



Republic of the Philippines

Department of Migrant Workers

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BAGONG PILIPINAS

MEMORANDUM CIRCULAR NO. 04

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Implementation Guidelines for Private Recruitment Agencies, Foreign Recruitment Agencies and Employers, and Mega Recruitment Agencies in Countries with Whitelisting Requirements

Republic Act No. 11641, otherwise known as the "Department of Migrant Workers Act" underscores the duty of the State to protect the rights and promote the welfare of Overseas Filipino Workers and their families, by, among others: ensuring that private recruitment shall meet professional, legal and ethical standards and obtaining the best possible conditions of work that uphold the dignity of Overseas Filipino Workers (OFWs).

I. GUIDING PRINCIPLES AND OBJECTIVES

Pursuant to the UN Framework on a rights-based approach to migration, it is the obligation of both sending and receiving countries to implement measures that safeguard the rights of migrant workers and acknowledge their contributions to society. This includes forging mutually beneficial and transparent partnerships that develop targeted solutions to combat human trafficking and worker exploitation.

The Whitelist serves as both filtering and protective mechanism designed to ensure that the deployment and employment of OFWs, especially domestic workers and those with vulnerable skill sets, promotes and safeguards their rights, safety, security, and overall well-being. The Whitelist functions to delineate entities that meet established standards and criteria, thereby facilitating a regulatory framework that protects OFWs and enhances accountability among employers and recruitment agencies. Through rigorous monitoring and assessment, the Whitelist aims to prevent exploitation and ensure that the rights of these workers are upheld throughout the employment process.

Lastly, the Whitelisting system will facilitate and streamline the deployment process, enabling a more efficient and transparent pathway for the recruitment and employment of workers.

II. SCOPE AND COVERAGE

These guidelines shall govern the whitelisting of Private Recruitment Agencies (PRAs), Foreign Recruitment Agencies (FRAs), Mega Manpower Agencies and Foreign Principals/Employers deploying to countries with whitelisting requirements.

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DEPARTMENT OF MIGRANT WORKERS
Administrative Service
General Services Division

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III. CREATION OF WHITELIST

Whitelisting refers to the mechanism that determines entities (PRAs, FRAs, Mega Manpower Agencies, and Foreign Employers and principals) that will be allowed to participate in the recruitment and deployment of workers in countries with whitelisting requirements. The process will be guided by the following general criteria:

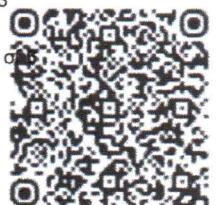
- a. Compliance with recruitment laws, rules, and regulations;
- b. Practice of fair and ethical recruitment and business standards;
- c. Provisions of responsive welfare and allied services for OFWs;
- d. Provisions of superior terms and conditions of work; and
- e. Employment of gender-responsive staff, structure, and policies.

IV. DOCUMENTARY REQUIREMENTS AND PROCEDURES

A. Documentary Requirements

1. PRAs who intend to be assessed for their inclusion in the Whitelist shall upload the following documents in the Whitelist System:

- 1.1 Letter of Intent signed by the authorized signatory; and
- 1.2 Duly notarized undertaking by the Sole Proprietor, the Managing Partner, or the President of the Corporation stating that the applicant shall:
 - a. Negotiate for the best terms and conditions of employment for the workers;
 - b. Adhere to the fair and ethical recruitment standards;
 - c. Exercise transparency and full disclosure during the workers' application, selection, and deployment stages;
 - d. Select and deploy only medically fit, well-trained, and competent workers and ascertain their age qualification for deployment in conformity with existing laws and regulations;
 - e. Strictly monitor their deployed workers and promptly report any significant event the latter may encounter at the worksite, while ensuring proper coordination with the Migrant Workers Office (MWO);
 - f. Designate and deploy qualified and full-time Welfare Desk Officers as required by existing rules and regulations;
 - g. Require their employers/principals, in accordance with prevailing rules, to regularly submit monitoring reports as to the condition and status of their deployed workers;
 - h. Immediately act on requests for repatriation and assistance; and
 - i. Maintain their continuous and consistent compliance with the requirements set for whitelisting.



2. FRAs, Mega Manpower Agencies, and Foreign Employers and principals who intend to be assessed for their inclusion in the Whitelist shall upload the following documents in the Whitelist System:

- 2.1 Letter of Intent signed by the authorized representative/owner; and
- 2.2 Duly notarized undertaking by the Sole Proprietor, the Managing Partner, or the President of the Corporation stating that the applicant shall:
 - a. Ensure compliance with the terms and conditions of the employment contract;
 - b. Guarantee the workers' possession of cellphone, access to communication, and possession of travel documents;
 - c. Create effective monitoring and response system including the designation of qualified and full-time Welfare Desk Officers as required by existing rules and regulations;
 - d. Coordinate and submit the required quarterly reports to its PRA as to the status and condition of its deployed workers and address their work-related concerns;
 - e. Immediately act on the request for assistance and repatriation, and facilitate the issuance of the necessary exit visa and other clearances;
 - f. Provide adequate support and assistance to the deployed workers in pursuing criminal and labor cases against abusive and erring sponsors/direct employers;
 - g. Regularly coordinate with its PRA and the MWO on significant events involving their workers and assist the distressed workers in accordance with the local and international laws;
 - h. Maintain their continuous compliance with the requirements set for whitelisting.

B. Procedure

The Employment Services Regulations Division (ESRD) and the concerned MWO shall evaluate the uploaded letter of intent and the notarized undertaking of the PRA or the FRAs, Mega Manpower Agencies, and Foreign Employers, respectively. Upon determination of their sufficiency and completeness, they shall endorse the application in the system for the clearance of the Licensing and Regulations Bureau, Adjudication Bureau, AKSYON Unit, and the MWO, as applicable.

The relevant Bureau/Unit/Office as abovementioned shall evaluate the applicant based on the whitelisting criteria set forth and shall input their findings in the system developed by the Management Information Technology Service (MITS).

When cleared by all the relevant Bureaus/Unit/Office, the applicant shall automatically be included in the Whitelist.



V. CRITERIA FOR THE INCLUSION IN THE WHITELIST

- A. The Adjudication Bureau (AB) shall only clear an applicant on the following conditions:
1. The applicant has not been subjected to a penalty of cancellation of license, or suspension or permanent disqualification in the overseas employment program in the past three (3) months prior to the application¹, unless the adjudged corresponding fine has been paid;
 2. The applicant is not currently preventively suspended, pending investigation of a recruitment violation or disciplinary action case; and
 3. The applicant is not temporarily disqualified/watchlisted for failure to file the required Answer in a disciplinary action case.
- B. The AKSYON Unit shall only clear an applicant on the following conditions:
1. The applicant has no more than five (5) pending repatriation cases;
 2. The applicant is not imposed a Documentary Processing Suspension on any of its pending repatriation cases; and
 3. It has no existing Request for Assistance (RFA) involving significant incidents as defined under relevant rules and issuances, such as but not limited to death, injury, detention, sexual abuse and/or harassment, maltreatment, or any act of workplace violence, accidents, missing, runaway, emergency medical assistance, which remains unacted upon at the time of the application for inclusion in the whitelist.
- C. The Licensing and Regulations Bureau (LRB) shall only clear an applicant-PRA on the following conditions:
1. The applicant has (on record), submitted the names of agencies' appointed Welfare Desk Officers, without prejudice to the appointment /employment of additional Welfare Desk Officers as required under existing rules and regulations; and
 2. The Sole Proprietor, CEO/COO, Managing Partner, President, or the Members of the Board of Directors of the applicant has no derogatory record.
- D. The Migrant Workers Office shall only clear an applicant-FRA/ Mega Manpower Agency/Foreign Principal/Employer on the following conditions:
1. The applicant should have no current record of unjustified refusal to assist/repatriate distressed workers, or deliberate refusal to comply

¹ The disqualification of an applicant is not affected by the pendency of an appeal or clemency before the Office of the Department Secretary.



- with its contractual undertaking, and such refusal resulted in the death, insanity, serious injury and disability of the worker;
2. The applicant should have no more than five (5) workers currently staying in the shelters or the Migrant Workers' Resource Center; and
 3. The applicant is currently accredited and has not been subjected to a penalty of cancellation or revocation of accreditation and registration in the past three (3) months;

VI. DELISTING FROM AND REINSTATEMENT TO THE WHITELIST

A. Delisting from the Whitelist

A whitelisted entity or individual shall be automatically delisted from the Whitelist for failure to maintain any of the criteria set forth by these guidelines.

A whitelisted entity shall be delisted from the whitelist for three (3) months, if, during one cycle of periodic review (6 months), it has been delisted at least three (3) times.

B. Reinstatement to the Whitelist

Any delisted entity or individual may be reinstated to the Whitelist upon submission of a written notice of request to be reinstated and compliance with any of the applicable grounds:

1. Reversal of an Order of Cancellation and/or Suspension of license or disqualification from participating in the overseas employment program upon appeal before the Department Secretary;
2. Service of the penalty of suspension or payment of corresponding fines;
3. Grant of Clemency to a principal/employer who is penalized with the penalty of permanent disqualification from participation in the overseas employment program;
4. Lifting of the Documentary Processing Suspension;
5. Lifting of the Order of Preventive Suspension;
6. Lifting of temporary disqualification or delisting from watchlist upon voluntary appearance and filing of an Answer;
7. Removal from the list of persons with derogatory record;
8. Submission of a clearance as proof of acquittal or dismissal of the Illegal Recruitment or Trafficking in Person filed against him/her; or
9. Service of the penalty of three-month suspension after being delisted three (3) times during a single cycle of periodic review.

The concerned Bureau/Office/Unit that has issues or concerns regarding the grounds for the delisting of the entity shall evaluate the request and determine whether reinstatement is warranted.



VII. WHITELIST SYSTEM AND PERIODIC EVALUATION

The MITS has developed a Whitelist System for the encoding, monitoring, and updating of information / violations of the whitelisted entities/individuals, which will be used by the ESRD, AB, AKSYON Unit, LRB, and the relevant MWO.

The MITS shall be in charge of posting and maintaining the Whitelist in the DMW website. The list shall be updated daily to ensure that the most recent status/standing of the whitelisted entity/individual is reflected. Further, MITS shall ensure that information is in a secured environment and uneditable format, compliant with data privacy and data security policies.

On the other hand, the concerned offices shall conduct periodic performance review and audit and checking of the lists every six (6) months to ensure that all the information is updated and entities are compliant with the requirements set forth by these guidelines.

VIII. REPEALING CLAUSE

Previous issuances pertaining to the whitelisting requirements shall be deemed supplementary and shall retain full force and effect, provided they are not repugnant to or inconsistent with this Memorandum Circular. This Memorandum Circular serves to clarify and consolidate the existing legal framework.

IX. EFFECTIVITY

This Memorandum Circular shall take effect immediately.

For guidance of all concerned.


HANS LEO J. CACDAC
Secretary

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