should the OE Adjudicator find, upon consideration of the complaint, answers and evidence submitted, that resolution/decision may be rendered, the case shall be deemed submitted and a summary judgment shall be issued.

Section 11. Effects of Withdrawal of Complaint/ Desistance. The withdrawal of complaint/ desistance shall not bar the Administration from proceeding with the investigation of the recruitment violation/s. The Administration shall resolve the case on the merits and impose the appropriate penalties.

Section 12. Resolution of the Case. Except as provided in Section 16 hereof and Section 6, Rule II, Part VII, the OE Adjudicator shall, within ninety (90) calendar days from the filing of the case, submit his findings and recommendations in the form of a draft order.

Section 13. Who May Issue Orders. The Administrator may issue orders of reprimand, suspension of documentary processing, suspension, cancellation or revocation of license, or dismissal on the merits of the case.

All other orders or resolutions shall be signed by the Director, Adjudication Office of the Administration.

Section 14. Contents of Orders/Resolutions. Orders/ Resolutions issued by the Administration shall be clear and concise and shall include a brief statement of the following:

- a. facts of the case;
- b. issue/s involved;
- c. applicable law/s or rule/s;
- d. conclusions and reasons therefor; and
- e. specific remedy/ies or relief/s granted or sanction/s.

Section 15. Suspension of Documentary Processing. The Administration may order the suspension of the processing of documents of a respondent agency for violation of any provision of these Rules, Orders, and Regulations. Such is without prejudice to the outcome of the investigation wherein the proper penalty may be imposed.

Section 16. Preventive Suspension. Pending investigation of the recruitment violation/s, the license of the respondent agency may be suspended for a period not exceeding the imposable penalties under the revised schedule of penalties, on the following grounds:

- a. There exist reasonable grounds to believe that the continued operation of the agency will lead to further violation or exploitation of the workers being recruited or adversely affect friendly relations with any country or otherwise prejudice national interest; and
- b. There is a prima facie evidence of a case for violation of the pertinent provisions of the Labor Code, its implementing rules and regulations, POEA Rules and Regulations or any issuance of the Administration where the evidence of guilt is strong.

The Administrator may issue an order lifting or modifying the order of preventive suspension as the circumstances may warrant.

Where an Order of Preventive Suspension is issued by the Administration, the OE Adjudicator shall, within sixty (60) calendar days from filing of the case, submit his findings and recommendations in the form of a draft order.

Section 17. Effects of Orders of Suspension, Revocation or Cancellation of License. An order of suspension, cancellation or revocation of license shall have the effect of suspending or terminating all activities of the agency which fall under the definition of recruitment and placement.

Section 18. Fines. The Administration may also impose fines for failure to comply with a final order.

#### **RULE IV CLASSIFICATION OF OFFENSES AND SCHEDULE OF PENALTIES**

Section 1. Classification of Offenses. Administrative offenses are classified into serious, less serious and light, depending on their gravity. The Administration shall impose the appropriate administrative penalties for every recruitment violation.

A. The following are serious offenses with their corresponding penalties:

1. Deploying underage workers

1<sup>st</sup> Offense – Cancellation of License



2. Engaging in act/s of misrepresentation for the purpose of securing a license or renewal thereof, such as giving false information or documents

1<sup>st</sup> Offense – Cancellation of License

3. Engaging in the recruitment or placement of workers in jobs harmful to public health or morality or to dignity of the Republic of the Philippines

1<sup>st</sup> Offense – Cancellation of License

4. Transfer or change of ownership of a single proprietorship licensed to engage in overseas employment

1<sup>st</sup> Offense – Cancellation of License

5. Charging or collecting placement fee for deployment to countries where the prevailing system, either by law, policy or practice do not allow the charging or collection of placement and recruitment fees.

1<sup>st</sup> Offense – Cancellation of License plus refund of the placement fee charged or collected from the worker

The penalty shall carry the accessory penalty of refund of the fee collected from the worker

6. Charging or accepting directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary, or making a worker pay any amount greater than that actually received by him as a loan or advance

1<sup>st</sup> Offense – Cancellation of License plus refund of the placement fee charged or collected from the worker

The penalty shall carry the accessory penalty of refund of the excessive fee charged or collected from the worker.

B. The following are less serious offenses with their corresponding penalties:

1. Charging, imposing or accepting directly or indirectly, any amount of money goods or services, or any fee or bond for any purpose whatsoever before employment is obtained for an applicant worker

1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)

2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)

3<sup>rd</sup> Offense - Cancellation of License

The penalty shall carry the accessory penalty of refund of the fee charged or collected from the worker, in case of non-deployment.

2. Collecting any fee from a worker without issuing the appropriate receipt clearly showing the amount paid and the purpose for which payment was made

1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)

2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)

3<sup>rd</sup> Offense - Cancellation of License

3. Engaging in act/s of misrepresentation in connection with recruitment and placement of workers, such as furnishing or publishing any false notice, information or document in relation to recruitment or employment

- 1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)
  - 2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)
  - 3<sup>rd</sup> Offense - Cancellation of License
4. Obstructing or attempting to obstruct inspection by the Secretary, the Administrator or their duly authorized representatives
- 1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)
  - 2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)
  - 3<sup>rd</sup> Offense - Cancellation of License
5. Substituting or altering to the prejudice of the worker, employment contracts approved and verified by the Administration from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Administration
- 1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)
  - 2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)
  - 3<sup>rd</sup> Offense - Cancellation of License
6. Withholding or denying travel or other pertinent documents from workers for reasons other than those authorized under existing laws and regulations.
- 1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)
  - 2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)
  - 3<sup>rd</sup> Offense - Cancellation of License
7. Engaging in recruitment activities in places other than that specified in the license without previous authorization from the Administration
- 1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)
  - 2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)
  - 3<sup>rd</sup> Offense - Cancellation of License
8. Appointing or designating agents, representatives or employees without prior approval from the Administration
- 1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)
  - 2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)
  - 3<sup>rd</sup> Offense - Cancellation of License
9. Falsifying or altering travel documents of applicant worker in relation to recruitment activities
- 1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)
  - 2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)
  - 3<sup>rd</sup> Offense - Cancellation of License
10. Deploying workers whose employment and travel documents were not processed by the Administration or those agencies authorized by it
- 1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)

2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)

3<sup>rd</sup> Offense - Cancellation of License

11. Deploying workers to principals not accredited by the Administration.

1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)

2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)

3<sup>rd</sup> Offense - Cancellation of License

12. Withholding of workers' salaries or remittances without justifiable reasons or shortchanging of remittances

1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)

2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)

3<sup>rd</sup> Offense - Cancellation of License

The penalty shall carry the accessory penalty of immediate release of the salaries or remittances being claimed

13. Allowing persons who are otherwise disqualified to participate in the overseas employment program under existing laws, rules and regulations to participate in the management and operation of the agency

1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)

2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)

3<sup>rd</sup> Offense - Cancellation of License

14. Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, where deployment does not take place without the worker's fault

1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)

2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)

3<sup>rd</sup> Offense - Cancellation of License

The penalty shall carry the accessory penalty of immediate refund of expenses incurred by the worker

15. Failure to comply with the undertaking to provide Pre-Departure Orientation Seminar to workers

1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)

2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)

3<sup>rd</sup> Offense - Cancellation of License

16. Non-compliance with any other undertaking in connection with the issuance or renewal of the license

1<sup>st</sup> Offense – Suspension of License (Two Months to Six Months)

2<sup>nd</sup> Offense – Suspension of License (Six Months and One day to One year)

3<sup>rd</sup> Offense - Cancellation of License

C. The following are light offenses with their corresponding penalties:

1. For the owner, partner, or officer/s of any licensed agency to become an officer or member of the Board of any corporation or partnership engaged directly or indirectly in the management of a travel agency
  - 1<sup>st</sup> Offense – Reprimand
  - 2<sup>nd</sup> Offense – Suspension of License (One Month to Three Months)
  - 3<sup>rd</sup> Offense – Suspension of License (Three Months and One day to Six Months)
  - 4<sup>th</sup> Offense - Cancellation of License
2. Inducing or attempting to induce an already employed worker to transfer from or leave his employment for another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment
  - 1<sup>st</sup> Offense – Reprimand
  - 2<sup>nd</sup> Offense – Suspension of License (One Month to Three Months)
  - 3<sup>rd</sup> Offense – Suspension of License (Three Months and One day to Six Months)
  - 4<sup>th</sup> Offense - Cancellation of License
3. Influencing or attempting to influence any person or entity not to employ any worker who has not applied for employment through his agency
  - 1<sup>st</sup> Offense – Reprimand
  - 2<sup>nd</sup> Offense – Suspension of License (One Month to Three Months)
  - 3<sup>rd</sup> Offense – Suspension of License (Three Months and One day to Six Months)
  - 4<sup>th</sup> Offense - Cancellation of License
4. Failure to deploy a worker within the prescribed period without valid reason
  - 1<sup>st</sup> Offense – Reprimand
  - 2<sup>nd</sup> Offense – Suspension of License (One Month to Three Months)
  - 3<sup>rd</sup> Offense – Suspension of License (Three Months and One day to Six Months)
  - 4<sup>th</sup> Offense - Cancellation of License
5. Coercing workers to accept prejudicial arrangements in exchange for certain benefits that rightfully belong to the workers
  - 1<sup>st</sup> Offense – Reprimand
  - 2<sup>nd</sup> Offense – Suspension of License (One Month to Three Months)
  - 3<sup>rd</sup> Offense – Suspension of License (Three Months and One day to Six Months)
  - 4<sup>th</sup> Offense - Cancellation of License
6. Disregard of orders, notices and other legal processes issued by the Administration

1<sup>st</sup> Offense – Reprimand

2<sup>nd</sup> Offense – Suspension of License (One Month to Three Months)

3<sup>rd</sup> Offense – Suspension of License (Three Months and One day to Six Months)

4<sup>th</sup> Offense - Cancellation of License

7. Failure to submit reports related to overseas recruitment and employment within the specified time as may be required by the Secretary or the Administration

1<sup>st</sup> Offense – Reprimand

2<sup>nd</sup> Offense – Suspension of License (One Month to Three Months)

3<sup>rd</sup> Offense – Suspension of License (Three Months and One day to Six Months)

4<sup>th</sup> Offense - Cancellation of License

8. Violation of other pertinent provisions of the Code and other relevant laws, rules and regulations, guidelines and other issuances on recruitment and placement of workers for overseas employment and the protection of their welfare

1<sup>st</sup> Offense – Reprimand

2<sup>nd</sup> Offense – Suspension of License (One Month to Three Months)

3<sup>rd</sup> Offense – Suspension of License (Three Months and One day to Six Months)

4<sup>th</sup> Offense - Cancellation of License

Money claims arising from recruitment violation may be awarded in addition to the administrative penalties imposed.

Section 2. Imposition of Fines. In addition or in lieu of the penalty of suspension of license, the Administration may impose the penalty of fine which shall be computed at P10,000.00 for every month of suspension.

Section 3. Mitigating, Aggravating or Alternative Circumstances. In the determination of the penalties to be imposed, the following mitigating, aggravating and alternative circumstances attendant to the commission of the offense shall be considered:

- a. First Offender;
- b. Admission of guilt and voluntary restitution, where applicable;
- c. Good faith;
- d. Exemplary Performance;
- e. Recidivism;
- f. Prejudice to the worker;
- g. Gross negligence;
- h. Other analogous circumstances.

Section 4. Manner of Imposition. When applicable, the imposition of the penalty may be made in accordance with the manner provided below:

- a. The minimum of the penalty shall be imposed where only mitigating and no aggravating circumstances are present.
- b. The medium of the penalty shall be imposed where no mitigating and aggravating circumstances are present.
- c. The maximum of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.

- d. Where aggravating and mitigating circumstances are present, paragraph (a) shall be applied where there are more mitigating circumstances present; paragraph (b) shall be applied when the circumstances equally offset each other; and paragraph (c) shall be applied where there are more aggravating circumstances.

Section 5. Penalty for Cases Involving Five or More Complainants. A respondent found guilty of committing an offense, regardless of the number or nature of charges, against five (5) or more complainant in a single case shall be imposed the penalty of cancellation of license.

## **RULE V APPEAL/PETITION FOR REVIEW**

Section 1. Jurisdiction. The Secretary of Labor and Employment shall have exclusive jurisdiction to act on appeals/petitions for review of recruitment violation cases and other related cases decided by the Administration.

Section 2. Period to Appeal. The party aggrieved by a decision of the Administration may appeal the same to the Secretary of Labor and Employment within fifteen (15) calendar days from receipt of a copy of the decision. Failure of the aggrieved party to perfect his appeal within the reglementary period shall render the decision of the Administration final and executory.

Section 3. Requirements for Appeal. The appealing party shall file a Notice of Appeal and an Appeal Memorandum with the Adjudication Office or the Regional Office of the Administration, as the case may be. In case a fine and/or a monetary award is imposed against the appealing party, he shall also file a supersedeas bond in the amount of such fine and/or monetary award, in cash or in surety bond posted by a surety company acceptable to the Administration. The Appeal Memorandum shall clearly point out the errors of law and/or fact in the decision appealed from and shall be verified. Any appeal that does not comply with these requirements shall not be acted upon and the Administration shall issue forthwith an order for the execution of the decision for which the appeal is sought.

Section 4. Transmittal of the Records of the Case on Appeal. Within twenty-four (24) hours from receipt of the appeal seasonably filed with the corresponding requirements, the Adjudication Office shall transmit the entire records of the case to the Office of the Secretary of Labor and Employment.

Section 5. Stay of Execution. The decision of the Administration shall be stayed during the pendency of the appeal; Provided that where the penalty imposed carries the maximum penalty of twelve months suspension or cancellation of license, the decision shall be immediately executory despite the pendency of the appeal.

Provided further that where the penalty imposed is suspension of license for one month or less, the decision shall be immediately executory and may only be appealed on ground of grave abuse of discretion.

Section 6. Period to Resolve the Appeal. Appeals from the decision of the Administrator shall be resolved by the Office of the Secretary for Labor and Employment within sixty (60) calendar days from receipt of the transmittal of the entire records of the case.

## **RULE VI EXECUTION OF DECISIONS**

Section 1. Issuance of Writ of Execution. Unless otherwise provided in these Rules, after the Order has become final and executory, the Administration, upon motion or on its own initiative, shall issue a writ of execution requiring the Enforcement Officer to enforce a monetary award and/or fine imposed in the decision.

Section 2. Issuance, Form and Contents of a Writ of Execution. The writ of execution must be issued in the name of the Republic of the Philippines, requiring the Enforcement Officer to execute the Orders of the Administrator or the Secretary or his duly authorized representative, as the case may be.

The writ of execution must contain the dispositive portion of the order or decision sought to be executed. It must require the Enforcement Officer to serve the writ upon the losing party or upon any other person required by law to obey the same before proceeding to satisfy the judgment.

Execution shall proceed against the assets of the losing party in the following order:

- a. escrow deposit
- b. surety bond
- c. personal property
- d. real property

A writ of execution shall not be necessary for the enforcement of Orders in the following cases:

- a. For the return of travel and other related documents. A copy of the order served upon the losing party or upon any other required by law to obey such order is sufficient; and
- b. Where the agency had earlier posted a cash or surety bond in relation to an appeal/petition for review. Certified copies of the final and executory order and official receipt of the cash or surety bond shall be sufficient basis for the preparation of the voucher for the release of the amount to be refunded, or for the confiscation/forfeiture of the amount equivalent to the fine.

The writ of execution shall be valid and effective for a period of sixty (60) calendar days from issuance thereof.

Section 3. Motion to Cancel Writ of Execution. Within five (5) days from receipt of a copy of Writ of Execution, the judgment debtor may file a Motion to Cancel the Writ of Execution on meritorious ground. The filing of such motion shall not stay the execution of the writ unless a cash or surety bond is posted equivalent to the judgment award and/or fine which shall answer for the same in the event that the motion is denied.

An Order denying a Motion to Quash the Writ of Execution is final and no further motions of similar nature shall be entertained.

Section 4. Enforcement of Writs. In executing an Order, the Enforcement Officer shall be guided strictly by the Manual of Instructions for Enforcement Officers of the POEA which the Administration will adopt.

Section 5. Garnishment. In cases where several writs of execution are issued against the same agency, satisfaction of the claims of workers against the escrow deposit or surety bond shall be on a "first-come, first-served" basis, irrespective of the date of filing of the case or date of the decision or date of the writ of execution. Provided that where the orders of garnishment are served simultaneously, the escrow deposit or surety bond shall be pro-rated among the claimants.

Section 6. Return of Writ of Execution. The Enforcement Officer implementing the writ of execution shall submit his return immediately upon the satisfaction of the claim. Regardless, however, of the outcome of his implementation, he shall submit his return not later than sixty (60) calendar days from date of issuance thereof. The return shall state the mode/s of service, the name/s of the person/s served and the date/s of receipt. The return shall also indicate legibly the full name of the serving officer. The return shall form part of the records of the case.

Section 7. Execution Pending Petition for Certiorari. Once a petition for certiorari has been filed with and given due course by the appellate court, the execution of the order insofar as the monetary award to private claimant is concerned shall be stayed.

## **PART VII DISCIPLINARY ACTION CASES**

### **RULE I JURISDICTION AND VENUE**

Section 1. Jurisdiction. The Administration shall exercise original and exclusive jurisdiction to hear and decide disciplinary action cases against migrant workers, foreign employers and principals that are administrative in character.

Section 2. Venue. Any complaint involving disciplinary action cases shall be filed with the Adjudication Office of the Administration.

**RULE II  
DISCIPLINARY ACTIONS AGAINST  
PRINCIPALS/EMPLOYERS**

Section 1. Grounds for Disciplinary Action Against Foreign Principals/Employers

- a. Default on its contractual obligations to the migrant worker and/or to its Philippine agent;
- b. Gross violation of laws, rules and regulations on overseas employment;
- c. Gross negligence leading to serious injury or illness or death of the worker;
- d. Grave misconduct;
- e. Conviction of an offense involving moral turpitude;
- f. Any other case analogous to the foregoing.

Section 2. Filing of Complaint. Any aggrieved person may file a complaint in writing and under oath for disciplinary action against a principal/ employer with the Administration.

The Administration may, on its own initiative, conduct proceedings against principals/employers based on verifiable or official reports.

Section 3. Contents and Form of Complaint. All complaints shall be under oath and must contain the following:

- a. Name/s and address/es of the complainant/s;
- b. Name/s and address/es of the respondent/s;
- c. Specific acts or omissions constituting the alleged offense;
- d. Place where the offense was committed;
- e. Date when the offense was committed;
- f. Relief sought.

All supporting documents must be attached to the complaint, whenever possible.

Section 4. Temporary disqualification. A foreign employer/ principal against whom a complaint for disciplinary action has been filed shall be temporarily disqualified from participating in the overseas employment program until the respondent submits to the jurisdiction of the Administration.

Section 5. Effect of Filing an Answer. Upon filing of an answer, the respondent employer shall be qualified to participate in the overseas employment program without prejudice to the outcome of the investigation whereby the proper penalty shall be imposed.

Section 6. Preventive Suspension. A principal/employer may be suspended from participating in the overseas employment program pending investigation of the disciplinary action case when the evidence of guilt is strong and there is reasonable ground to believe that the continued deployment to the principal/employer will result to further violation or exploitation of migrant workers.

The Hearing Officer shall, within sixty (60) calendar days from the filing of the case, submit his findings and recommendations in the form of a draft order.

Section 7. Handling of Cases. The procedure provided in this Book shall also apply to disciplinary action cases involving foreign employers/principals.

Section 8. Disqualification of Foreign Employers/ Principals. Foreign employers/principals against whom the penalty of suspension or disqualification had been imposed through an order, decision or resolution shall be disqualified from participating in the overseas employment program unless cleared by the Administration or the penalty imposed is lifted.

**RULE III  
DISCIPLINARY ACTION AGAINST OVERSEAS WORKERS**

Section 1. Grounds for Disciplinary Action. Commission by a migrant worker of any of the offenses enumerated below or of similar offenses shall be a ground for disciplinary action:

- A. Pre-Employment Offenses



1. Using, providing, or submitting false information or documents for purposes of job application or employment.
2. Unjustified refusal to depart for the worksite after all employment and travel documents have been duly approved by the appropriate government agency/ies.

B. Offenses during Employment

1. Commission of a felony or crime punishable by Philippine Laws or by the laws of the host country;
2. Unjustified breach of employment contract;
3. Embezzlement of company funds or monies and/or properties of a fellow worker entrusted for delivery to kin or relatives in the Philippines; and
4. Violation/s of the sacred practices of the host country.

Section 2. Filing of Complaint. Any person may file a complaint in writing and under oath for disciplinary action against a migrant worker with the Administration.

The Administration may, on its own initiative, conduct proceedings against a migrant worker on the basis of verifiable or official reports.

Section 3. Contents and Form of Complaint. All complaints shall be under oath and must contain, among others, the following:

- a. Name/s and address/es of the complainant/s;
- b. Name/s and address/es of the respondent/s;
- c. Specific act/s or omission/s constituting the alleged offense;
- d. Place where the offense was committed;
- e. Date when the offense was committed; and
- f. The relief/s sought.

All supporting documents must be attached to the complaint, whenever possible.

Section 4. Exempting Circumstances. The following considerations shall be legitimate reasons for the refusal of a worker to depart for the worksite, or to abandon or withdraw from employment:

- a. Exposure to hazardous, demeaning working and living conditions;
- b. Refusal of the employer or principal to grant, release or remit wages and other benefits due the worker;
- c. War, plague or other calamities at the worksite; and
- d. Violation of labor laws of the Philippines, the host country or international labor laws;

Section 5. Handling of Cases. The procedures provided in this Book shall apply in disciplinary cases involving workers.

Section 6. Temporary disqualification from overseas employment. A respondent worker subject of a pending complaint for disciplinary action, as provided in Section 1 (A&B) of Rule III, Part VII of these Rules, or those against whom a warrant of arrest or hold departure order is issued by competent authority shall be disqualified from overseas employment unless temporarily cleared.

Section 7. Effect of Filing of an Answer. Upon filing of an answer, the respondent worker shall be qualified for overseas employment without prejudice to the outcome of the investigation whereby the proper penalty may be imposed.

Section 8. Disqualification from Overseas Employment. Migrant workers against whom suspension or disqualification has been imposed through an order, decision, or resolution shall be disqualified

from overseas employment unless cleared by the Administration or the penalty imposed had been lifted.

Section 9. Preventive Suspension. A migrant worker may be preventively suspended when the evidence of guilt is strong and the charge involves a serious offense.

#### **RULE IV CLASSIFICATION OF OFFENSES AND SCHEDULE OF PENALTIES**

Section 1. Classification of Offenses. Administrative offenses committed by the worker are classified into serious, less serious, depending on their gravity. The Administration shall impose the appropriate administrative penalties for every violation.

A. The following are serious offenses with their corresponding penalties:

1. Commission of a felony or crime punishable by Philippine laws or by the laws of the host country.

1<sup>st</sup> Offense: Six months and one day to One (1) year suspension from participation in the overseas employment program

2<sup>nd</sup> Offense: Permanent Disqualification

2. Unjust refusal to depart for the worksite after all employment and travel documents have been duly approved by the appropriate government agency/ies.

1<sup>st</sup> Offense: Six months and one day to One (1) year suspension from participation in the overseas employment program

2<sup>nd</sup> Offense: Permanent Disqualification

B. The following are less serious offenses with their corresponding penalties:

1. Submission/furnishing or using false information or documents for purposes of job application or employment.

1<sup>st</sup> Offense: Two months to Six months suspension from participation in the overseas employment program

2<sup>nd</sup> Offense: Six months and one day to One (1) year suspension from participation in the overseas employment program

3<sup>rd</sup> Offense: Permanent Disqualification

2. Unjustified breach of employment contract

1<sup>st</sup> Offense: Two months to Six months suspension from participation in the overseas employment program

2<sup>nd</sup> Offense: Six months and one day to One (1) year suspension from participation in the overseas employment program

3<sup>rd</sup> Offense: Permanent Disqualification

3. Embezzlement of company funds or monies and/or properties of a fellow worker entrusted for delivery to kin or relatives in the Philippines

1<sup>st</sup> Offense: Two months to Six months suspension from participation in the overseas employment program

2<sup>nd</sup> Offense: Six months and one day to One (1) year suspension from participation in the overseas employment program

3<sup>rd</sup> Offense: Permanent Disqualification

4. Violation/s of the sacred practices of the host country

1<sup>st</sup> Offense: Two months to Six months suspension from participation in the overseas employment program

2<sup>nd</sup> Offense: Six months and one day to One (1) year suspension from participation in the overseas employment program

3<sup>rd</sup> Offense: Permanent Disqualification

**RULE V  
APPEAL/PETITION FOR REVIEW**

Section 1. Jurisdiction. The Secretary shall have the exclusive jurisdiction to act on appeals/petitions for review of disciplinary action cases decided by the Administration.

Section 2. Filing of Appeal/Petition. Appeals/Petitions for Review shall be filed with the Administration within fifteen (15) calendar days from receipt of the decision by the appealing or petitioning party.

**RULE VI  
COMMON PROVISIONS**

Section 1. Records of Proceedings. The records of all proceedings before the Hearing Officer shall be summarized in writing by the OE Adjudicator, including the substance of the evidence presented. The minutes of proceedings shall be signed by the parties and shall form part of the records. Where any of the parties refuse to sign, the refusal and reason/s given must be indicated by the OE Adjudicator in the minutes, which must be chronologically arranged and appropriately paged.

Section 2. Appearances. An attorney appearing for a party is presumed to be properly authorized for that purpose.

Appearances may be made orally or in writing. In both cases, the complete name and office and the adverse party of his counsel/representative properly advised.

Any change in the address of counsel/representative should be filed with the records of the case and furnished the adverse party or counsel.

Any change or withdrawal of counsel/representative shall be made in accordance with the Rules of Court.

Section 3. Action on Motions. The Hearing Officer shall have the authority to rule on motions which may be done in writing or orally during the proceedings/conferences.

Section 4. Consolidation of Cases. Where there are two (2) or more cases pending before different OE Adjudicators, involving the same respondent/s and issues, the case which was filed last may be consolidated with the first to avoid unnecessary cost or delay. Such cases shall be handled by the OE Adjudicator to whom the first case was assigned.

Section 5. Discovery of Another Offense. When in the course of investigation on the alleged recruitment violation/s on pre-employment cases, another offense is uncovered, the Administration may issue the necessary show cause order or inform the respondent/s of the charge/s during the investigation and enter the same in the minutes. The Administration shall allow the parties the requisite period within which to file an Answer.

Section 6. Discovery of Another Respondent. When in the course of the investigation on recruitment violation/s alleged and/or uncovered, another agency or person is found to have committed a violation, the OE Adjudicator shall automatically implead said agency or person in the records of case pending, subject of investigation. For this purpose, show cause order shall be issued to the agency or person in accordance with the Rules.

Section 7. Prescription. All recruitment violation cases enumerated in these Rules shall be barred if not commenced or filed with the Administration within three (3) years after such cause of action accrued.

Likewise, disciplinary action shall be barred if not commenced or filed with the Administration within three (3) years after such cause of action occurred.

Section 8. Applicability of the Rules of Court. The Revised Rules of Court of the Philippines shall, whenever practicable, supplement these Rules in similar or analogous character in proceedings brought before the Administration.

## **PART VIII WELFARE SERVICES**

### **RULE I ASSISTANCE TO WORKERS**

Section 1. Responsibility to Workers. The Administration shall ensure that workers deployed overseas are amply protected and that their interest, well being and welfare are promoted. Agencies shall be responsible for the faithful compliance by their foreign principals of all obligations under the employment contract.

Section 2. Request for Assistance. The Administration shall take cognizance of any request for assistance from the worker and/or his family on matters relating to overseas employment.

Section 3. Call for Action and Submission of Reports. The Administration shall require an agency to act on complaints or problems brought to its attention or to submit reports on the status or condition of the worker.

Section 4. Administrative Sanctions. Deliberate failure by agencies and/or employers to act on requests for assistance and/or complaints of workers and/or families shall warrant imposition by the Administration of such sanctions as it may deem appropriate.

Section 5. Welfare Programs and Activities. The Administration, in coordination with other institutions, shall initiate and undertake such projects and activities that will enhance the welfare and promote the interest of workers and their families including those that will facilitate the psychosocial and economic reintegration of OFWs who have decided to return home for good.

### **RULE II CONCILIATION OF COMPLAINTS**

Section 1. Conciliation of Complaints. The Administration may conciliate any complaint involving a worker, licensed agency, or foreign principal/employer relating to overseas employment.

Section 2. Conciliation Proceedings. Within 5 days upon receipt of the complaint, the Administration shall notify the respondent and schedule a conference between the parties to discuss the possibility of arriving at an amicable settlement.

Where an amicable settlement is reached, the Administration shall approve the same and the settlement shall be final and binding upon the parties.

Where efforts for amicable settlement fail, the conciliation proceedings shall be terminated and the complaint shall be referred to the appropriate office immediately.

Likewise, if after evaluation of complaints and supporting documents, the employer or principal is found to be remiss in the performance of its contractual obligations to its workers, the Administration shall disqualify said employer or principal from participating in the overseas employment program

Section 3. Administrative Sanction. Unjustified failure by agencies to appear or make proper representations during conciliation proceedings, or to abide by the terms of the approved settlement shall warrant the suspension of documentary processing until compliance.

### **RULE III REPATRIATION OF WORKERS**

Section 1. Repatriation of Workers. The repatriation of the worker and the transport of his personal belongings shall be the primary responsibility of the agency which recruited or deployed the worker overseas. All costs attendant to repatriation shall be borne or be charged to the agency concerned and/or its principal. Likewise, the repatriation of remains and transport of the personal belongings of the deceased worker and all costs attendant thereto shall be borne by the principal and/or the local agency. However, in cases where termination of employment is due solely to the fault of the worker, the principal/employer or agency shall not in any manner be responsible for the repatriation of the former and/or his belongings.

Section 2. Repatriation Costs When Employment is Terminated. The principal or agency shall advance the cost of plane fare without a prior determination of the cause of the termination of the workers employment. However, the principal/agency may recover the cost of repatriation from the worker upon his return to the Philippines if termination of employment is due solely to worker's fault.

Section 3. Repatriation Procedure. When the need for repatriation arises and the principal fails to provide for the costs, the Philippine Embassy/Consulate/ Overseas Labor Office at worksite shall simultaneously notify the Administration and OWWA of such need. The Administration shall require the agency to provide the plane ticket or a pre-paid ticket advice to the Philippine Embassy/Consulate / Overseas Labor Office and to report its compliance to the Administration which shall advise OWWA accordingly.

Section 4. Administrative Sanction for Non-Compliance. If the employment agency fails to provide the ticket or pre-paid ticket advice within 48 hours from receipt of notice, the Administration shall suspend the documentary processing of the agency or impose such sanctions, as it may deem necessary. The Administration may request OWWA to advance the costs of repatriation with recourse to the agency and/or employer. The administrative sanction shall be lifted after the agency or employer shall have reimbursed OWWA of the costs of repatriation.

### **RULE IV WAR RISK INSURANCE AND WAR RISK PREMIUM PAY**

Section 1. Declaration of War Risk Areas. In order to protect seafarers, fishermen and cruise ship personnel from the hazards of war or war-like operations, the Administration shall, pursuant to prior declaration by the competent authorities, declare specific areas, territorial waters or portions of the high seas as war risk areas.

Section 2. Mandatory War Risk Insurance for Landbased Workers. All landbased workers bound for areas declared as war risk areas shall be provided with war risk insurance coverage of not less than P200,000.00. This war risk insurance shall be provided by the employer at no cost to the worker.

Section 3. War Risk Premium Pay. Workers who work on areas declared as war risk areas shall be entitled to premium pay or its equivalent, the form of which shall be determined by the Administration.

### **RULE V EDUCATION PROGRAM ON OVERSEAS EMPLOYMENT**

Section 1. Workers Education Program. In accordance with the policy of full disclosure, the Administration shall provide a comprehensive and integrated education program on overseas employment and shall be undertaken in partnership with other relevant organizations and government entities. Such education program shall cover all stages of recruitment and employment and provide information useful for overseas workers.

Section 2. Program Development Administration and Linkages. The Administration shall develop and administer the program in partnership with concerned government agencies, industry associations, civic-oriented groups and non-government organizations.

Section 3. Orientation Programs. The Administration shall conduct regular orientation programs that are country and skills-specific .

Section 4. Information Campaign. The Administration shall conduct a nationwide, multi-media and sustainable grassroots information campaign to create public awareness on the realities of overseas employment.

Section 5. Orientation of Licensed Agencies Representatives. The Administration shall provide continuing orientation programs to officers and staff of licensed agencies.

Section 6. Orientation of Foreign Employers. The Administration shall provide orientation to foreign employers on the requirements, standards, laws and regulations in the recruitment and employment of Filipino workers.

## **RULE VI MANPOWER REGISTRATION**

Section 1. Manpower Registry. The Administration shall adopt a system of registration of landbased workers and maintain a registry of qualified applicants in accordance with the requirements of their occupations.

Section 2. Manpower Sourcing from the Registry. Aside from the in-house placement facility of the Administration, private recruitment agencies may source their manpower requirements from the POEA registry.

Section 3. Referral of Qualified Applicants. The Administration may refer qualified applicants from the registry to agencies for possible placement.

Section 4. Agency Manpower Pool. An agency may maintain its own manpower pool provided no fee shall be charged to the applicant nor services be required of him in consideration of membership in the manpower pool.

## **RULE VII MANPOWER RESEARCH AND DEVELOPMENT**

Section 1. Research Studies. The Administration, in coordination with other entities, shall conduct periodic researches and studies on labor supply especially as it relates to the monitoring of the outflow of critical skills.

Section 2. Manpower Development Program for Overseas Workers. The Administration shall extend technical support and establish linkages with government agencies and other concerned sectors in the development and provision of assistance programs in the training of overseas workers for overseas jobs as well as in enabling them to transfer their skills and learning, upon their return.

Section 3. Training Programs and Standards. The Administration shall coordinate with private entities, government agencies, and employers concerned in the formulation of training programs and standards.

## **PART IX TRANSITORY PROVISIONS**

Section 1. Transfer of Welfare Services Provisions to OWWA. All provisions pertaining to the welfare of migrant workers, shall be transferred to OWWA within three (3) months from the effectivity of these rules. In the meantime, POEA shall continue to perform welfare services.

## **PART X GENERAL AND MISCELLANEOUS PROVISIONS**

Section 1. Authority to Administer Oaths. The Administrator, or any person authorized under existing laws, shall have the authority to administer oaths and require the attendance of witnesses or the production of any book, paper, correspondence, memoranda and other documents relevant or material to the case or inquiry.

Section 2. Construction. These Rules shall be liberally construed to carry out the objectives of the Constitution, the Labor Code of the Philippines and the Laws pertaining to overseas employment and to assist the parties in obtaining just, expeditious and inexpensive settlement of disputes.

All doubts in the implementation or interpretation of these Rules shall be resolved in favor of labor.

Section 3. Transfer of Cash Bond. Placement agencies shall be allowed to withdraw their existing cash bonds so that the same may be used to comply with the escrow deposit requirement under Section 4, Rule II, Part II of these rules.

Section 4. Separability Clause. The provisions of these Rules and Regulations are declared to be separable and if any provision or the application thereof is held invalid or unconstitutional, the validity of the other provisions shall not be affected.

Section 5. Repealing Clause. All policies, issuances, rules and regulations inconsistent with these Rules are hereby repealed or modified accordingly.

Section 6. Effectivity. These Rules shall take effect fifteen (15) days from publication in a newspaper of general circulation.

Done in the City of Mandaluyong, Republic of the Philippines, this 4th day of February 2002.

APPROVED:

PATRICIA A. STO. TOMAS  
Chairperson

ROSALINDA DIMAPILIS-BALDOZ  
Board Member

LUZVIMINDA L. ELBINIAS  
Board Member

EZEKIEL T. ALUNEN  
Board Member

VICENTE F. ALDANESE, JR.  
Board Member

GREGORIO S. OCA  
Board Member

## POEA INSPECTION MANUAL

### PART I GENERAL POLICY

#### Inspection Program

1. Scope and Importance of Inspection: Among the priority program thrusts of the Philippine Overseas Employment Administration is the protection of Overseas Filipino Workers (OFWs) and the promotion of their interest and welfare. To ensure that this thrust is met by licensed recruitment agencies, compliance is monitored through inspection activities.

Inspection functions include assistance to both agencies and applicants and enforcement of existing labor laws, rules and regulations on overseas employment.

By way of accurate information, advice and explanation during the conduct of inspection, POEA inspectors are able to assist both agencies and applicants to fully understand existing rules and regulations and other pertinent issuances on overseas recruitment procedures.

More importantly, through inspection, the Administration enforces existing labor laws, rules and regulations on overseas employment. Deviant practices and irregularities are closely observed, monitored documented and reported to concerned authorities for appropriate action.

2. Qualifications of Inspectors

To efficiently and effectively discharge their sensitive tasks, the following qualities and qualifications are required of inspectors:

- a) As public officer, the POEA inspector must possess a great sense of dedication and commitment in carrying out his assigned tasks/functions. He is expected to observe fairness, tact and diplomacy in the conduct of inspection activities to likewise command the respect and courtesy of the client.
- b) The POEA inspector must be impartial to ensure that no prejudice is committed. The result of every assignment must be clear and transparent.
- c) As a rule of thumb, the POEA inspector must strictly observe the rule on confidentiality. An inspector's report can be made public only if his superiors find valid reasons for its disclosure.

### PART II. INSPECTION PROPER

1. Preparation

The primary consideration in a tour of inspection is the preparation of an effective and reliable inspection program. To achieve this goal, priorities are determined and a program is designed to determine compliance of agencies/ entities and accredited training centers with related labor laws, issuances, rules and regulations on overseas recruitment.

Planning for an inspection tour is aimed at maximizing manpower and resources. Agencies/entities for inspection are scheduled on a per zone basis to ensure that offices within the area requiring inspection can be attended to.

2. Types of Inspection

- a. Regular Inspection – This entails the conduct of ocular inspection on the office premises of agencies and entities with applications for:
  - Issuance of license
  - Renewal of license



- Accreditation of studios, PDOS venues
  - Renewal of authority to operate a training center
  - Establishment of branch office (agency and training centers), extension office and/or request for occupancy of additional room within address/building
  - Transfer of business address of main and branch office, studio, training center and PDOS venue
  - One-Year of operation after renewal of license
3. Spot Inspection – This kind of inspection is undertaken in the following instances:
- Suspension and/or cancellation of license or authority
  - Delisting of an agency from the roster of licensed agencies
  - Possible conduct of recruitment at the old address
  - Documented reports on illegal recruitment activities of a person/ agency/ entity
  - Reported violation/ non-compliance of agency/ entity with POEA Rules and Regulations and other related issuances.
  - Giving up of room/additional space
  - Monitoring recruitment activities outside acknowledged office address.
4. Salvo Inspection – This peculiar type of inspection is conducted to determine compliance of agencies/ training centers with the rules and regulations on overseas employment and to validate reported violations and malpractices committed in the course of their operations.
5. Regional Inspection – This entails simultaneous spot inspection of private recruitment agencies/ entities including training centers located in the regions.

### PART III. INSPECTION PROCEDURES

- A. Inspection zoning and scheduling – To fully maximize the time and effort in the conduct of inspection and to ensure the quality and reliability of inspection results, proper scheduling and zoning of agencies/ entities should be observed.

The list of agencies/ entities to be inspected for the day is the responsibility of the Chief of the Inspection Division with the assistance of the Supervising Labor and Employment Officer and a Senior Labor and Employment Officer designated as an Account Officer.

Inspection schedules are planned in advance and the following are carefully prepared and identified:

1. Registered business address of the agency
2. All pertinent data and information on the agencies/ entities which are the subject for inspection.
3. A team of two inspectors who shall conduct inspection during office hours.
4. Inspection Authority clearly stating the name and address of the agency to be inspected, the names of the inspectors and the purpose and nature of inspection.
5. Inspection authority bearing the signature/s of POEA official signatories, as follows:
  - a) Regular Inspection - Inspection authority shall bear the signature of the Director II, Licensing Branch or his duly authorized representative.
  - b) Spot Inspection - Inspection authority shall bear the signature of the Director , Licensing and Regulation Office or his duly authorized representative.
  - c) Salvo Inspection - Inspection authority shall bear the signature of the Deputy Administrator for Licensing and Adjudication or his duly authorized representative.
  - d) Regional Inspection - A Special order shall bear the signature of the Administrator or his duly authorized representative.

- B. Conduct of Inspection

1. Limitation – Inspection shall be conducted only in the premises of agencies/entities named in the Inspection Authority. The Authority, on the other hand, shall be valid only on the date specified therein.
2. Frequency – Except when necessity requires, inspection shall be conducted periodically as provided for in the Section II, Rule IV of the Rules and Regulations Governing Overseas Employment as amended.  
As a general rule, conduct of inspection shall be discreet to guarantee maximum effectivity. POEA inspectors are to observe the actual operations of the agencies/entities concerned.
3. Entry to the Office Premises – Inspection shall be done during the regular working hours except when ordered otherwise.

Inspectors should be in proper office attire and should at all times observe the tenets of good conduct in the course of their assignment.

During inspection, the inspectors must present their inspection authority, introduce themselves and state the purpose of their visit. Whenever possible, the inspectors must meet the President/Proprietor/Manager of the Agency/ entity, or in his absence seek a responsible officer to discuss matters affecting their operation.

Inspectors should not enter the premises of an agency/entity without the approval of any of its responsible officers.

4. Refusal to allow entry – Rule II, g (a) of the Implementing Rules and Regulations of the Labor Code of the Philippines as amended, provides for the access of the Labor/POEA inspectors to the agency/entity premises anytime of the regular working days within the regular working hours.

When the President/Proprietor/ Manager or any responsible officer of the agency/entity refuses the entry of inspectors after presentation of an inspection authority, or allows entry but refuses to allow conduct of inspection, the team must withdraw and submit a report stating that they were refused entry or that they were prevented from conducting the inspection after entry to the office was allowed. A recommendation to refer the matter to the Adjudication Office can be made.

#### 5. Conduct of Actual Ocular Inspection

- a) Opening Conference – The POEA inspector shall inform the representative of the agency/entity the purpose of the inspection and shall request permission to move around the office premises for an ocular inspection in his presence or with any of his representative. The meeting must be as brief as possible. Conditions of the office operation should be assessed, all facts pertinent to apparent irregularities/violations should be recorded. Likewise, inspectors should ascertain if subject agency/ entity has maintained its compliance with the space, facilities and operational requirements of the Administration.
- b) Sources of Information – Notwithstanding the facts gathered in the course of interview with the office representative and the actual observations noted during the ocular inspection, other information regarding agency operations can be gathered from prospective applicants and employees of the agency. Interviews must be objective since this can disclose matters which may be used as a source of information regarding the agency's day-to-day operations. As much as possible, interviews must not be done in the presence of the agency head to enable applicants and/or employees to freely answer questions and provide the information that may validate facts gathered in the course of inspection. Information provided by applicants and agency personnel should be clearly reflected in the inspection report form with their signatures affixed on it.
- c) Documenting/Recording Information – It is a must that all information be reduced in writing in either English or Pilipino. This shall be attached and/or reflected in the Inspection Report Form for documentation and reference.

- d) Examination of Books of Accounts, Official Receipts and other pertinent documents/ records - The POEA inspectors shall inspect/examine records which are pertinent to the purpose of inspection (i.e. Books of Accounts, Official Receipts, Deployment Reports, Payroll Reports etc.).

Where the results of examination indicate violations involving illegal exaction (charging of fees beyond the allowable amount prescribed by the Administration), non-submission of payroll and deployment reports as required, copies of the documents reflecting the irregularities noted must be reproduced and serve as evidence in cases where legal proceedings are to be pursued.

- e) Completion of Inspection –Upon completion of the inspection, the inspector shall accomplish the Inspection Report Form clearly stating the information and observations made. Any violations discovered in the course of inspection should also be reflected and should not be subjected to any compromise or agreement. The inspector shall give the agency/entity representative an opportunity to read and go over the contents of the inspection report. If the agency representative/owner contests the inspection results, the Inspectors must indicate with clarity that the agency officer concerned refused to acknowledge the results of the activity.

The inspection report, together with signed statements, and all other pertinent materials relevant to substantiate the inspection findings, if any, shall be submitted to the Chief, Inspection Division within 24 hours from the date the ocular inspection was conducted for review and possible course of action if it so requires.

Where findings involve violations of recruitment rules and regulations, proper indorsement to the Adjudication Office shall be prepared.

- f) Evaluation of Inspection Report. Submitted inspection reports shall be evaluated by the Chief, Inspection Division through the assistance of the Supervising Labor and Employment Officer. Such evaluation is aimed at checking the reliability and accurateness of the inspection report. Likewise, evaluation of inspection report shall be the basis in identifying problems encountered in the course of inspection and assessing the efficiency of inspection procedures.

Spot inspection, on certain instances, may be conducted to validate inspection results whenever there is a need to verify the accuracy of reports submitted by the inspectors.