# RULES AND PROCEDURES IN THE ISSUANCE OF (1) ALIEN EMPLOYMENT PERMIT; (2) WORKING VISA; (3) CERTIFICATE OF EXEMPTION FROM AEP AND/OR WORKING VISA; AND (4) SPECIAL INVESTOR’S VISA...

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Adopted: 12 September 2014
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Pursuant to the provisions of Memorandum of Agreement[*] dated 9-12-14 on the rules and procedures on the issuance of alien employment permits and special visas for investors and employees in Aurora Pacific Economic and Freeport Zone, as well as DOLE Department Order No. 97-09, Series of 2009 entitled “Revised Rules for the Issuance of Employment Permits to Foreign Nationals,” Commonwealth Act No. 613 (Philippine Immigration Act of 1940), as amended, the Alien Registration Act of 1950, and other pertinent laws, the following rules are hereby promulgated:

RULE I
STATEMENT OF POLICY

Sec. 1. This Joint Memorandum Order shall be applicable to Aurora Pacific Economic and Freeport Zone (APEFZ), managed and operated by Aurora Pacific Economic Zone and Freeport Authority (APECO), which hereby authorizes the harmonization of policies, procedures, fees and charges on the issuance of alien employment permits, work permits and special visas to foreign investors, executives, and/or employees including their dependents, as defined and provided for in Republic Act No. RA 9490, as amended by RA 10083, as well as its implementing rules and regulations.

Sec. 2. By virtue hereof, all alien employment permits, work permits and special visas shall be deemed regular and valid within and outside the Aurora Pacific Economic and Freeport Zone (APEFZ). The Department of Labor and Employment and the Bureau of Immigration shall coordinate and cooperate with APECO in the speedy implementation of these rules and procedures.

Pursuant to Section 23 of RA 9490, as amended, the powers, authorities and functions that are vested in the APECO are intended to decentralize governmental functions and authority to promote an efficient and effective working relationship between the APEFZ, the national government, and the local government units.

RULE II
DEFINITION OF TERMS

Sec. 3. The following terms shall mean as follows:

3.1

APECO shall refer to Aurora Pacific Economic Zone and Freeport Authority, which is the operating arm of the Aurora Pacific Economic and Freeport Zone (APEFZ).

3.2

Alien Employment Permit (AEP) shall refer to the document issued by the Secretary of Department of Labor and Employment (DOLE), through the DOLE Regional Director who has jurisdiction over the APEFZ, authorizing a foreign national to work in APECO or in any of its registered enterprise. The AEP is a pre-requisite to the issuance of a Working Visa.

3.3

BI shall refer to the Bureau of Immigration.

3.4

DOLE shall refer to the Department of Labor and Employment.

3.5

APECO Dependent's Visa (ADV) shall refer to the visa issued by APECO to the legal spouse and dependent children of holders of a valid APECO Working Visa (AWV) and APECO Special Investor's Visa (ASIV). For this purpose, "dependent" shall mean unmarried children below 21 years of age, or unmarried children more than 21 years of age but are dependent for support due to mental or physical disability.

3.6

APECO Special Investor's Visa (ASIV) shall refer to the visa issued by APECO to foreign investors in APEFZ with a minimum investment of one hundred fifty thousand US dollars (US$150,000.00).

3.7

APECO Special Work Permit (ASWP) shall refer to the permit issued by APECO to aliens whose contract of employment is for a period of not more than one hundred eighty (180) days.

3.8

APECO Provisional Work Permit (APWP) shall refer to the permit issued to aliens for a maximum period of three (3) months or until a working visa has been issued in favor of the applicant.

3.9

APECO Working Visa (AWV) shall refer to the visa issued by APECO to aliens gainfully employed in APECO or in any of its registered enterprises.

RULE III
ISSUANCE OF AN ALIEN EMPLOYMENT PERMIT

Sec. 4. Coverage and Exemption.

4.1

Coverage. All foreign nationals who are appointed or designated as elective or non-elective officers, or contracted for employment by a registered enterprise in APEFZ shall secure an Alien Employment Permit (AEP). In any stage of the application for AEP, the foreigner may be represented by his employer or by an official liaison officer of APECO.

4.2

Exemptions. The following categories of foreign nationals are exempted from securing an AEP:


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-

All members of the diplomatic service and foreign government officials accredited by and with a reciprocity arrangement with the Philippine government;

-

Officers and staff members of international organizations of which the Philippines is a member, and their legitimate spouses desiring to work in the Philippines;

-

Foreign nationals elected as members of the Governing Board who do not occupy any other position but have only voting rights in the corporation;

-

Owners and representatives of foreign principals whose companies are accredited by the Philippine Overseas Employment Administration (POEA), who come to the Philippines for a limited period and solely for the purpose of interviewing Filipino applicants for employment abroad;

-

Foreign nationals who come to the Philippines to teach, present and/or conduct research studies in universities and colleges as visiting, exchange or adjunct professors under formal arrangements between the universities or colleges in the Philippines and foreign universities or colleges; or between the Philippine government and foreign government; provided that the exemption is on a reciprocal basis;

-

Permanent resident foreign nationals, probationary or temporary resident visa holders; and

-

All foreign nationals granted exemption by law.

Sec. 5. Procedure in the Processing of Applications for AEP.

5.1

Procedure. Applications for AEP shall be initially filed before APECO officials duly authorized to receive and process applications filed by registered enterprises in APEFZ.

Only applications with the following complete documentary requirements shall be received and acted upon by APECO for endorsement to the DOLE Provincial/Regional Office within eight (8) working hours from receipt of application:

(a)

Letter request;

(b)


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Duly accomplished application form;

(c)

Photocopy of passport stamped with valid visas;

(d)

Employment Contract for non-elective positions and Secretary's Certificate/Board Resolution on the election/appointment for elective positions;

(e)

Photocopy of the Permit to Operate (PTO)/Certificate of Registration (COR) issued by the APECO;

(f)

Photocopy of applicant's Taxpayer Identification Number (TIN);

Incomplete applications shall not be accepted by APECO or DOLE, as the case may be, without prejudice to re-filing upon the completion of the required documents.

Newly hired, elected or appointed officers may file an application for an AEP without penalty, within (fifteen) 15 working days after signing of the contract of employment, election or appointment or before the actual term of office.

5.2

Fees. Upon filing of application with the DOLE, the applicant shall pay a fee of Eight Thousand Pesos (P8,000.00) for each application for an AEP with a validity of one (1) year. In case the period of employment is for more than 1 year, an additional fee of Three Thousand Pesos (P3,000.00) shall be charged for every additional year of validity or a fraction thereof being considered one year. In case of renewal, the applicant shall pay a fee of P3,000.00 for each year of validity or a fraction thereof.

5.3

Publication. The DOLE Provincial/Regional Office shall publish applications for new AEPs, changes or additional positions in the same company or subsequent assignments in related companies, within two (2) working days upon receipt of application with complete documentary requirements. Any objection or information against the employment of the foreign national may be filed with the Provincial/Regional Office anytime during the foreign national's period of employment.

5.4

Processing period. Upon receipt of application, the authorized representative of the DOLE may conduct ocular inspection within 2 working days thereof to verify legitimacy of the employment of the foreign national. The


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DOLE shall process applications for AEP favorably endorsed by APECO and submitted for evaluation and approval and issue or deny an AEP within twenty four (24) hours after the compliance with the documentary and publication requirements, if necessary as well as the payment of fees and fines. Should the submission be made on the last working day of the week or immediately preceding a holiday, the application for AEP shall be approved or denied on the next business day.

5.5

Verification inspection. The authorized representatives of the DOLE Provincial Director may conduct verification inspections of establishments employing foreign nationals within 30 days after the issuance of the AEP to ensure that the foreign national is actually employed.

5.6

Renewal of Permit. An application for renewal of AEP shall be filed on or before its expiration.

In case of corporate officers, whose election or appointment takes place before the expiration of an AEP, the application for renewal shall be filed not later than 15 working days after election or appointment but not after the expiration of the AEP.

In case of corporate officers whose election or appointment will take place after the expiration of the AEP; the application for renewal shall be filed on or before the expiration of the AEP and shall be renewed for 1 year. In case the foreign national is not re-elected or re-appointed, the AEP shall be automatically revoked.

Within 15 working days after the date of election or appointment, the foreign national shall submit to the DOLE, the Board Secretary’s Certificate or Board Resolution of the Election or Appointment.

5.7

Validity of Permit. No Alien Employment Permit with a validity period of more than three (3) years shall be issued. AEP shall remain valid and effective unless cancelled or revoked by DOLE or upon termination of the alien’s contract of employment.

The validity of a new AEP shall commence on the date of its issuance, regardless of whether or not the foreign national has been working before the said date, while the validity of a renewed AEP shall be on the day following its expiration.

As a general rule, the AEP shall be valid only for the position and company for which the AEP is issued, except in cases of foreign nationals who are holders of multiple positions in one corporation, where one AEP shall be valid


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for such multiple positions.

An additional position or change of position of the foreign national in the same company or subsequent assignment in related companies during the validity or renewal of the AEP will be subject to the publication requirement and payment of a publication fee. However, a change of employer shall require an application for a new AEP.

Simultaneous employment of non-resident foreign nationals in other companies is prohibited.

5.8

Applications for AEP by foreign nationals who are holders of valid Working Visas issued by APECO, prior to the effectivity of this rule, shall be treated as an application for renewal of AEP and shall be subject to the corresponding fees.

5.9

Foreign nationals who will be employed in APECO or in any of its registered enterprises for a period not exceeding one hundred eighty (180) days, shall apply for an APECO Special Work Permit (ASWP). Holders of a valid ASWP shall be required to continuously update their Temporary Visitor's Visa which may be processed either in BI Angeles Field Office or in BI main office upon recommendation of APECO.

In the event that there is a need to extend said employment after the expiration of the ASWP, the foreign national shall apply for an AEP with the DOLE at least 21 working days before the expiration of said ASWP.

In cases where the contract of employment of the foreign national is terminated, the employer should immediately inform APECO and DOLE.

Sec. 6. Non-Acceptance of Application/Renewal for an AEP.

6.1

Applications for an AEP shall not be accepted by the APECO based on either of the following grounds:

-

Alien whose employer/locator has pending administrative/criminal cases; or

-

Expired PTO, COR and other business permits issued by the APECO.

6.2

Application for an AEP may be denied by the DOLE based on any of the following grounds:

-

Upon the recommendation of the APECO;

-

Misrepresentation of facts in the application;

-

Submission of falsified or tampered documents;

-

Foreign national has been convicted of a criminal offense or is a fugitive from justice; or

-

Availability of a Filipino who is competent, able and willing to do the job/services intended for the foreign national.

-

Denial of application for AEP shall cause the forfeiture of the fees paid by the applicant foreign national.

Sec. 7. Cancellation/Revocation of an AEP.

The DOLE may, motu proprio or upon petition, cancel or revoke the AEP based on any of the following grounds, after due process:

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Non-compliance with any of the requirements or conditions for which the AEP was issued;

-

Misrepresentation of facts in the application;

-

Submission of falsified or tampered documents;

-

Meritorious objection or information against the employment of the foreign national;

-

Foreign national has been convicted of a criminal offense or a fugitive from justice; or

-

Employer terminated the employment of the foreign national.

The DOLE shall inform the APECO of the AEP which has been suspended, cancelled or revoked.

Sec. 8. Effect of denial, cancellation or revocation of an AEP.

A foreign national whose application for an AEP has been denied/cancelled/ revoked, shall not be allowed to reapply with any of the DOLE Regional Offices, unless said foreign national has provided proof that the ground

for denial/ cancellation or revocation has been corrected.

Sec. 9. Appeal. Any aggrieved party may file an appeal with the DOLE Secretary within ten (10) days after receipt of the copy of denial/suspension/ cancellation/revocation order.

Sec. 10. Fines for Working Without an AEP.

The DOLE Regional Director shall impose a fine of Ten Thousand Pesos (P10,000.00) for every year or a fraction thereof on foreign nationals' found working without an AEP or with an expired AEP.

Employers found employing foreign nationals without a valid AEP shall also pay a fine of TEN THOUSAND PESOS (PhP10,000.00) for every year or a fraction thereof.

Newly hired, elected or appointed officers may file application for new AEP without penalty within fifteen (15) working days after signing the contract, election or appointment, or before the commencement of employment.

RULE IV
ISSUANCE OF WORK PERMITS AND VISAS

Sec. 11. Scope and Coverage

This Rule and the sections hereunder shall be applicable to the APECO and shall cover the processing of applications for the issuance of the following visas/work permits:

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APECO Special Work Permit (ASWP)

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APECO Provisional Work Permit (APWP)

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APECO Working Visa (AWV)

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APECO Dependent's Visa (ADV)

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APECO Special Investor's Visa (ASIV)

Sec. 12. Validity and Conditions of the Visa/Permit

12.1

An ASWP shall be valid for 180 days and may be renewed once.

12.2

The ASIV shall be valid while the investment of the alien in APEFZ remains at a minimum of One Hundred Fifty Thousand US Dollars (US$150,000).

12.3

The AWV shall be valid for a maximum of three (3) years, subject to its renewal. Its validity, however, should be


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co-terminus with the AEP.

12.4

The APWP shall be valid for three (3) months or until a working visa has been issued in favor of the applicant.

12.5

The ADV, which serves as an incentive to the AWV and ASIV holders, will be co-terminus with the validity of their principal's visa. The ADV shall be issued to the legal spouse and unmarried children below 21 years old and shall be subject to renewal. An ADV of a qualified child is valid until the holder reaches 21 years of age. An ADV holder need not secure a Special Study Permit or a Student Visa for purposes of studying in any schools in the Philippines duly accredited to accept foreign students.

12.6

All work permits and visas issued by APECO shall be valid within and outside the APEFZ, provided that the alien shall not engage in any kind of employment outside the territorial jurisdiction of the APEFZ.

Sec. 13. Documentary Requirements

13.1

APECO Special Work Permit (ASWP)

Applications for ASWP shall be subject to the following documentary requirements:

(a)

Notarized letter request from employer

(b)

Duly accomplished Application Form

(c)

Photo copy of Passport Bio page and latest immigration stamp

(d)

Letter of Appointment for Employment (not exceeding 6 months)

(e)

Copy of the Certificate of Registration or Permit to Operate

(f)

Bureau of Immigration Clearance Certificate

Applications for the renewal of an ASWP shall be subject to the following documentary requirements:

(a)

Notarized letter request from employer

(b)

Application form

(c)

Photo copy of Passport Bio page and latest immigration stamp

(d)

Bureau of Immigration Clearance Certificate

13.2

APECO Working Visa (AWV)

Applications for AWV shall be subject to the following documentary requirements:

(a)

Notarized Letter Request from employer with a declaration that foreign worker is in good medical and psychological condition

(b)

Duly accomplished Application form

(c)

Photo copy of Passport Bio page and latest immigration stamp

(d)

Certified true copy of a valid AEP

(e)

Bureau of Immigration Clearance Certificate

Application for renewal of AWV shall be subject to the same documentary requirements:

(a)

Notarized Letter Request from employer with a declaration that foreign worker is in good medical and psychological condition

(b)

Duly accomplished Application form

(c)

Photo copy of Passport Bio page and latest immigration stamp

(d)

Bureau of Immigration Clearance Certificate

(e)

Certified True Copy of a valid AEP


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13.3

APECO Special Investor's Visa (ASIV)

Applications for ASIV shall be subject to the following documentary requirements:

(a)

Notarized letter request signed by the Corporate Secretary with a sworn declaration that the applicant's investment amounts to at least US$150,000 or its peso equivalent, which shall be used within the APEFZ

(b)

Duly accomplished Application Form

(c)

Proof of investment of US$150,000 (the investment can be in the form of cash, bonds, stocks, capital investment, money market, and/or bank deposit)

(d)

Photo copy of Passport Bio page and latest immigration stamp

(e)

NBI Clearance

(f)

Bureau of Immigration Clearance Certificate

Sec. 14. Procedural requirements

The following are the procedural requirements in the processing of applications and the issuance of visas/permits.

14.1

Receiving, evaluation and approval of Applications. The APECO shall receive all applications with the supporting documents and evaluate the same for completeness and accuracy. For this purpose, APECO shall issue its rules of procedure in the processing and approval of permits and visas.

Upon receipt of the applications, the APECO shall immediately submit to the BI, basic information about the applicant for the purpose of conducting an initial derogatory check. Only duly authorized personnel of APECO shall be allowed to process visa applications and represent the applicant with other government agencies.

14.2

Conduct of Immigration Verification. The BI personnel shall conduct a verification of the applicant's derogatory record and immigration status.

14.3

Assessment and Payment of Fees. An Order of Payment Slip (OPS) shall be issued provided that the applicant has a valid passport and visa and is not among those included in the Bureau of Immigration's derogatory record.

The Applicant may by himself, or through the official liaison officer of APECO, pay the corresponding fees to the Immigration Cashier who shall issue an official receipt for the amount received.


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14.4

Issuance of BI Clearance. A certificate of no derogatory record shall be issued in favor of the applicant within 2 hours from the filing of the request for BI Clearance Certificate.

14.5

Approval and implementation of Visa/Permit. An approved visa or a computer - generated print stick-on visa with corresponding ACR number, visa number and Certificate of Residence for Temporary Visitors (CRTV) number, if applicable, shall be implemented on the passport of the applicant.

14.6

Releasing of permit/visa. Upon surrender of the claim stub, the passport with the implemented visa/permit shall be released to the applicant or to any duly authorized official of APECO.

For approved Investor's Visa, Working Visa or Dependent's Visa, an ACR I-card may be issued upon request of the applicant but after compliance with the applicable procedure.

14.7

Verification of approved visa. The ACR I-card Officer shall verify the approved visa or existing I-card of the applicant.

14.8

Information Capturing. The photo, fingerprint and signature of the subject shall be taken/captured.

14.9

ACR I-Card Releasing. ACR I-card shall be released to the applicant or his duly authorized representative within eight (8) working hours from receipt of the application and complete documentary requirements.

Sec. 15. Non-Acceptance of Application for Work Permits and Visas.

Application for work permit or visa may be denied by the APECO based on any of the following grounds:

(a)

Alien whose employer/locator has pending administrative/criminal cases;

(b)

Expired Permit to Operate, Certificate of Registration and other business permits issued by the APECO;

(c)

Foreign national has a derogatory record; or

Denial of application shall cause the forfeiture of the fees paid by the applicant foreign national.

Sec. 16. Suspension, Cancellation and Revocation of Work Permits and Visas

The work permits and visas may be suspended, cancelled and revoked by

APECO based on any of the following grounds:

(a)

for violation of immigration laws, rules and/or regulations;

(b)

The continued stay of the foreign national may result in damage to the interest of the industry or the country;

(c)

The employment of the foreign national is suspended by the employer or by order of the court;

(d)

Non-compliance with any of the requirements or conditions for which the work permit or visa was issued;

(e)

Misrepresentation of facts in the application;

(f)

Submission of falsified or tampered documents;

(g)

Foreign national has a derogatory record;

(h)

Employer terminated the employment of the foreign national; or

(i)

The application for another visa category at the option of the visa holder, who should apply for visa downgrading with BI.

APECO shall immediately inform the BI of suspended, cancelled or revoked work permits and visas.

In case of downgrading, the alien shall immediately surrender the ACR I- card to the OSS.

The downgrading, cancellation and revocation of the work permits and visas shall result in the cancellation of ACR I-cards and other immigration permits. Unauthorized use of cancelled work permits, visas, ACR I-cards and other immigration permits may result in blacklisting and/or deportation.

Sec. 17. Remedies in Case of Suspension, Cancellation or Revocation

Any aggrieved party may file a Motion for Reconsideration with the APECO, subject to rules and regulations it may prescribe.

RULE V
RESPONSIBILITY OF THE FREEPORT EMPLOYER/LOCATOR

Sec. 18. Upon termination or cessation of employment for whatever cause, APECO employers and/or locators shall, within 5 working days, inform the OSS of such termination or cessation of employment and when applicable, shall within the same period surrender the work permit/ACR I-card to the OSS. Failure to perform such obligation will be valid ground for denial of future work permit applications of prospective employees of the APECO employer and/or locator.

RULE VI

MISCELLANEOUS PROVISIONS

Sec. 19. Assignment of Personnel

APECO, BI and DOLE may assign permanent personnel at the AEP/visa/ work permit one stop shop office located within the APEFZ. The assigned personnel, if any, shall report during regular working days and within the official working hours.

In the absence of DOLE personnel assigned in the OSS, the processing of applications for AEP may be filed either before the DOLE Provincial office located in Baler, Aurora or directly to the DOLE Regional Office.

Sec. 20. Automation of Process

Manual procedures for the processing, issuance and recording of work permits and visas shall be automated. For this purpose, DOLE, BI and APECO shall provide the necessary resources and equipment for effective implementation of this Implementing Rules and Regulations.

Sec. 21. Joint Inspection and Monitoring

Representatives from DOLE or BI, together with representatives of the APECO, may conduct periodic and routine inspections to ensure proper and effective implementation of these rules and regulations.

In exceptional cases, BI and DOLE may conduct individual inspections upon prior notification and/or coordination with the APECO.

For ease of monitoring, DOLE and BI personnel assigned to the OSS shall submit reports of visa, permits or other documents issued in the APECO to their respective head offices, on a monthly basis or as often as necessary.

Sec. 22. Skills-and-Technology Transfer

APECO, BI and DOLE shall also undertake to review, create or amend policies governing alien employment within the APEFZ to pave the way for skills- and-technology-transfer between aliens who possess high technology skills and the Filipino labor market, thereby protecting jobs or providing more job opportunities for Filipinos.

Sec. 23. Upon recommendation of any of the parties concerned, these implementing rules and regulations may be amended accordingly.

If any of the provisions or part of this implementing rules or the application thereof is held invalid by the courts, the remaining valid provisions shall not be affected.

Sec. 24. This Joint Memorandum Order which lays down the rules and procedures in the processing of permits and visas to be issued by APECO shall take effect immediately.

9-12-14, Manila, Philippines

(SGD) ROSALINDA DIMAPILIS-BALDOZ
Secretary, Department of Labor and
Employment (DOLE)

(SGD) SIEGFRED B. MISON
Commissioner, Bureau of and Immigration (BI)

(SGD) GERARDO D. ERGUIZA
Chief Executive Officer


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Aurora Pacific Economic and Freeport Authority (APECO)

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

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