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**GUIDELINES FOR THE IMPLEMENTATION OF
THE MEMORANDUM OF UNDERSTANDING BETWEEN**

**THE DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE) OF THE
GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES**

AND

**THE DEPARTMENT OF LABOUR AND IMMIGRATION (LIM) OF THE
GOVERNMENT OF MANITOBA, CANADA**

**CONCERNING COOPERATION IN HUMAN RESOURCE DEPLOYMENT AND
DEVELOPMENT**

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Guidelines for the Implementation of the Memorandum of Understanding Between the DOLE and LIM

SECTION 1 – DEFINITIONS

1.1 In these guidelines, the following definitions apply:

“**Employer**” refers to an employer in Manitoba, or a person or agency licensed as a “foreign worker recruiter” under the Manitoba *Worker Recruitment and Protection Act* who acts on behalf of an employer in Manitoba, that has been approved to recruit under this MOU under a process established by LIM;

“**Philippine-based Recruitment Agency**” refers to a third-party recruitment agency in the Philippines that the DOLE has authorized or licensed to recruit and/or pre-screen Workers who choose to be employed in Manitoba and to facilitate the migration of those Workers to Manitoba, or where the Participants agree, the DOLE, in direct cooperation with the Government of Manitoba;

“**Worker**” refers to a Filipino national, whether residing within or outside the Philippines, who has signed or intends to sign an employment contract with an Employer with the objective to enter and work in Manitoba, either as a temporary foreign worker or a permanent resident, but does not include Filipino nationals seeking to work in Manitoba as live-in caregivers or those already approved as Manitoba Provincial Nominees;

“**POEA Exit Clearance**” refers to the document issued to all Filipino workers processed at POEA, which comes in the form of the Overseas Employment Certificate (OEC), E-receipt (electronic receipt), and Multiple Travel Exit Clearance (MTEC) or OFW card. This document is presented on departure at the airport and exempts the worker from the payment of the Philippine travel tax and terminal fee.

SECTION 2 – INFORMATION EXCHANGE BETWEEN DOLE AND LIM

- 2.1 Upon registration of an employer for recruitment purposes under this MOU, LIM will notify DOLE via electronic communication means. Notification will occur within 3 working days of registration.
- 2.2 All participating employers that have been registered by LIM will be provided with a Certificate of Registration, indicating the recruitment activities they have been registered for, the occupations they are recruiting, the number of workers they are recruiting and the expiration date of their Registration.
- 2.3 DOLE will provide LIM with a list of licensed Philippines-based Recruitment Agencies in good standing on a quarterly basis each calendar year.
- 2.4 LIM will provide DOLE with a list of licensed foreign worker recruiters in good standing on a quarterly basis each calendar year.

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SECTION 3 – RECRUITMENT AND DEPLOYMENT OF SKILLED WORKERS

- 3.1 The recruitment of workers to Manitoba through this MOU will be coordinated through LIM and the Philippines Overseas Labour Office.
- 3.2 Manitoba employers wishing to recruit workers from the Philippines will be required to first register with LIM.
- 3.3 Prior to issuing registration, LIM will ensure that all participating employers have a satisfactory compliance history with Manitoba labour legislation, including, but not limited to, *The Employment Standards Code* and *The Worker Recruitment and Protection Act* and *The Workplace-Safety and Health Act*. LIM will reinforce that all communication between DOLE and Manitoba employers must be direct, and should not involve third party representatives from Manitoba.
- 3.4 Upon receipt of registration from LIM, participating employers will be required to fulfil any additional requirements related to immigration, as prescribed by the federal or provincial governments of Canada and Manitoba (i.e. Human Resources and Skills Development Canada's Labour Market Opinion, Manitoba Provincial Nominee Program Employer Application).
- 3.5 Upon completion of any additional requirements of the governments of Canada and Manitoba, participating employers will be required to enter into a contractual arrangement with one or more Philippine-based Recruitment Agencies that hold a licence in good standing with the DOLE, in accordance with DOLE's Acts and regulations.
- 3.6 In accordance with DOLE's Acts and regulations, employers will be required to enter into a Special Power of Attorney arrangement with their Philippine-based Recruitment Agency. In cases deemed appropriate by DOLE and LIM, Manitoba government or government-affiliated agencies may be exempted from this requirement, but will be required to enter into a Letter of Authority with their Philippine-based Recruitment Agency. This Letter of Authority will be provided to exempted employers by DOLE.
- 3.7 Upon entering into a contractual arrangement with one or more Philippine-based Recruitment Agencies, the participating employer must register through the Philippine-based Recruitment Agency with the DOLE. As part of the registration process, participating employers will be required to provide a copy of their contractual arrangements with their Philippine-based Recruitment Agency, the Special Power of Attorney/Letter of Authority documentation, their Labour Market Opinions or required documentation for the Provincial Nominee Program, a Manpower Request, as well as a copy of the employment offer to be provided to their recruited Filipino nationals.

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- 3.8 The Philippine-based Recruitment Agency will provide the participating employers with the names and information on the relevant skill, experience and qualifications of Filipino nationals who wish to be recruited by Manitoba employers and meet any criteria specified by participating employers.
- 3.9 The participating employers will screen the Filipino nationals through a means determined satisfactory by the employer and the Philippine-based Recruitment Agency.
- 3.10 Any worker selected by the participating employers will be required to complete the following requirements in order to qualify for work permits or visas:
 - a. Pass the medical health examination required by the Government of Canada's department of Citizenship and Immigration for admissibility to Canada as a temporary or permanent resident, as applicable;
 - b. Does not have a criminal record;
 - c. Does not have any outstanding custody or divorce dispute that might render them ineligible to become a temporary or permanent resident of Canada;
 - d. Has satisfactory English language competency; and
 - e. has the skills and knowledge sought by participating employers.
- 3.11 LIM will require that participating Employers communicate directly with the POEA and any Philippine-based Recruitment Agency licensed by the POEA and contracted by the employer, as a condition of registration for recruitment under the MOU.

SECTION 4 – OFFERS OF EMPLOYMENT AND LABOUR CONTRACTS

- 4.1 All participating employers will be required to provide a copy of their contract of employment to the DOLE to be eligible for registration.
- 4.2 The DOLE will require the Philippine-based Recruitment Agency to provide the recruited workers with a copy of the contract of employment. This contract of employment must comply with *The Employment Standards Code* and *The Worker Recruitment and Protection Act*, as well as any other terms and conditions set out by the Governments of Manitoba, Canada and the Republic of the Philippines.
- 4.3 The DOLE will require the Philippine-based Recruitment Agency to conduct a mandatory orientation for recruited workers concerning the contents of the contract of employment provided by the participating employer to the workers to ensure that they have a clear understanding of the terms of their employment and ensure that the workers attend a pre-departure orientation training, as administered by the Overseas Workers Welfare Administration.

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- 4.4 The DOLE will issue a POEA Exit Clearance for the Worker without requiring an original verified employment contract or employment offer for that Worker.
- 4.5 The employer may terminate their contract with a Filipino national, and that employee may terminate their contract, on the basis of just cause as specified by the current and relevant employment legislation of the Province of Manitoba.
- 4.6 The employer shall pay the repatriation expenses of the employee back to the Philippines when either party terminates their contract unless the employee accepts employment with another Canadian employer. If the worker accepts legal employment with another Canadian employer, or applies successfully for Permanent Residence Status in Canada, the employee agrees to forfeit any repatriation expenses guaranteed by the original employer.
- 4.7 In the event of death of the Employee during the term of his contract with the original recruiting employer, his remains and personal belongings shall be repatriated to the Philippines at the expense of that Employer. In case the repatriation of remains is not possible, the same may be disposed of upon prior approval of the Employee's next of kin and/or by the Philippine Embassy/Consulate nearest the jobsite.
- 4.8 The participating employer shall ensure that the recruited workers are provided with medical coverage, beginning no later than their first day of work. If the worker is not eligible for Provincial Health Care Coverage, the employer is responsible for obtaining private health care insurance for the worker

SECTION 5 – PROTECTION OF WORKERS

- 5.1 In accordance with *The Worker Recruitment and Protection Act*, LIM will monitor and undertake proactive compliance reviews to ensure participating employers and workers are fulfilling the requirements of their offers of employment, as well as any additional requirements stipulated in Manitoba labour legislation. Where the worker falls under federal jurisdiction, the Canada Labour Code will apply.
- 5.2 Where a problem occurs involving a Filipino national working in Manitoba, LIM will notify the Philippine Overseas Labor Office within two (2) working days. Any information disclosures by LIM to POLO will occur within the parameters of Manitoba's *Freedom of Information and Protection of Privacy Act*.
- 5.3 LIM will most actively encourage Manitoba-based employers to self-declare to the nearest POLO when they are recruiting and/or hiring Filipino workers from third countries. LIM will also encourage these workers to register with the nearest POLO upon arrival in Manitoba.

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- 5.4 In case of a dispute or disagreement under this MOU, officials representing the DOLE and Manitoba will attempt to resolve the matter. In case of failure to resolve the dispute, the same shall be referred to the Working Committee provided under Section 9 of the Implementation Guidelines. For resolution, the Working Committee will determine the procedures for addressing disputed issues. Such procedures will be flexible, provide equal opportunities for representation by each party, establish clear time limits and ensure clarity for the implementation of final decisions.

SECTION 6 – NON-COMPLIANCE OF PHILIPPINE-BASED RECRUITMENT AGENCIES AND MANITOBA-BASED FOREIGN WORKER RECRUITERS

- 6.1 DOLE agrees to monitor the compliance of Philippine-based Recruitment Agencies and to report any issues related to these Philippine-based Recruitment Agencies to LIM, where that Agency has a partner recruiter established in Manitoba.
- 6.2 LIM agrees to monitor the compliance of Manitoba-based foreign worker recruiters and to report any issues related to these agencies to DOLE, where that recruiter has a partner Philippine-based Recruitment Agency.
- 6.3 Where a Philippine-based Recruitment Agency has violated a requirement of these guidelines and/or DOLE's Acts and Regulations, DOLE will take the necessary steps to ensure they do not engage in future recruitment under this MOU.
- 6.4 Where a Manitoba-based foreign worker recruiter has been found in violation of a requirement of these guidelines, Manitoba legislation and/or DOLE's Acts and Regulations, LIM will take the necessary steps to ensure they do not engage in future recruitment under this MOU.

SECTION 7 – COSTS OF RECRUITMENT OF WORKERS

- 7.1 Participating employers will cover the costs related to recruiting and hiring Filipino nationals as workers, including the airfare cost of workers to and from Manitoba. Employers and Philippine-base Recruitment Agencies must not request, charge or receive, directly or indirectly, any payment from a person seeking employment in Manitoba, as it contravenes the provisions of *The Worker Recruitment and Protection Act*.

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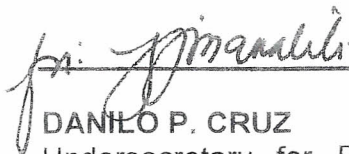
SECTION 8 – HUMAN RESOURCE DEVELOPMENT

- 8.1 The Cooperation Priorities for Human Resource Development shall cover among others, the following: a) the exploration of partnerships of institutions for the education and development of workers in the Philippines and in Manitoba; b) the exploration of the development of mutually agreeable workers' assessment and credentials recognition systems to facilitate the deployment of Filipino workers to Manitoba; c) LIM information sharing on the qualification requirements and competency standards of Manitoba to facilitate recruitment, assessment, selection, training and development of Filipino workers desiring to work in Manitoba; and d) the comparison of qualifications, competency standards and credentialing systems by relevant government or self-regulatory bodies and their counterparts in the Philippines towards possible recognition of Philippine qualifications and credentials in Manitoba.
- 8.2 The Working Committee shall draw mechanisms to explore, encourage and develop the participation of educational institutions and Manitoba employers in the competencies upgrading and skills-bridging programming for Filipino skilled workers in the areas of curriculum development and training of faculty and trainers, scholarships and donation of training equipment and support materials, among others.

SECTION 9 – WORKING COMMITTEE

- 8.1 DOLE and LIM shall designate appropriate individuals to serve as principle contacts for the purposes of ongoing communications, problem-solving and participating in scheduled bilateral or multilateral meetings necessary for the effective implementation of these MOU Guidelines.

Signed in Makati City on 21 September 2010



DANILO P. CRUZ

Undersecretary for Employment and Manpower Development
For the Department of Labor and Employment of the Government of the Republic of the Philippines



BEN REMPEL

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