

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE DEPARTMENT OF LABOR AND EMPLOYMENT
OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES
(the "DOLE")

AND

THE DEPARTMENT OF LABOUR and IMMIGRATION
OF THE GOVERNMENT OF MANITOBA, CANADA
("LIM")

CONCERNING: CO-OPERATION IN HUMAN RESOURCE DEPLOYMENT AND DEVELOPMENT

WHEREAS the mandate of the DOLE is to promote gainful employment opportunities, develop human resources, protect workers and promote their welfare, maintain industrial peace, and manage the migration of Filipino workers for overseas employment;

WHEREAS the purpose of LIM is to protect workers through the enforcement of legislation governing employment standards, workplace health and safety, and worker recruitment, and to contribute to the economic and demographic growth of Manitoba through the implementation of provincial immigration, settlement, labour market and cultural integration strategies, programs and services;

WHEREAS the DOLE wishes to assist LIM in protecting workers and their families who migrate temporarily or permanently to Manitoba, and in the delivery of programs and services that contribute to their settlement and labour market success;

THEREFORE the DOLE and LIM (hereinafter jointly referred to as the "Participants") have reached the following understanding for their collaboration and cooperation in the exploration of opportunities for human resource deployment and development.

1. DEFINITIONS

(a) In this Memorandum of Understanding ("MOU"), the following definitions apply:

"Employer" refers to an employer in Manitoba, or a person or agency licensed as a "foreign worker recruiter" under the Manitoba *The Worker Recruitment and Protection Act* who acts on behalf of an employer in Manitoba, that has been approved to recruit under this MOU under a process established by LIM;

"Philippine-based Recruitment Agency" refers to a third-party recruitment agency in the Philippines that the DOLE has authorized or licensed to recruit and/or pre-screen Workers who choose to be employed in Manitoba and to facilitate the migration of those Workers to Manitoba, or where the Participants agree, the DOLE, in direct cooperation with the Government of Manitoba;

“**Worker**” refers to a Filipino national, whether residing within or temporarily outside the Philippines, who has signed or intends to sign an employment contract with an Employer with the objective to enter and work in Manitoba, either as a temporary foreign worker or as a permanent resident, but does not include Filipino nationals seeking to work in Manitoba as live-in caregivers or those already approved as Manitoba Provincial Nominees.

“**POEA Exit Clearance**” refers to the document issued to all Filipino workers processed at POEA, which comes in the form of either the Overseas Employment Certificate (OEC), E-receipt (electronic receipt), Multiple Travel Exit Clearance (MTEC) or OFW card. This document is presented on departure at the airport and exempts the worker from the payment of the Philippine travel tax and terminal fee.

- (b) Reference in this MOU to the DOLE shall, where appropriate, include its associated agencies:
 - i. The Philippines Overseas Employment Administration (POEA);
 - ii. The Overseas Workers Welfare Administration;
 - iii. The Technical Skills and Development Authority; and
 - iv. The Professional Regulation Commission.

2. PURPOSE

- (a) The purpose of this MOU is to clarify and articulate the Participants’ current intentions to promote and strengthen areas of co-operation in the fields of labour, employment and human resource development and employment.
- (b) The Participants intend to work together to enable Workers to enter Manitoba under a process that is effective and clearly communicated to Employers and Workers.
- (c) This MOU is not intended to be legally binding.

3. COOPERATION PRIORITIES

- (a) In facilitating this MOU, each of the Participants will make reasonable efforts to ensure the orderly, ethical recruitment and migration of Workers to Employers.
- (b) The Participants will regularly determine their shared priorities for collaboration and cooperation. This may include, but is not limited to, initiatives to:
 - I. ensure that the need of Employers for Workers with the appropriate skills are met through training and credential recognition activities;
 - II. expedite the approval of selected individuals for employment opportunities in Manitoba, including efforts to support the work of the Canadian visa office in Manila in its processing of Workers’ work permits and visas;
 - III. promote sound, ethical and equitable recruitment and employment practices;

- IV. share information to support initiatives, subject to privacy laws of the Participants; and ;
 - V. on prior agreement, explore a role for the International Organization of Migration to support the foregoing initiatives.
- (c) The Participants will confirm, in writing, their shared priorities for collaboration and cooperation through the Deputy Minister of LIM and the Undersecretary of Labor and Employment of the Government of the Republic of the Philippines. Once accepted by both Participants, the shared priorities will form an Annex to this MOU.
 - (d) In pursuing shared priorities for collaboration and cooperation, the Participants will act in compliance with their respective laws and regulations including, but not limited to: on the part of Manitoba, *The Employment Standards Code*, *The Worker Recruitment and Protection Act*, and *The Workplace Safety and Health Act*; and on the part of the Philippines, *the Philippine Labor Code*, as amended, and R.A. 8042, which is implemented by the 2002 Philippines Overseas Employment Administration (POEA) *Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Workers*, as well as amendments to such legislation.

4. EXCHANGE OF INFORMATION CONCERNING EMPLOYERS AND PHILIPPINE-BASED RECRUITMENT AGENCIES

- (a) LIM and DOLE will cooperate to facilitate linkages between registered Manitoba Employers and approved Philippine-based Recruitment Agencies through processes which ensure that all participants are informed concerning the specific occupations required by those Employers and any contractual arrangements formalized between Employers and Philippine-based Recruitment Agencies prior to the recruitment of Workers.
- (b) LIM will, on a regular basis, notify the DOLE of Employers qualified under a process approved by LIM to recruit and employ Workers under this MOU.
- (c) The DOLE will regularly provide LIM with a list of the Philippine-based Recruitment Agencies licensed or authorized by the DOLE to recruit Workers under this MOU.
- (d) The Participants intend that the Employers will communicate directly with the Philippine-based Recruitment Agencies regarding deployment of Workers to Manitoba.

5. RECRUITMENT AND SELECTION OF WORKERS

- (a) The DOLE will register and accredit the Employers to recruit and hire Workers.
- (b) The Philippine-based Recruitment Agencies will provide the Employers with the names and information on the relevant skill, experience and qualifications of pre-qualified Filipino nationals who wish to be employed as Workers and meet the requirements listed in subsection (e) below.
- (c) The Employers may select qualified Workers and provide the names of those Workers to the Philippine-based Recruitment Agencies. These Workers will then apply for Canadian

work permits and/or for nomination through the Manitoba Provincial Nominee Program.

- (d) The DOLE acknowledges that while the Government of Manitoba has an agreement with the Government of Canada with respect to provincial nomination for permanent residence, the Government of Canada retains final authority to determine applications for permanent residence and full authority over applications for temporary work permits. The Government of Canada has final authority to determine applications for temporary and permanent residence in Canada, including establishing policies, criteria and requirements and responsibility for processing operations and policies.
- (e) In order to pre-screen Workers before they apply for visas and work permits, the Participants will require that Workers referred to in the subsection (c):
 - (i) pass the medical health examination required by Citizenship and Immigration Canada for admissibility to Canada as a temporary or permanent resident, as applicable;
 - (ii) do not have a criminal record;
 - (iii) do not have an outstanding custody or divorce dispute that might render them ineligible to become a temporary or permanent resident of Canada;
 - (iv) have satisfactory English language competency as measured by a testing system determined by LIM; and
 - (v) have the skills and knowledge sought by Employers.
- (f) The DOLE, through the Philippine-based Recruitment Agencies, will develop mechanisms to facilitate the deployment of qualified Workers.
- (g) This section does not prohibit employers in Manitoba from selecting and hiring Filipino nationals without using the arrangements or structures developed under this MOU, provided that recruitment and hiring are conducted pursuant to the Philippine Labor Code. This section likewise does not preclude hiring between the Participants' respective governments.
- (h) The recruitment of Filipino temporary workers outside the Philippines shall be coursed through the nearest Philippine Overseas Labor Office (POLO).

6. COST OF RECRUITMENT OF WORKERS

The Participants intend that Employers will cover the costs related to hiring of Workers. Employers and Philippine-based Recruitment Agencies must not request, charge or receive, directly or indirectly, any payment from a person seeking employment in Manitoba, which contravenes *The Employment Standards Code* and/or *The Worker Recruitment and Protection Act*.

7. OFFERS OF EMPLOYMENT AND LABOUR CONTRACTS

- (a) The DOLE will require the Philippine-based Recruitment Agencies to conduct a mandatory orientation for Workers concerning the contents of the employment contract or written offer of employment sent by Employers to the Workers to ensure that the Workers have a clear understanding of the terms of their employment.
- (b) The DOLE will require the Philippine-based Recruitment Agencies to provide the Workers with a copy of the employment contract or written offer of employment. This employment contract will comply with *The Employment Standards Code, The Worker Recruitment and Protection Act*, as well as any terms and conditions set by the Government of the Province of Manitoba and the Department of Labor and Employment of the Republic of the Philippines.
- (c) LIM will provide the Dole specific orientation information that highlights the attributes of living and working in Manitoba, including information on workers' rights and benefits under provincial legislation.
- (d) The DOLE will issue a POEA Exit Clearance for a Worker based on confirmation from the Employer of that Worker, without requiring an original individual verified employment contract for that Worker.

8. PROTECTION OF WORKERS

The Participants intend to allow the Philippine Overseas Labor Office concerned in Canada to monitor Workers recruited under this MOU with the view to ensuring the protection and welfare of Workers under the existing laws and regulations in Canada and the Province of Manitoba.

9. HUMAN RESOURCE DEVELOPMENT

- (a) Both Participants will explore projects to sustain and promote human resource development in the Philippines. These will be identified as Cooperation Priorities, as described in Section B, and the Working Committee referenced in Section 10 will work to ensure that the implementation of these projects is guided by the principle that both Participants will see mutual benefit from the operation of these projects.
- b) LIM shall encourage support and assistance to the Philippines to improve labour market training in the Philippines accessible to workers migrating to Manitoba as well as those working in the Philippines, including returning overseas Filipino workers as far as practicable, in a manner similar to the programs and policy directions established by the Government of the Philippines.

10. WORKING COMMITTEE

The Participants will establish a Working Committee to coordinate activities on the implementation of the MOU, including their shared priorities. The Working Committee will be comprised of senior officials from the Philippines and Manitoba, who will articulate clear terms of reference including the membership of the group, timing and location of meetings, and appropriate mechanisms for reviewing the progress of cooperative activities.

11. COSTS

Unless otherwise agreed, each Participant will bear the costs resulting from its own participation in activities carried out in the furtherance of the objectives of this MOU. Nothing in this MOU will be construed as establishing a binding legal obligation to provide funds, goods, or services including funding, goods or services for a particular project within the areas of collaboration in Section 3 above. Funding for any project arising from participation in this MOU may be the subject of a future arrangement.

12. EFFECTIVE DATE, AMENDMENT AND TERMINATION

- (a) This MOU will come into effect on the date it is signed by the Participants and shall remain in full force and effect unless one Participant, through diplomatic channels and/or its Ministry, provides six (6) months notice in writing to the other Participant expressing its desire to suspend or terminate this MOU.
- (b) The MOU may be amended with the mutual written consent of the Participants. Any such amendments will come into effect on the date determined by the Participants.
- (c) In keeping with the purpose and scope of this MOU, each of the Participants will be open and transparent concerning their intention to enter into similar agreements with other jurisdictions respecting human resource development and deployment and will provide, at the other Participant's request, such other agreements made for that purpose.
- (d) During the term of this MOU, if a Participant concludes a similar agreement on human resource development and deployment with another jurisdiction, and if any provision of such agreement is more favourable to that third jurisdiction than what was negotiated in this MOU, the Participant which made a more recent agreement with a third jurisdiction agrees to give good faith consideration to amending this MOU in order to afford similar treatment to the other Participant, if requested by that other Participant.

13. PRIVACY

Each Participant will comply with any applicable privacy legislation in their jurisdiction regarding any personal information they receive about individuals from the other Participant pursuant to this MOU. This provision will survive the expiration or termination of this MOU.

14. CONFIDENTIALITY OF SENSITIVE INFORMATION THAT IS NOT PERSONAL INFORMATION

In addition to each Participant's responsibility to comply with any privacy legislation in its jurisdiction under section 3(b)(iv) and section 13, regarding sensitive information other than personal information, neither Participant will disclose any information or documents which comes to its knowledge or into its possession by reason of this MOU which the other Party has explicitly or implicitly indicated is being provided in confidence, and each Participant will treat confidentially all such information, documents or writing by the other Participant unless otherwise required pursuant to a judicial or legislative authority to which the respective Participant is subject. This provision will survive expiration or termination of this MOU.

15. NOTICE

Any notice under this MOU may be sent to the Participants as follows:

Ben Rempel
Assistant Deputy Minister
Manitoba Labour and Immigration
9 - 213 Notre Dame Avenue
Winnipeg, Manitoba, Canada, R3B 1N3
Phone: 204 945 8310
Fax: 204 948 2882
E-mail: Ben.Rempel@gov.mb.ca

Francisco B. Luna
Labor Attaché II
Philippine Overseas Labor Office
801 - 161 Eglinton Avenue East
Toronto, Ontario, M4P 1J5
Phone: 416 975 8252
Fax: 416 975 8271
E-mail: polotr@bellnet.ca

Signed in duplicate, at Makafi City this 21 day of September, 2010.

____ [Original signed by] _____ [Original signed by] _____

THE HONOURABLE GREG SELINGER
PREMIER
PROVINCE OF MANITOBA, CANADA

THE HONOURABLE ROSALINDA BALDOZ
SECRETARY OF LABOR AND EMPLOYMENT
REPUBLIC OF THE PHILIPPINES

For the Government of the
Province of Manitoba, Canada

For the Government of the
Republic of the Philippines

ANNEX

PRIORITIES FOR COLLABORATION AND COOPERATION

Pursuant to the MOU, the Participants confirm the following shared priorities for cooperation and collaboration:

A. Qualifications Recognition/Training Recognition

The Participants will support initiatives and co-operate with each other and the appropriate educational and credential issuing authorities to establish training and education programs in the Philippines that meet the requirements and standards necessary for entry into specific occupations in Manitoba and that will improve the education and training opportunities in the Philippines.

LIM in cooperation with Manitoba's other departments, as appropriate, will share with the DOLE the qualification requirements and competency standards that will facilitate recruitment and selection. LIM will also explore, together with the DOLE, the comparability of qualifications, recognition of credentials and mutual recognition of the skills and qualifications. Likewise, LIM will encourage the participation of Manitoba employers in the skills bridging and upgrading of Filipino workers bound for Manitoba.

The Participants will also explore the potential of:

- 1) Manitoba institutions partnering and/or training with Philippine post-secondary institutions to deliver Manitoba-recognized education programs in the Philippines; and
- 2) Developing mutually acceptable assessment and credential recognition systems.

B. Facilitating Expedited Processing of Applications for Work Permits and Visas

The Participants will support initiatives and co-operate with each other, the Philippine-based Recruitment Agencies and other appropriate organizations to develop mechanisms that will facilitate the work of the visa office at the Canadian Embassy in Manila to process work permit and visa applications for Workers.

The Participants aim to support expedited processing of Workers by the visa office while concurrently assisting and improving the effectiveness of the visa office in fulfilling its mandate to select and determine the admissibility of foreign nationals for temporary or permanent residence in Canada.

C. Enhanced Deployment Process

The Participants will work together to identify areas where the deployment of Filipino workers can be enhanced through improved information sharing between the Participants, among others.

D. Employer and Worker Awareness

The Participants will work together to ensure that the requirements for recruiting Filipino nationals are understood by employers, and that Filipino workers deployed to Manitoba are aware of their conditions of entry into Canada, and their rights and obligations in Manitoba.