

UNIFORM GUIDELINES FOR PROCESSING APPLICATIONS AND REQUESTS RELATIVE TO SPECIAL NON-IMMIGRANT VISAS UNDER SECTION 47 (A) (2) OF COMMONWEALTH ACT NO. 613, AS AMENDED

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WHEREAS, Section 47 (a) of Commonwealth Act (CA) No. 613, as amended, known as the Philippine Immigration Act of 1940, authorizes the President, in cases where public interest so warrants and under such conditions as may be prescribed, to waive immigration requirements and admit as non-immigrants, aliens who are coming to the country for a temporary period only;

WHEREAS, Administrative Order (AO) No. 142, s. 1994, issued pursuant to the President's continuing authority under Section 31 (2), Chapter 10, Title III, Book III of Executive Order (EO) No. 292 s. 1987 otherwise known as the Administrative Code of 1987, transferred to the Secretary of Justice or his duly authorized representative, all actions on immigration matters, including waiver of visas and admission of aliens, except deportation matters;

WHEREAS, Department Circular (DC) No. 35 s. 2009 designated the Chief State Counsel as the authorized signatory of Section 47 (a) 2 Visa Indorsements;

WHEREAS, there is a need for the Department to consolidate and adopt uniform guidelines for the judicious and efficient processing and disposition of applications and requests relative to Special Non-Immigrant Visas under Section 47 (a) (2) of CA 613, as amended.

WHEREAS, there is likewise a need to update the rates of legal fees for the processing of Section 47 (a) (2) visa applications as authorized under Section 3, Republic Act (RA) No. 9279, in relation to Section 54, Chapter 12 Book IV of EO 292 s. 1987, Batas Pambansa (BP) Blg. 235, and other laws, in order to cover the increased administrative costs for services rendered;

NOW, THEREFORE, pursuant to the provisions of existing laws, the following Guidelines are hereby promulgated;

SECTION 1. Persons eligible to apply for Section 47 (a) (2) Visas – Unless expressly excluded from entering the Philippines under Section 29 of CA 613, as amended, foreign nationals falling under the following categories may be issued Special Non-immigrant Visas under Section 47 (a) (2) of CA 613 as amended:

- a. Those employed as supervisors, specialists, consultants, contractors or personal staff at enterprises registered with Export/Special Economic Processing Zones or the Board of Investments;
- b. Those employed in enterprises that have existing agreement/s with the government, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries, for the completion of a project;
- c. Exchange professors, scholars, trainees, participants, students, fellows and social workers under sponsorship of locally or internationally recognized educational, scientific, cultural, relief and charitable organizations, institutions, agencies or foundations, including representatives of non-recognized foreign governments to any of the aforementioned organizations, institutions, agencies or foundations;

d. Volunteers who are registered with the Philippine National Volunteer Service Coordinating Agency, including foreign personnel of international rescue/aid organizations providing assistance on occasion of natural disasters and major emergencies;

e. Dependents of foreign nationals covered under any of the foregoing categories.

SECTION 2. Foreign Nationals granted Section 47 (a) (2) Visas by Philippine Embassies and Consulates abroad – Foreign nationals in whose favor the Philippine Embassy or Consulate abroad has issued Special Non-Immigrant Visas under Section 47 (a) 2 of CA 613, as amended, that are valid for single entry and have no fixed period of validity, shall file an application under Section 3 hereof for purposes of fixing the duration of their authorized stay in the Philippines; **PROVIDED That,** foreign volunteers registered with Philippine National Volunteer Service Coordinating Agency and in whose favor the Philippine Embassy/Consulate abroad has issued Special Non-Immigrant Visas under Section 47 (a) 2 of CA 613, as amended, that are valid for a fixed period of one (1) year from date of issuance thereof, shall be exempt from this requirement.

SECTION 3. Documentary requirements for Change of Admission Status - Applicants for change of admission status under Section 1 (a), (b), (c) and (d), and Section 2 of these guidelines, shall comply with the following documentary requirements:

A. Supervisors, specialists, consultants, contractors, personal staff – For supervisors, specialists, consultants, contractors and their personal staff, the application shall consist of the following documents:

1. Duly accomplished and notarized DOJ General Application Form and Checklist (Annex 1[*])

2. Sworn Certification and Undertaking executed by the sponsor, company stating that:

i. The foreign national subject of the application is being admitted to the Philippines pursuant to a contract entered into by the former with a government office, agency or subdivision, or with a private firm;

ii. The employment of the foreign national is required in the operation of the company, with an indication of the number and nationality of other personnel employed in the same category as that of the foreign national;

iii. The foreign national has no derogatory record or pending case against him in his domicile, in the Philippines, or in any other country where the foreign national has resided for the past five (5) years;

iv. The sponsor, company shall conduct an understudy program for the training of Filipino workers to effect transfer of appropriate technology on aspects of its operations for which the non-resident alien is being proposed for employment;

v. The sponsor, company shall secure clearance from PEZA, SEZ or BOI, whichever is applicable, before allowing the foreign national subject of the application to transfer employment to any company and/or take up any additional employment; and

vi. The sponsor, company shall notify the DOJ, copy furnished the PEZA, SEZ or BOI, whichever is applicable, within three (3) days from termination of employment of the foreign national.

3. Recommendations by the appropriate government office, agency or subdivision, or the private firm, utilizing the services of the foreign national subject of the application.

4. For PEZA or BOI registered companies, favorable recommendation from the PEZA or BOI, as the case may be.

5. Duly authenticated copies of the following documents:

i. Passport of the foreign national, which should be valid for a period of at least six (6) months at the time of

filing of the application, showing the admission stamp and period of authorized stay.

ii. Sponsor, company's Certificate of Registration issued by the appropriate government agency, if engaged in business.

iii. Contract or Agreement between the sponsor, company of the foreign national subject of the application and the government office, agency or subdivision, or the private firm.

B. Exchange professors, fellows, students, scholars, participants, volunteers and social workers under sponsorship of recognized local or international educational scientific, cultural, relief and charitable organizations, institutions, agencies or foundations, and representatives of non-recognized foreign governments to recognized international organizations – For exchange professors, fellows, students, scholars, participants, volunteers and social workers under sponsorship of recognized local or international educational scientific, cultural, relief and charitable organizations, institutions, agencies or foundations, including representatives of non-recognized foreign governments to recognized international organizations, the application shall consist of the following documents:

1. Duly accomplished and notarized DOJ General Application Form and Checklist (Annex 1)

2. Sworn Certification and Undertaking executed by the sponsor organization, institution, agency or foundation stating that:

i. The foreign national has no derogatory record or pending case against him/her in his/her domicile, in the Philippines, or in any other country where he/she has resided for the past five (5) years; and

ii. The sponsor organization, institution, agency or foundation shall notify the DOJ within three (3) days from termination of the program/scholarship/ studies of the foreign national.

2. Duly authenticated copies of the following documents:

i. Passport of the foreign national, which should be valid for a period of at least six (6) months at the time of filing of the application, showing the admission stamp, period of authorized stay, and when required, re-entry permit to port of embarkation or country of origin.

ii. Contract or agreement between the local sponsor and the foreign national, if any.

iii. Appointment of the foreign national by the host or receiving organization, institution or foundation.

iv. Acceptance of Appointment signed by the subject foreign national.

SECTION 4. Dependents - The dependent spouse and/or unmarried minor child/ren of the foreign national covered under Section 3 hereof, including those children born during the period of the latter's authorized stay, may apply for change of admission status or inclusion as dependents under Section 1 (e) of these Guidelines, subject to the following:

(A) Change of Admission Status of Dependents - Upon valid entry into the Philippines and during the period of their authorized stay, the spouse and/or unmarried minor child/ren of foreign nationals covered under Section 3 hereof may be applied for change of admission status, either separately or jointly with that of the principal foreign national, as follows:

I. Separate Application:

a. Duly notarized letter request signed by the sponsor, company, organization, institution, agency or foundation, and conformed to by the foreign national, his/her spouse and/or unmarried minor children;

b. Sworn affidavit executed by the sponsor, company, organization, institution, agency or foundation indicating

that:

- i. The dependent/s shall be guaranteed support and return fare, with attached proof of financial capacity for the said purpose;
- ii. The dependent/s have no derogatory record or pending case in his/her domicile, in the Philippines, or in any other country where he/she has resided for the past five (5) years;

c. Duly authenticated copies of the following documents:

- i. Documentary requirements and visa approval pertaining to the principal foreign national;
 - ii. Valid passport of the dependent spouse and/or unmarried minor child/ren.
 - iii. Marriage contract with the dependent spouse.
 - iv. Birth certificate/s of dependent unmarried minor child/ren.
- II. Joint application with that of the Principal – By including the documentary requirements under Section 4 (A) (I),(b) and (c) (ii, iii, iv) hereof, with those of the principal foreign national under Section 3 (A) or (B) of these Guidelines.

(B) Inclusion of Dependents – Child/ren born in the Philippines to the foreign national during the period of the latter's authorized stay pursuant to an existing Special Non-Immigrant Visa under Section 47 (a) 2 of CA 613, as amended, may be applied for inclusion as dependent/s under Section 1 (e) hereof, by submitting the following documents:

- i. Duly notarized letter request signed by the sponsor, company, organization, institution, agency or foundation, and conformed to by the foreign national;
- ii. Sworn affidavit executed by the sponsor, company, organization, institution, agency or foundation indicating that the dependent/s shall be guaranteed support and fare, with attached proof of financial capacity for the said purpose;
- iii. Duly authenticated copies of the following documents:
 - i. Documentary requirements and visa approval pertaining to the principal foreign national; and
 - ii. Valid passport and Birth Certificate of the dependent child/ren born in the Philippines.

SECTION 5. Extension of Section 47 (A) (2) Visa - Foreign nationals with existing Special Non-Immigrant Visas Under Section 47 (a) 2 of CA 613, as amended may, through their sponsor, company, organization, institution, agency or foundation, submit an application for the extension thereof by complying with the applicable documentary requirements under Section 3 of these Guidelines. Requests for extension of Special Non-Immigrant Visas issued in favor of dependents shall be included in the application of the principal foreign national.

All applications for the extension of Special Non-Immigrant Visas issued pursuant to DOJ approval shall be accompanied by a copy of the previous DOJ Indorsement.

SECTION 6. Implementation and Revalidation of DOJ Approval - In cases where the issuance of the Special Non-Immigrant Visa under Section 47 (a) 2, C 613, as amended, was not implemented after DOJ approval, the sponsor, company, organization, institution, agency or foundation may request for visa implementation or revalidation, as the case may be, by submitting the following documents:

1. a duly notarized letter request for visa implementation and revalidation, stating the reasons why the visa was not properly implemented;

2. Duly authenticated copy of the previously submitted DOJ General Application Form, Checklist and other documentary requirements upon which the DOJ approval for the issuance of visa was based;
3. Passport of the foreign national, which should be valid for a period of at least six (6) months at the time of filing, showing the admission stamp and period of authorized stay; and
4. Original DOJ indorsement approval.

SECTION 7. Authentication by the Legal Staff - The Office of the Legal Staff, Office of the Secretary, Department of Justice (OLS-OSEC-DOJ) shall require the presentation of the original of the documents that are required to be duly authenticated under Section 3 (A) 4 & 5 (B), Section 3 (B) 1 and 2 (b), Section 4 (c), and Section 6 (b) of these Guidelines, for purposes of authenticating the copies attached to the application or request: PROVIDED that, in lieu of authentication, the applicant may submit the original or certified true copies of the aforesaid documentary requirements together with the application or request; PROVIDED FURTHER that, the original passport shall in all cases be presented for OLS-OSEC-DOJ authentication.

Applications from PEZA or BOI registered companies that have been duly certified, recommended, indorsed and filed by the PEZA or BOI with the OLS-OSEC-DOJ shall be exempt from the authentication requirements under this section.

SECTION 8. Translation into the English Language - In case of documents that are in a language other than English, the OLS-OSEC-DOJ shall require the submission of its official written translation into the English language.

SECTION 9. Periods for filing applications and requests – Applications and requests under Sections 2, 3, 4, 5 and 6 of these Guidelines shall be filed at the OLS-OSEC-DOJ within the following periods:

- a. For the extension and fixing of duration of Special Non-Immigrant Visas issued by Philippine Embassies and Consulates abroad under Section 2. – The application shall be filed within ten (10) working days from the arrival of the foreign national in the Philippines.
- b. For change of admissions status under Sections 3 and 4 (A) – The application shall be filed at least fifteen (15) working days before the expiration of the entry visa.
- c. For inclusion of dependent/s under Section 4 (B) – The application shall be filed within a reasonable time during the principal's authorized stay.
- d. For extension of Special Non-Immigrant Visa under Section 5. The application shall be filed at least one (1) month prior to visa expiration.
- e. For implementation and revalidation of DOJ approval under Section 6. The request shall be filed within ten (10) working days after the arrival of the foreign national in the Philippines.

SECTION 10. Uniform procedure for processing applications and requests relative Special Non-Immigrant Visas under Section 47 (a) 2 of CA 613, as amended – Applications submitted in accordance with the provisions of these Guidelines shall be processed as follows:

1. Submission of General Application Form, Checklist and Supporting Documents - The sponsor, company, organization, institution, agency or foundation shall submit, in behalf of the foreign national, the duly accomplished General Application Form and Checklist, together with all the requisite supporting documents, to the OLS-OSEC-DOJ.
2. Verification and Authentication of Application and Supporting Documents; Issuance of Assessment Form – Upon receipt of the application, the OLS-OSEC-DOJ, through the State Counsel duly designated as

Officer-of-the-Day (OD), shall ascertain the completeness of the application, authenticate its supporting documents, and issue the corresponding Assessment Form in triplicate for the payment of the legal fees in accordance with Section 12 of these Guidelines.

The Assessment Form shall be issued only for applications that are complete in all documentary requirements as expressly certified by the OD. Applications with incomplete or unauthenticated documentary requirements shall be returned without action.

3. Payment of Legal Fees – Full payment of the legal fees as indicated in the Assessment Form shall be made to the DOJ Cashier. Upon receipt thereof, the DOJ Cashier shall (a) issue the Official Receipt (OR) to the filer, (b) indicate the OR Number, date and amount paid in the space provided in the Assessment Form, and (c) retain the duplicate copy thereof for the DOJ Cashier files.

The OLS-OSEC-DOJ shall (a) require presentation of the original OR; (b) ensure that the OR number, date and amount paid are clearly indicated in the space provided in the original and triplicate copies of the Assessment Form, (c) keep the original copy thereof for OLS-OSEC-DOJ file, (d) attach the triplicate copy to the application, and (e) forward the application complete with all documentary requirements to the evaluating State Counsel.

No application shall be accepted as filed pursuant to Section 9 hereof, or otherwise processed, without proof that the legal fees have been paid.

4. Evaluating, Recommendation and Review – Within two (2) working days from receipt of the application complete with all documentary requirements and proof of payment of legal fees, the evaluating State Counsel shall submit his/her recommendations thereon to the Assistant Chief State Counsel.

Within two (2) working days from receipt of the application and the evaluating State Counsel's recommendations, the Assistant Chief State Counsel shall review, finalize and submit the draft action document to the Chief State Counsel as designated authorized signatory under DC 35 s. 2009.

Pending departmental action on the application, the names and identities of the evaluating State Counsel and reviewing Assistant Chief State Counsel shall not be disclosed.

5. Departmental action; Implementation – Within two (2) working days from the Assistant Chief State Counsel's submission, the Chief State Counsel or such other senior DOJ official designated by the Secretary of Justice shall issue the appropriate departmental action on the application.

Within two (2) days from its issuance, the departmental action shall be transmitted to the Bureau of immigration for immediate implementation.

6. Period for Processing Applications – The period for processing an application, starting from the filing of the application up to the implementation of departmental action by the Bureau of Immigration, shall not exceed ten (10) working days.

SECTION 11. Validity of Special Non-Immigrant Visa - Subject to the provisions of existing laws, Special Non-Immigrant Visas issued pursuant to these Guidelines shall be valid for a fixed period not exceeding two (2) years, unless the services/training/ scholarship of the principal foreign national is sooner terminated. Such visas shall not be valid for purposes other than that specified in the DOJ indorsement approval, and may be extended at the discretion of the DOJ under Section 5 hereof.

SECTION 12. Rates of Legal Fees – Processing fees at the following rates shall be assessed and collected for each foreign national and/or dependent subject of the application filed pursuant to these Guidelines:

a. For change of admission status - P6,000.00

- b. For extension of Section 47 (a) (2) visa - P6,000.00
- c. For implementation/re-validation - P5,000.00
- d. For inclusion of dependents - P3,000.00

The fees assessed by the OLS-OSEC-DOJ shall be paid to the DOJ Cashier Office.

SECTION 13. Separability Clause; Construction - Should any provision of these Guidelines be declared invalid or unconstitutional, the provisions not so affected thereby shall continue in force and effect. Nothing in these Guidelines shall be construed to limit the authority of the Secretary of Justice over immigration matters as provided under existing laws and presidential issuances.

SECTION 14. Repealing Clause – Other orders, circulars, instructions, directives and memoranda inconsistent herewith are hereby amended, repealed or modified accordingly,

SECTION 15. Effectivity - These Guidelines shall take effect fifteen (15) days after the completion of its publication in at least two (2) newspapers of general circulation. Copies of these Guidelines shall likewise be filed at the UP Law Center, UP Law Complex, Diliman, Quezon City.

(SGD.) ALBERTO C. AGRA
Acting Secretary

[*]Text Available at Office of the National Administrative Register, U.P. Law Complex, Diliman, Quezon City.

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