

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
DEPARTMENT OF LABOR AND EMPLOYMENT OF THE
PHILIPPINES AND THE MINISTRY OF LABOR OF THE REPUBLIC
OF KOREA ON THE SENDING AND RECEIVING OF WORKERS TO
THE REPUBLIC OF KOREA UNDER THE EMPLOYMENT PERMIT
SYSTEM**

The Department of Labor and Employment of the Philippines and the Ministry of Labor of the Republic of Korea (hereinafter referred to as the "Parties"),

Respecting the principle of equality and mutual benefit,

Desiring to enhance the existing friendly relations between the two countries through cooperation in the field of labor affairs and human capacity building, and

Recognizing the benefits to be derived from such cooperation by both countries,

Have reached the following understanding.

PARAGRAPH 1. PURPOSE

The purpose of this Memorandum of Understanding (hereinafter referred to as "MOU") is to sustain the existing strong cooperation between the Parties and to increase transparency and efficiency in the process of sending and receiving Philippine workers to the Republic of Korea, by setting out the provisions for the two Parties to follow concerning the sending and receiving of workers under the Employment Permit System for Foreign Workers (hereinafter referred to as the "EPS") in the Republic of Korea.

PARAGRAPH 2. DEFINITIONS

For the purposes of this MOU

(1) The term "employer" refers to a business owner who obtains permission from the Ministry of Labor of the Republic of Korea (hereinafter referred to as the "MOL") to employ foreign workers pursuant to the Act on Foreign Workers' Employment of the Republic of Korea (hereinafter referred to as the "Foreigner Employment Act") or a person who carries out specific tasks as a proxy of the business owner.

(2) The term "job seeker" refers to a Philippine national who wants to work in the Republic of Korea pursuant to the Foreigner Employment Act.

(3) The term "worker" refers to a person who has signed or intends to sign a labor contract with an employer in the Republic of Korea for the purpose of working in the Republic of Korea for a certain period pursuant to the Foreigner Employment Act.

(4) The term "sending agency" refers to an agency which has the authority to recruit, select and send workers who want to be employed in the Republic of Korea pursuant to the Foreigner Employment Act.

(5) The term "receiving agency" refers to an agency which coordinates with the authorities in charge of screening and pre-qualifying employers and manages with the sending agency all matters pertaining to the entry of workers in the Republic of Korea pursuant to the Foreigner Employment Act.

Both Parties will comply with the following provisions to meet the purpose of this MOU.

PARAGRAPH 3. SENDING AGENCY

(1) The Department of Labor and Employment of the Philippines (hereinafter referred to as the "DOLE") will be the primary Philippine government agency responsible for recruiting, selecting and sending Philippine workers to the Republic of Korea. However, in implementing this MOU, the Parties agree that the Philippine Overseas Employment Administration (hereinafter referred to as the "POEA") is designated by the DOLE to act as the sending agency.

(2) The POEA is a subsidiary organization of the DOLE financed from the Philippine national budget and is directly involved in recruiting, selecting and sending Philippine workers and no other organization than the POEA can take part in the process under this MOU.

PARAGRAPH 4. RECEIVING AGENCY

The MOL will be the primary Korean government agency responsible for screening and pre-qualifying employers in Korea. However, in implementing matters pertaining to the entry of workers, the Parties agree that Human Resources Development Service of Korea (hereinafter referred to as the "HRD Korea") is designated by the MOL to act as the receiving agency.

PARAGRAPH 5. SENDING FEE

(1) The POEA shall ensure that workers are charged the actual expenses incurred in job application, selection and deployment. The determination of actual expenses shall be mutually agreed by the Parties.

(2) The POEA shall inform the MOL in advance pursuant to Paragraph 1 of the amount of the fee to be paid by every worker and shall deliver its list to the latter. The MOL can request the POEA to reduce the fee if the MOL deems that the fee includes unnecessary items or is assessed to be excessively high when considering Philippines economic situation (such as national income) and other countries' sending fees.

(3) The DOLE and the POEA shall publicly announce in the Philippines the fee that was agreed with the MOL. The MOL, when necessary, can investigate the fee and its composition paid by the Philippine workers that entered the Republic of Korea.

(4) When changes in the fee which has originally been agreed upon are inevitable due to inflation or other reasons, the POEA shall inform the MOL and consult on the matter in advance.

PARAGRAPH 6. ADVERTISEMENT OF THE EPS

(1)The DOLE and the POEA shall actively advertise the key contents and employment procedure of the EPS in the Philippines. Specifics such as the advertisement method and date will be jointly decided by the Parties and carried out accordingly.

(2) The DOLE and the POEA shall assist the MOL or the Human Resources Development Service of Korea (hereinafter referred to as the "HRD Korea") in advertising the EPS through means such as holding presentations in the Philippines.

PARAGRAPH 7. CONDUCT AND ADMINISTRATION OF THE KOREAN LANGUAGE PROFICIENCY TEST

(1)The MOL shall conduct the EPS Korean Language Proficiency Test {hereinafter referred to as the "EPS-KLT") for an objective selection of job seekers.

(2) General matters concerning the execution of the EPS-KLT such as public notification of the test question selection and the conducting of the test will be carried out by a agency authorized and announced by the MOL.

(3) Qualifications for the EPS-KLT are as follows ;

(a) persons aging from 18 to 39(inclusive);

(b)persons who have not been convicted of a crime punishable by imprisonment or a more severe punishment;

(c) persons who have no record of deportation or departure orders from the Republic

(d) persons who are not restricted from departure from the Philippines.

(4) The DOLE and the POEA shall advertise the EPS-KLT via public media for its smooth implementation and support the execution of the EPS-KLT pursuant to the "implementing Agreement between the Republic of Korea and the Philippines on the Conduct and Administration of the KLT" signed by both Parties.

(5) Other various matters related to the conduct and administration of the EPS-KLT such as the frequency, the execution procedure, test contents and limits of examinees will be decided by the Parties and carried out accordingly.

PARAGRAPH 8. RECRUITMENT AND SELECTION OF JOB SEEKERS

(1)The POEA will prepare job seekers' roster (hereinafter referred to as the "roster") and send it to the HRD Korea.

(2) When the POEA selects the workers who want to work in the Republic of Korea in order to prepare the job seekers1 roster the POEA will select job seekers who satisfy the following qualifications.

(a) persons who have passed the EPS-KLT recognized by the MOL; and

(b) persons who have passed the health examination determined by the MOL;

If the number of qualified job seekers exceeds the total number allocated to the Philippines, the selection will be made according to a method agreed on by the Parties.

- (3) The roster prepared by the POEA will include the following information:
- (a) job seeker's personal information (name, nationality, date of birth, identification number, passport number, etc.);
 - (b) desired employment conditions (wage, type of occupation, etc.);
 - (c) personal and career background (education, work experience, etc.); and
 - (d) information on the EPS-KLT taken by the job seeker (test agency test-date and score)

(4) The DOLE and the POEA will actively cooperate to shorten the time incurred in issuing a passport to facilitate a job seeker to obtain one-in advance and submit its copy when making a job application.

(5) In the selection process the POEA will inform the job seekers that their inclusion in the roster will not guarantee them a job in the Republic of Korea.

PARAGRAPH 9. MANAGEMENT OF JOB SEEKERS' ROSTER

- (1) The job seekers' roster is valid for one year.
- (2) The POEA will confirm the willingness to find jobs, the contact address, etc. of the job seekers listed in the roster every four months, and will inform the HRD Korea of any changes and the reason for the changes.
- (3) The HRD Korea can return the roster to the POEA if there is any error in the roster, and the POEA will correct those mistakes and send the roster back to the HRD Korea.
- (4) If there is any misconduct or false declaration in the process of the recruitment and selection of job seekers, the MOL can impose certain restrictions such as exclusion of the job seeker in question from the roster, reduction of the allocated number of job seekers to the Philippines, temporary suspension of sending workers or termination of the MOU.
- (5) The MOL will inform the DOLE by the end of March of each year of the types of occupations allowed under the EPS and the allocated number of job seekers.

PARAGRAPH 10. LABOR CONTRACT

- (1) The POEA will announce job seekers selected by employers via public media in the Philippines immediately after receiving the employer's draft of the labor contract from the HRD Korea.
- (2) The POEA will explain the content of the labor contract to each worker so that he/she can fully understand it and shall decide whether or not to sign the labor contract at his/her own will.
- (3) The POEA will inform the HRD Korea whether each labor contract has been signed by a worker, or if not signed, the reason for not signing the same within 14 days of receiving the labor contract. If the position on signing of labor contract is not conveyed within the given period, the HRD Korea can make it not signed through consultation with the employer.