GUIDELINES IN THE DEPLOYMENT AND EMPLOYMENT OF FILIPINO FOREIGN SHIPBUILDING WORKERS (FSW) UNDER THE FOREIGN SHIPBUILDING WORKER ACCEPTANCE PROGRAM (FSWAP), 1 APRIL 2015 TO 31 M...

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Pursuant to POEA Memorandum Circular No. 10, series of 2015, dated 31 July 2015, on the guidelines in the deployment and employment of Filipino Foreign Construction Workers (FCWs) under the Foreign Construction Worker Acceptance Program (FCWAP) of Japan, the following guidelines are hereby adopted in the deployment and employment of Filipino Foreign Shipbuilding Workers (FSWs) in Japan under the said Program:

I. Definition of Terms

a.

Shipbuilding Technical Intern Training Program (STITP) – refers to a Technical Intern Training activity of a foreign worker who has already acquired skills under Technical Intern Training and then aim to further master skills through technical intern training activity that are within the scope of job categories and works under provisions listed in the Immigration Act of Japan and those specified separately by the Ministry of Land, Infrastructure, Transport and Tourism (MLIT) which are limited to cases where shipbuilding companies are the organizations implementing technical intern training.

b.

Foreign Shipbuilding Worker (FSW) – refers to a worker who has completed the STITP and engaged in Designated Shipbuilding Activities or Individual Enterprise Type Designated Shipbuilding Activities as a worker employed under contract by his/her Accepting Shipbuilding Company or Individual Enterprise Type Accepting Shipbuilding Company.

c.

Designated Shipbuilding Activity (DSA) – refers to any of the activities that are designated by the Minister of Justice under provisions listed in the Immigration Act that are carried out by FSWs who are under employment contract with Accepting Shipbuilding Companies (ASC) and under the responsibility and supervision of their Designated Supervising Organizations (DSO).

e.

Accepting Shipbuilding Company (ASC) – refers to an enterprise experienced with implementing the STITP as a program organizer with certified supervision plan for accepting Foreign Shipbuilding Workers under labor contract to employ them for Designated Shipbuilding Activities.

f.

Designated Supervising Organization (DSO) – refers to an organization experienced with accepting technical training interns as supervising organization and who is also involved in supervising Designated Shipbuilding Activities.

g.

Sending Organization (SO) – refers to an entity certified by the government institute of each country or certified in accordance with the standard set by the government of the sending country. This refers to a duly registered Philippine organization/Philippine recruitment agency licensed by the POEA to select workers, provide pre-deployment education and send Foreign Shipbuilding Workers (FSW) under the Foreign Shipbuilding Worker Acceptance Program (FSWAP) of Japan.

h.

MLIT- refers to the Ministry of Land, Infrastructure, Transport and Tourism.

i. PRA - refers to a Philippine Recruitment Agency.

j.

Re-enter - to go back to the Philippines after having completed the STITP and then re-enter Japan to work in Designated Shipbuilding Activities or Individual Enterprise Type Designated Shipbuilding Activities.

II. Roles/Duties and Responsibilities of the Participating Organizations

A. Sending Organization

- Select appropriate FSW candidates through consultations with DSO in order to arrive at the best possible match between the FSW and the ASC, taking into consideration the requirements and conditions of each side;

- Implement applicable legal procedures in the Philippines in the selection, documentation, preparation of the documents required for the procedures for residence and deployment of FSWs to Japan;

- Inform prospective FSWs on the purpose and the system of the Foreign Shipbuilding Worker Acceptance Program (FSWAP), and the workers' duties and responsibilities;

- Monitor the condition and status of their deployed FSWs, through close coordination with the Designated Supervising Organizations on the enforcement of FSW contract, and for possible counselling and welfare assistance needed by their deployed FSWs; and

- Cooperate to solve problems, in accordance with the requests of workers and DSOs, in case of accidents, crimes, and FSW runaways. The SOs should also communicate with the FSWs onsite and their families in the Philippines.

B. Designated Supervising Organization

- Inspect and confirm the implementation state to clarify whether the Accepting Shipbuilding Company implements Designated Shipbuilding Activities properly based on Appropriate Supervision Plan, and instruct the Accepting Shipbuilding Company on the proper implementation thereof;

- Coordinate with Sending Organizations closely and find Accepting Shipbuilding Companies that accept workers;

- Regular confirmation on working situation;

- Establish consultation system to assist FSWs in need of consultations on life, work, job changing and other

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matters; and

- To cooperate with the POLO-Tokyo in the resolution of welfare and labor related problems involving Filipino FSWs.

C. Accepting Shipbuilding Company

- Notify DSO on the engagement of the FSW within two (2) weeks from the day the FSW started to be engaged in DSAs;

- Notify DSO on the resignation of the FSW within two (2) weeks from the day the FSW resigned;

- Report to the DSO in case the FSW becomes unable to conduct DSAs, and the measures to be taken;

- Make and keep a list and work log of FSWs for three-year storage after the completion of DSAs; and

- To cooperate with the DSO and POLO-Tokyo in the resolution of welfare and labor-related problems involving Filipino FSWs.

D. Foreign Shipbuilding Worker

- Be engaged in Designated Shipbuilding Activities in a sincere attitude in accordance with the instructions given by the supervising instructor and daily life advisor;

- Stay in Japan alone, and not bring over his/her family with the aim of living together;

- Not conduct any activity that is associated with income or payment, other than the one certified in the state of residence;

- Keep passport and carry the residence card at all times;

- Return home after the completion of Designated Shipbuilding Activities; and

- Effectively take advantage of the skills he/she acquired during technical intern training in the workplace and contribute to the development of the industry when he/she returns to the Philippines.

III. General Provisions on the Deployment and Employment of FSWs under the Foreign Shipbuilding Worker Acceptance Program of Japan

- Job Categories
There are nine (9) job categories and fifteen (15) works defined under the Foreign Shipbuilding Worker Acceptance Program. (Annex A)

- Period of Stay

- When residing in Japan after completing STITP - Two (2) years; and

- For those who have returned to the Philippines after completing STITP:

b.1

Two (2) years, when re-entry is within one (1) year since leaving Japan

b.2

Three (3) years, when re-entry is beyond one (1) year since leaving Japan

b.3

Maximum period of stay in Japan (as technical intern and FSW) - five (5) years

- Job/Employment Change

In case of job/employment change, it is required that the new DSO is certified by the MLIT as DSO, and the work in which the FSW is to be engaged is the same as the name of occupation and work the worker has completed in the STITP.

IV. Qualification Criteria/ Requirements for FSWs

Filipino workers who are interested to participate in the FSWAP must comply with the following requirements:

- must have participated in the STITP for approximately two years; and

- must have good conduct during the technical intern training program period.

V. Terms and Conditions of Employment

A Standard Employment Contract for FSWs (Annex B) shall be used in the processing of contracts of Filipino shipbuilding workers for employment under the Foreign Shipbuilding Worker Acceptance Program in Japan.

- Salaries

Salaries shall be the same or higher than the amount paid to Japanese workers who have the same level of skills. The estimated amount of salaries for FSWs must exceed the payment of technical intern trainees considering the fact that the FSWs have already stayed and trained in Japan and they need to be treated as “experienced workers”.

- Housing

Designated Supervising Organizations and Accepting Shipbuilding Companies should secure the house of the FSWs during their stay in Japan.

- In case the company collects accommodation fee from the FSWs, the following shall be considered:

a.1

the amount of accommodation fee should not exceed the market price of the apartment or other accommodations in the neighbourhood; and

a.2

the company needs to fully explain the breakdown/itemized amount of the accommodation fee.

- In case the company lends a single-family house to more than one FSWs on shared accommodation arrangement, the accommodation fee per person should not exceed the prescribed accommodation fee divided by the number of the people staying in the house.

- It is necessary to make the arrangement in advance on the amount each FSW will pay regarding the housing expenses up to the time the FSW returns home. Said expenses include repair/restoration costs in case of damage/s to the property during the FSW’s occupancy of the house.

- Electricity/gas/water and other bills should not exceed the amount the FSW used.

- Insurance

FSWs shall take out the following insurance:

- workers' accident compensation insurance for accident at work and on their way to work, chargeable to the employer;

- health insurance; and

- social insurance:

c.1

employees pension insurance for injury and disease in daily life, disability compensation, and bereaved family compensation; and

c.2

unemployment insurance.

Cost of health and social insurance shall be equally co-shared by the employer and the worker.

VI. Prohibition on Collection of Fees

- Collection of deposits from FSWs themselves or from their families is prohibited under the Foreign Shipbuilding Worker Acceptance Program.

- Collection of placement fees from the workers by SDOs for placement of FSWs is likewise prohibited.

- Sending organizations shall not collect from FSWs administrative fees to recover the cost of dispatch of FSWs. Such cost shall be charged to DSOs.

- No fee of any kind or form shall be collected, directly or indirectly, from the workers for their selection and placement under the FSWAP of Japan.

- No deductions shall be made on the worker's salaries/wages for any purpose except those prescribed and allowed by the government of Japan.

VII. Application for Certificate of Eligibility for FSWs

- Shipbuilding workers for employment under the Foreign Shipbuilding Worker Acceptance Program shall be issued Shipbuilding Worker visa category.

- DSOs that intend to accept FSWs who had returned to the Philippines after completing the STITP shall take the procedures to apply for COE for the Status of Residence.

- Technical interns who wish to be FSWs and who wish to continue to stay in Japan after completing the STITP, and FSWs who transfer or change ASC must immediately go through the application procedure for the permission of Status of Residence change for the issuance of new residence card.

- Those who wish to extend their Status of Residence must go through the procedures for the application for the permission of extension of residence. The application period is from approximately three (3) months before the expiration of the term of residence to the day of expiration of the term of residence.

VIII. Registration of Designated Supervising Organizations (DSOs) at the POEA

Designated Supervising Organizations (DSOs) and Accepting Shipbuilding Companies (ASCs) who are already registered with the POEA under the JITCO Industrial Training and Technical Internship Program shall register anew with the POEA under the new Foreign Shipbuilding Worker Acceptance Program (FSWAP).

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Requirements for registration shall be the following:

- Certificate of Accreditation by the POLO; and

- Copies of the documentary requirements verified and approved by the POLO in the grant of POLO accreditation:

b.1

Special Power of Attorney issued by the DSO to the PRA, or Recruitment Agreement between the DSO and the PRA;

b.2

Job order indicating the positions, number of positions to be filled up and salary per position, signed by duly authorized company representative/s;

b.3

Commercial registration and business license of the DSO;

b.4

Certification from the Ministry of Land, Infrastructure, Transport and Tourism (MLIT) of the DSO;

b.5

Certification of Appropriate Supervision Plan of the ASC by the MLIT; and

b.6

Master Employment Contract between the ASC and the worker.

IX. Approval of Additional Job Order

Additional job order for FSWs shall be approved upon presentation of the following documents:

- request from the DSO, as per request of the ASC; and

- additional job order indicating the positions, number of positions, and salary per position.

X. Validity of Registration

The registration of the DSO shall be for a maximum period of four (4) years, unless sooner revoked or cancelled by the POEA on any of the following grounds:

- expiration of the DSO's business license;

- upon written mutual agreement by the parties to pre-terminate their agreement;

- false documentation or misrepresentation in connection with the application for accreditation/registration;

- final judgment in a disciplinary action against the DSO, or

- cancellation of license of the SO/PRA.

XI. Dual Registration

A Designated Supervising Organization may be registered to a maximum of two (2) PRAs subject to the

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following conditions:

- a uniform, if not upgraded compensation package, shall be adopted by the DSO and the PRA through which it is seeking dual accreditation; and

- the DSO has a job order of at least 50 shipbuilding workers duly verified and recommended for approval by the POLO, or

- the DSO must have hired at least fifty (SO) workers within a period of one (1) year immediately preceding the request for dual registration.

XII. Issuance of Overseas Employment Certificate (OEC)

Pursuant to POEA Memorandum Circular No. 5, series of 2015 dated 17 April 2015, on the mandatory enrolment in the POEA e-Payment System, processing and issuance of overseas exit clearance to FSWs shall be through thee-Sub and e-Payment system.

XIII. Fees and Expenses

The following is a schedule of fees/expenses to be respectively paid by:

D. DSO

- Service fee to the PRA : open

- POEA Processing Fee : Php200.00

- OWWA Contribution : USD25 or Peso equivalent

- Visa Fee

- Final Medical Examination (if required)

- Airfare to and from the jobsite

- Compulsory Insurance Coverage for OFWs (USD72 per year of contract)

E. Worker

- Passport

- Clearances (Barangay/NBI)

- Preliminary medical examination

- Phil health Membership : Php 2,400/year of contract

- Pag-lbig Membership : Php 100 (minimum)

XIV. Change of Job/Transfer of Employment

Job change/transfer of employment at the jobsite shall be covered by the following:

- PRAs whose deployed Technical Interns opt to take up employment under the FSWAP immediately after their internship without returning home shall report such change of job/transfer of employment to the POLO and the POEA.

For this purpose, the POLO shall maintain a list of DSOs which have no record of POLO accreditation who hired

workers under such condition and report to the POEA.

- PRAs whose accredited DSOs have hired technical interns who opt to take up employment under the FSWAP immediately after their internship without returning home shall report such hiring to the POLO and the POEA.

These Guidelines shall take effect immediately and shall be published in a newspaper of general circulation and filed with the Office of the National Administrative Register.

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