NATIONAL ADMINISTRATIVE REGISTER · MAY 16, 1997

ISSUANCE OF ALIEN EMPLOYMENT PERMIT (AEP) TO FOREIGN NATIONALS TO BE EMPLOYED IN FIRMS REGISTERED WITH THE BOARD OF INVESTMENTS (BOI)

DOLE MEMORANDUM CIRCULAR NO. 01, S. 1997, May 16, 1997

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In the interest of the service and in line with the government's thrust to encourage foreign investments as a strategy to generate employment, the Department of Labor and Employment (DOLE), together with the Board of Investment (BOI) and the Bureau of Immigration (Bl) have entered into a Memorandum of Agreement (MOA) on October 24, 1996 for the purpose of liberalizing policies and procedures relative to the entry, stay and employment of foreign nationals in BOI registered enterprises.

This Memorandum Circular is hereby issued and shall serve as the guidelines for the Regional Offices of the Department of Labor and Employment in implementing Sections 2 and 4 of the Memorandum of Agreement pertaining to the undertaking of the Department of Labor and Employment.

1. For positions covered by the Understudy Training Program, the DOLE-Regional Offices shall process and evaluate the applications and issue the corresponding Alien Employment Permit within a period often (10) working days, after receipt of the complete requirements. The period of ten (10) working days is inclusive of the interview of the identified understudies of the applicant foreign national as well as the other processes necessary for the execution of the Understudy Training Program.

For positions not covered by the Understudy Training Program, processing and evaluation of application and issuance of Alien Employment Permit shall be for a maximum period of seven (7) working days.

2. The Bureau of Local Employment shall design a special card of Alien Employment Permits to be issued to foreign nationals who will be working in BOI-registered enterprises which shall serve as a basis for the Bureau of Immigration to grant the corresponding 9 (g) visa for a period of two (2) years.

3. Under no circumstances shall the Regional Offices process applications for AEP, within the context of this Memorandum Circular, unless the enterprise/firm applicant is in the list of BOI registered industries which list will be furnished by the Bureau of Local Employment to the Regional Offices.

4. The concerned DOLE Regional Office shall formally notify the Bureau of Immigration, copy furnished the Bureau of Local Employment, in case where the AEP issued to a foreign national is revoked/cancelled so that the Bl can effect appropriate actions in regard to the visa issued.

This Memorandum Circular takes effect immediately and supersedes any and all issuances inconsistent herewith.

For strict compliance.

Adopted: 16 May 1997

(SGD.) LEONARDO A. QUISUMBING
Secretary

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Attachment:

MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This MEMORANDUM OF AGREEMENT made and entered into at Metro Manila, Philippines this _ day _____ of 1996, by and among the:

BOARD OF INVESTMENTS, a government instrumentality duly organized and created pursuant to the laws of the Philippines, with principal office at 385 Sen. Gil J. Puyat Avenue, Makati City, duly represented by the Undersecretary and Managing Head, MELITO S. SALAZAR, JR., hereinafter called the BOI;

BUREAU OF IMMIGRATION, a government instrumentality duly organized and created pursuant to the laws of the Philippines, with principal office at Magallanes Drive, Intramuros, Manila, duly represented herein by Commissioner EDGARDO MENDOZA, hereinafter called the BI;

-and-

THE DEPARTMENT OF LABOR AND EMPLOYMENT, a government instrumentality duly organized and created pursuant to the laws of the Philippines, with principal office at Intramuros, Manila duly represented by the Undersecretary for Employment Promotion and Manpower Development, LIWAYWAY M. CALALANG, hereinafter called the DOLE.

WITNESSETH THAT:

WHEREAS, BOI-registered firms pursuant to the provision of EO 226 and other investment incentives laws such as Executive Order 197, series of 1969, may employ foreign nationals in supervisory, technical and advisory positions for a period of five (5) years from date of registration and be granted 47 (a)(2) visas;

WHEREAS, BOI-registered firms desiring to continue to employ foreign nationals in supervisory, technical and advisory positions after the lapse of the five (5) year incentive period may apply for a pre-arranged employment visa under Section 9 (g) and treaty trader/investor visa under Section 9 (d) of the Philippine Immigration Act (PIA);

WHEREAS, BI by virtue of the PIA of 1940, is authorized to approve petition for change of admission status to pre-arranged employment visa and treaty trader/ investor visa to qualified aliens who seek to come and work the country.

WHEREAS, DOLE by virtue of the Labor Code of the Philippines as amended, is tasked with the issuance of Alien Employment Permit (AEP) to non-resident foreign nationals, as a prerequisite for employment in the Philippines under Sec. 9 (g) of PIA of 1940;

WHEREAS, in line with the government thrust to encourage foreign investment, it is desirable to simplify procedures and facilitate processing of application for the issuance of visas to investors and their movement in and out of the country.

NOW, THEREFORE, for and in consideration of the foregoing premises the BUREAU OF IMMIGRATION, the BOARD OF INVESTMENTS and the DEPARTMENT OF LABOR AND EMPLOYMENT, through their respective representatives, have AGREED AS FOLLOWS:
SECTION 1. BI shall facilitate within a time frame of two (2) months the issuance of pre-arranged employment visa under Sec. 9 (g) of PIA to those who will work for BOI-registered firms and within a time frame of one (1)

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month the issuance of treaty trader/investor visa under Sec. 9 (d) of the same Act. The prescribed periods shall commence upon submission of complete requirements;
SECTION 2. DOLE shall facilitate within a time frame of ten (10) working days the issuance of the Alien Employment Permit (AEP) to applicants who will work for BOI-registered firms if the position requires an Understudy Training Program (UTP). However, if the position of the expatriate is elective or appointive and such position does not require a UTP, the time frame shall be reduced to five to seven (5-7) working days. The prescribed periods shall commence upon submission of complete requirements;

DOLE, through the Bureau of Local Employment, shall undertake a review of the Implementing Rules and Regulations on Alien Employment Permit System, and consider, among others, extending the validity of the Alien Employment Permit for foreign nationals working in BOI registered enterprises from one (1) year to two (2) years,
SECTION 3. BI shall facilitate the issuance of visas to those who will work for Regional Headquarters, within a time frame of five (5) working days which shall commence upon submission of complete requirements. It shall also exempt them from payment of all fees due under the immigration and alien registration laws, securing of clearances as required by any government department or agency, as provided for under Art. 59 of EO 226;
SECTION 4. The period of the initial grant of visa with multiple entry privilege under Sections 9 (g) and 9 (d) of the PIA, to be issued to foreign nationals who will work for BOI-registered firms shall be valid for two (2) years, provided, there is an AEP valid for one (1) year extendible to another one (1) year in the case of 9 (g) visa. With respect to the Emigration Clearance Certificate (ECC) and Special Return Certificate (SRC) to be issued to said foreign nationals temporarily leaving the country, such ECC and SRC shall be valid and co-terminus with the visa;

Visa extensions under Sections 9 (g), and 9 (d) of the PIA may be granted for another two (2) years by the Commissioner of Immigration upon proper petition with the BI. Provided, that in the case of 9 (g) visa, petition for its extension shall be filed with the BI at least two (2) months before its expiry date;

SECTION 5. BI shall provide a special lane at the NINOY AQUINO INTERNATIONAL AIRPORT (NAIA) for arriving and departing holders of 9 (g), 9 (d) and 47 (a)(2) visas, including holders of SIRV and RHQ visa under Art. 59 of EO 226;
SECTION 6. The BOI shall provide the Department of Labor and Employment, through the Bureau of Local Employment, a list of all BOI registered enterprises, and shall provide update on the said list every three (3) months thereafter;

The BOI shall provide office space and clerical support for a Makati Office for BI to be placed under the administrative supervision of the BOI One-Stop Action Center.

This Memorandum of Agreement shall be in full force unless sooner revoked, modified and/or terminated by these parties.

IN WITNESS WHEREOF, THE PARTIES HAVE SET THEIR HANDS AND AFFIXED THEIR SIGNATURES THIS 24TH DAY OF OCTOBER 1996 IN MANILA.

DEPARTMENT OF LABOR AND EMPLOYMENT:

(SGD.) CRESENCIO B. TRAJANO
Undersecretary

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BOARD OF INVESTMENTS:

BUREAU OF IMMIGRATION:

(SGD.) MELITO S. SALAZAR, JR.
Undersecretary & Management Head

(SGD.)EDGARDO MENDOZA
Commissioner

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