

REVISED POEA RULES AND REGULATIONS GOVERNING THE RECRUITMENT AND EMPLOYMENT OF LANDBASED OVERSEAS FILIPINO WORKERS OF 2016

Question and Answer

I. Licensing and Regulation

Question: What is the required capitalization for a private entity to qualify for a grant of a POEA license? How does it affect existing licensees?

Answer: The sole proprietor and partnership shall have a minimum capitalization of Five Million Pesos (PhP5,000,000.00) and a minimum paid up capital of Five Million Pesos (PhP5,000,000.00) in case of a corporation.

Those with existing licenses shall, within four (4) years from effectivity hereof, increase their capitalization or paid up capital, as the case may be, to Five Million Pesos (PhP5,000,000.00) at the rate of Seven Hundred Fifty Thousand Pesos (PhP750,000.00) every year. (Section 2, Rule I, Part II)

Question: Who are disqualified to participate and engage in the recruitment and placement of workers for overseas employment?

- Answer:**
- a. Travel agencies and sales agencies of airline companies;
 - b. Officers or members of the Board of any corporation or partners in a partnership engaged in the business of a travel agency;
 - c. Corporations and partnerships, where any of its officers, members of the board or partners is also an officer, member of the board or partner of a corporation or partnership engaged in the business of a travel agency;
 - d. Individuals, partners, officers or directors of an insurance company who make, propose or provide an insurance contract under the compulsory insurance coverage for agency-hired Overseas Filipino Workers;
 - e. Sole proprietors, partners or officers and members of the board with derogatory records, such as, but not limited to the following:
 1. Those convicted, or against whom probable cause or prima facie finding of guilt is determined by a competent authority, for illegal recruitment, or for other related crimes or offenses committed in the course of, related to, or resulting from, illegal recruitment, or for crimes involving moral turpitude;
 2. Those agencies whose licenses have been revoked for violation of RA 8042 (Migrant Workers and Overseas Filipinos Act of 1995), as amended, PD 442 (Labor Code of the Philippines), as amended, and RA 9208 (Trafficking in Persons Act of 2003), as amended, and their implementing rules and regulations;
 3. Those agencies whose licenses have been cancelled, or those who, pursuant to the Order of the Administrator, were included in the list of persons with derogatory record for violation of recruitment laws and regulations; and
 - f. Any official or employee of the DOLE, POEA, OWWA, DFA, DOJ, DOH, BI, IC, NLRC, TESDA, CFO, NBI, PNP, Civil Aviation Authority of the Philippines

(CAAP), international airport authorities, and other government agencies directly involved in the implementation of RA 8042, as amended, and/or any of his/her relatives within the fourth civil degree of consanguinity or affinity. (Section 3, Rule I, Part VII)

Question: What is considered a new principal/employer under the Revised Rules?

Answer: New principal/employer refers to a principal/employer which has never been accredited/registered with any licensed recruitment agency or with the Administration and has been existing for at least a year; Provided, that in the case of a foreign placement agency, its client employer/s must be identified and must not have been accredited with any licensed recruitment agency or with the Administration. (Section 4 (c.i))

Question: What new documentary requirements are there in the application of a POEA license?

Answer: Employer's profile, individual affidavits of officials and personnel declaring that they have no conviction or pending criminal case for illegal recruitment or case involving moral turpitude, flowchart detailing the step by step recruitment procedures, four-year business plan detailing financial, market and operational viability, including projected income and risk management plan

Question: What is the validity of a new POEA license?

Answer: Provisional license shall be valid within a non-extendible period of two (2) years while regular license shall be valid up to the full term of four (4) years from the date of issuance of the provisional license.

Question: What restriction do a provisional licensees have in terms of deploying workers?

Answer: The agency granted with a provisional license shall not deploy domestic workers during the validity of the provisional license.(Section 12)

Question: What is the new provision on escrow during the renewal of license?

Answer: If during the renewal, the applicant has pending recruitment violation case/s before the Administration, an additional escrow deposit shall be required in accordance with the following schedule:

NO. OF PENDING CASE/S	ADDITIONAL ESCROW DEPOSIT
1 to 5	PhP50,000.00 per case
6 to 10	PhP75,000.00 per case
11 or more	PhP100,000.00 per case

The total escrow deposit shall, in no case, exceed Two Million Pesos (PhP2,000,000.00).

If in the succeeding renewal, the licensed recruitment agency has no pending case, the Administration shall allow the withdrawal of the additional escrow deposit. (Section 15 (b))

Question: What is an assessment and when it is conducted?

Answer: Assessment shall refer to the process of evaluating compliance with these Rules, labor laws and social legislation, undertaken by qualified labor laws compliance officers (LLCOs) using a prescribed checklist in accordance with the pertinent provisions of the Rules on Labor Laws Compliance System (LLCS) issued by the Secretary of Labor and Employment through Department Order No. 131-13. The Assessment shall include matters relating to the maintenance of requirements on capitalization/equity, office space, equipment, facilities, and postings.

The Assessment shall be conducted prior to the issuance of a license (post qualification assessment), upgrading of provisional license to a regular license, issuance of branch authority, renewal of license and branch authority, and transfer of office. The Assessment shall likewise be conducted once every two (2) years after renewal of license. Section 31(b)

Question: How does an SRA differ from the LOA?

Answer: Special Recruitment Authority refers to the authority granted to a licensed recruitment agency to conduct recruitment outside of its registered business address while Letter of Authority is issued by the Administration authorizing an accredited foreign principal or its representative/s to participate in the screening, interview and selection of applicants for their approved job orders, in places outside the registered business address of the licensed recruitment agency as indicated in the Special Recruitment Authority.

Question: What are the fees and costs chargeable to the overseas Filipino workers?

Answer: The Overseas Filipino Worker shall pay the following fees and costs:

- a. Documentation costs:
 1. Passport;
 2. NBI/Police/Barangay Clearance;
 3. NSO authenticated birth certificate;
 4. Transcript of Records and diploma issued by the school, certified by the CHED and authenticated by the DFA;
 5. Professional license issued by the PRC, authenticated by the DFA;
 6. Certificate of Competency issued by TESDA or other competent certifying body for the job applied for; and
 7. DOH prescribed medical/health examination, based on the host country medical protocol.
- b. Membership with Philhealth, Pag-Ibig and the Social Security System. (Section 50)

Question: What is the amount of placement fee that could be charged against the overseas Filipino workers?

Answer: A placement fee that may be charged against the Overseas Filipino Worker should only be equivalent to one (1) month basic salary specified in the POEA approved contract.(Section 51)

Question: Who are exempted from paying the placement fee?

Answer: The following are exempted from paying the placement fee:
a. Domestic workers; and
b. Workers to be deployed to countries where the prevailing system, either by law, policy or practice do not allow, directly or indirectly, the charging and collection of recruitment/placement fee.(Section 51 (a&b))

Question: When should the placement fee be paid?

Answer: The worker shall pay the placement fee to the licensed recruitment agency only after signing the POEA-approved contract and the agency must issue a BIR-registered receipt stating the date of payment and the exact amount paid. (Section 51)

Question: Who will pay for premium for the compulsory insurance coverage?

Answer: The licensed recruitment agency shall be responsible for the payment of the premium for the compulsory insurance coverage under Section 37-A of RA 8042, as amended. (Section 52)

Question: What are the fees and costs chargeable to the principal?

Answer: The costs of recruitment and placement shall be the responsibility of principal/employer, which cover payment for the following:

- a. Visa, including the stamping fee;
- b. Work permit and residence permit;
- c. Round trip airfare;
- d. Transportation from the airport to the jobsite;
- e. POEA processing fee;
- f. OWWA membership fee; and
- g. Additional trade test/assessment, if required by the principal/employer. (Section 53)

Question: To whom and when can the LAC issue OECs or Travel Exit Document?

Answer: The Administration may issue OEC at the LAC only to the following

- a. Workers on special/emergency leave; and

b. Cabin crew / flight attendants. (Section 73)

Question:	Are there additional acts that constitute Illegal Recruitment under the Revised Rules?
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Answer: The following are the acts that also constitute illegal recruitment:

1. To arrange, facilitate or grant a loan to an Overseas Filipino Worker with interest exceeding eight percent (8%) per annum, which will be used for payment of legal and allowable placement fees and make the migrant worker issue, either personally or through a guarantor or accommodation party, postdated checks in relation to the said loan;
2. To impose a compulsory and exclusive arrangement whereby an Overseas Filipino Worker is required to avail of a loan only from specifically designated institutions, entities or persons;
3. To refuse to condone or renegotiate a loan incurred by an Overseas Filipino Worker after the latter's employment contract has been prematurely terminated through no fault of his/her own;
4. To impose a compulsory and exclusive arrangement whereby an Overseas Filipino Worker is required to undergo health examinations only from specifically designated medical clinics, institutions, entities or persons, except in the case of a worker whose medical examination cost is shouldered by the principal;
5. To impose a compulsory and exclusive arrangement whereby an Overseas Filipino Worker is required to undergo training, seminar, instruction or schooling of any kind only from specifically designated institutions, entities or persons, except for recommendatory trainings mandated by principals where the latter shoulder the cost of such trainings;
6. For a suspended recruitment agency to engage in any kind of recruitment activity including the processing of pending workers' applications; and
7. For a recruitment agency or a foreign principal/employer to pass on to the Overseas Filipino Worker or deduct from his/her salary the payment of the cost of insurance fees, premium or other insurance related charges, as provided under the compulsory worker's insurance coverage.(Section 76 (p-v))

II. Placement by the Private Sector

Question:	What are the rules in the accreditation of principal/employer?
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Answer: The following rules shall govern in the accreditation of principals/employers:

- a. All documents for accreditation shall be verified by the POLO.
- b. In the absence of the POLO, the documents shall be duly authenticated by the Philippine Embassy/consulate which has jurisdiction over the jobsite.
- c. In cases where there is no Philippine Embassy or Consulate in the jobsite, the principal/employer may submit the documents to the Administration for attestation. (Section 95)

Question: Can the accreditation of foreign principals/employers be at the done at the Philippine Embassies in the worksite?

Answer: Yes. The authority to accredit foreign principals/employers may be delegated to the POLOs in countries/territories where it has jurisdiction.

Question: What are the grounds for the suspension of accreditation by the POLO?

Answer: The POLO may suspend accreditation based on any of the following grounds:

- a. Unjustified refusal to assist/repatriate distressed Overseas Filipino Worker/s;
- b. Deliberate violation/non-compliance of the principal/employer with its contractual obligations to its hired Overseas Filipino Worker/s;
- c. Continued processing and deployment of the Overseas Filipino Workers for the principal/employer will lead to the further exploitation of any or all of its applicants and Overseas Filipino Workers or pose imminent danger to the lives and safety of its Overseas Filipino Worker/s; or
- d. When found to have hired and employed an Overseas Filipino Worker who is either a minor or below the prescribed minimum age requirement.(Section 101)

Question: What are the grounds for the revocation of the accreditation and registration?

Answer: The POLO or the Administration shall automatically revoke the accreditation of a principal/employer on any of the following grounds

- a. Expiration of the principal's/employer's business license or cessation of business or recruitment activity, after a period of one (1) year from expiration or cessation;
- b. Upon written mutual agreement by the principal/employer and the licensed recruitment agency to terminate the agreement;
- c. When the principal/employer is meted the penalty of disqualification from participation in the overseas employment program; and
- d. Failure to comply with the undertaking submitted as requirement for accreditation.(Section 104)

Question: What are the requirements for the transfer of accreditation?

Answer: The accreditation of a principal/employer may be transferred to another licensed recruitment agency, provided, that:

- a. There is no downgrading of the compensation package adopted by the principal with the licensed recruitment agency to which it is currently/previiously accredited;
- b. The transferee agency shall assume full and complete responsibility for all contractual obligations of the principal/employer to the Overseas Filipino Workers originally recruited and deployed by the former licensed recruitment agency, by submitting to the POLO or to

- the Administration, as the case may be, an undertaking to that effect;
and
- c. The principal/employer must have no pending disciplinary action case.

For this purpose, any accreditation within six (6) months immediately following its cancellation by the principal/employer shall be deemed a transfer of accreditation.(Section 109)

Question:	How could the suspension of accreditation be lifted?
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Answer: The Administrator may, upon recommendation by the ILAB-DOLE, reinstate the authority to accredit a principal/employer.(Section 113)

Question:	What are the documentary requirements for the processing of agency-hires?
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Answer: The following documents shall be submitted for contract processing and documentation of new hires:

- a. Request for processing (RFP) using the POEA-prescribed form indicating the following:
 1. name of OFW;
 2. position;
 3. salary;
 4. contract duration;
 5. job site;
 6. particulars of certificate of cover of mandatory insurance; and
 7. name of principal based on the POEA-approved master employment contract.
- b. Passport valid at least six (6) months from the intended date of departure;
- c. Valid and appropriate visa;
- d. Individual verified employment contracts for low/semi-skilled workers;
- e. One-page summary of the contract for other highly-skilled and professional Overseas Filipino Workers containing the following basic contract provisions:
 1. name, birthdate, and sex of the worker;
 2. name of employer;
 3. job site;
 4. position;
 5. basic salary, overtime pay, and allowances;
 6. food and accommodation;
 7. contract duration; and
 8. mandatory insurance provider and certificate of cover/policy number.
- f. Pre-Employment Orientation Seminar (PEOS) and Pre-Departure Orientation Seminar (PDOS) Certificates;
- g. Certificate of medical fitness issued by DOH-accredited medical clinics for OFWs;

- h. Educational attainment; and
- i. TESDA Skill Certification.(Section 117)

Question: What are documentary requirements for the processing of domestic workers?

Answer: The following documents shall be submitted for contract processing and documentation of newly hired domestic workers

- a. Request for processing (RFP) using POEA prescribed form indicating the following:
 - 1. name of OFW;
 - 2. position;
 - 3. salary;
 - 4. contract duration;
 - 5. job site;
 - 6. particulars of certificate of cover of mandatory insurance; and
 - 7. name of the foreign placement agency and the employer.
- b. Passport valid at least six (6) months from the intended date of departure;
- c. Valid and appropriate visa;
- d. Individual verified employment contract;
- e. Pre-Employment Orientation Seminar (PEOS), Pre-Departure Orientation Seminar (PDOS), and Comprehensive Pre-Departure Education Program (CPDEP) Certificates;
- f. Certificate of medical fitness issued by DOH-accredited medical clinics for OFWs; and
- g. TESDA Skill Certification. (Section 118)

Question: What is the validity of the overseas employment certificate and the period to deploy a documented OFW?

Answer: An OEC shall be valid for sixty (60) days from date of issuance within which period the licensed recruitment agency shall deploy its documented Overseas Filipino Workers. (Section 121)

Question: Who is a returning overseas Filipino worker?

Answer: Returning Worker or Balik-Manggagawarefers to an Overseas Filipino Worker who has served or is serving his/her employment contract and is:

- a. returning to the same employer and the same job site; or
- b. returning to the same employer in a new job site.

It shall also include an Overseas Filipino Worker who has started employment with a new employer and is returning to the said employer.

Question: What are the requirements for the registration of the returning overseas Filipino worker?

Answer: Section 122. - Registration of Returning Overseas Filipino Workers. — A. The registration of the returning Overseas Filipino Workers as defined in these Rules shall be through on-line or by submission of the following documents to the Administration or to the POLOs for registration:

1. Passport valid at least six (6) months from the date of intended departure;
2. Valid and appropriate visa or work permit; and
3. Certificate of insurance coverage similar to the benefits provided under the mandatory insurance coverage contained in Section 37-A of RA 8042, as amended, at the option of the Overseas Filipino Worker.

B. For returning Overseas Filipino Workers who are not registered with the Administration or who changed employers on-site, the following additional requirements shall be required:

1. Proof of existing employment such as payroll slip or valid company identification card;
2. Existing employment contract;
3. Affidavit stating the circumstances regarding the deployment; and
4. Certificate of insurance coverage similar to the benefits provided under the mandatory insurance coverage contained in Section 37-A of RA 8042, as amended, at the option of the worker.

C. In case of issuance of multiple OECs, its validity shall depend on contract duration.

Question: Who are exempted from the ban on direct hiring?

Answer: Section 124. - Exemption from the Ban on Direct Hiring. — The following are exempted from the ban on direct hiring:

- a. Members of the diplomatic corps;
- b. International organizations;
- c. Heads of state and government officials with the rank of at least deputy minister; or
- d. Other employers as may be allowed by the Secretary of Labor and Employment, such as:
 1. Those provided in (a), (b) and (c) who bear a lesser rank, if endorsed by the POLO, or Head of Mission in the absence of the POLO;
 2. Professionals and skilled workers with duly executed/ authenticated contracts containing terms and conditions over and above the standards set by the POEA. The number of professional and skilled Overseas Filipino Workers hired for the first time by the employer shall not exceed five (5). For the purpose of determining the number, workers hired as a group shall be counted as one; or
 3. Workers hired by a relative/family member who is a permanent resident of the host country.

Question: What are the documentary requirements for the registration of workers exempted from the ban on direct hiring?

Answer: Section 125 Documentary Requirements for Registration of Overseas Filipino Workers Hired by Employers who are Exempted from the Ban on Direct Hiring. — The Overseas Filipino Workers hired by those employers exempted from the ban on direct hiring may be registered by the Administration upon submission of the following documents:

- a. Verified/authenticated original employment contract which is over and above the POEA-prescribed employment contract;
- b. Passport valid at least six (6) months from the date of intended departure;
- c. Valid and appropriate visa or work permit;
- d. Certificate of medical fitness;
- e. Proof of certificate of insurance coverage covering at least the benefits provided under Section 37-A of RA 8042, as amended;
- f. Certificate of attendance to the required employment orientation/briefing; and
- g. Clearance from the Secretary of Labor and Employment for those covered under Section 124 (d) of these Rules.

The Administration shall ensure that the worker is made fully aware of the terms and conditions of the employment contract and the advantages and disadvantages of direct-hiring.

III. Placement by the Administration

Question: What are the fees and costs chargeable to principal/employer?

Answer: Section 129. Fees and Costs Chargeable to Principal/Employer.— Unless otherwise provided by law, regulations, or bilateral agreement or arrangement, the principal/employer shall be responsible for the payment of the following:

1. Visa and/or work permit fee;
2. Air fare;
3. POEA processing fee; and
4. OWWA Membership contribution.

Question: What are the fees and costs chargeable to overseas Filipino workers?

Answer: Section 130. Fees/Costs Chargeable to the Overseas Filipino Workers.— Unless otherwise provided by law, regulations, or bilateral agreement or arrangement, the Overseas Filipino Worker shall pay for the following documentation costs:

1. Passport;
2. NBI/police/barangay clearance;

3. Authentication/notarization;
4. Birth certificate;
5. School credentials;
6. Trade test/assessment, if necessary;
7. Medical/health examination; and
8. Inoculation, when required by host country.

Question: What could answer for monetary claims of the workers recruited through the government-to-government arrangement?

Answer: Section 131. Foreign Employer's Guarantee Fund. — For Overseas Filipino Workers recruited through a government-to-government arrangement, the Administration shall, through relevant guidelines, establish and administer a Foreign Employer's Guarantee Fund (FEGF) which shall be answerable for the Overseas Filipino Workers' monetary claims arising from breach of contractual obligations. The same must be included in bilateral agreementson government-to-government hiring

Question: Are there limitations to POEA's government-to-government arrangement?

Answer: Section 133. Parameters for Government-to-Government Hiring.— The Administration shall recruit and place workers for foreign employers under the following parameters and criteria:

- a. As may be requested and specified by the foreign government employer;
- b. As a ready "good will vehicle" for prospective employers endorsed by diplomatic missions or as a result of high-level meetings; and
- c. For new or novel markets or alternative manpower mobilization arrangements on a pilot or experimental basis, or for hiring projects triggered by certain recruitment violations and exploitative practices of licensed recruitment agencies.

IV. Employment Standards

Question: What are the minimum provisions of an employment contracts?

Answer: The following shall be the minimum provisions in employment contracts for Overseas Filipino Workers:

- a. Complete name and address of the employer/company;
- b. Position and jobsite of the Overseas Filipino Worker;
- c. Basic monthly salary, including benefits and allowances and mode of payment. The salary shall not be lower than the prescribed minimum wage in the host country or prevailing minimum wage in the National Capital Region of the Philippines, whichever is higher;
- d. Food and accommodation or the monetary equivalent which shall be commensurate to the cost of living in the host country, or off-setting benefits;
- e. Commencement and duration of contract;

- f. Free transportation from and back to the point of hire, or off-setting benefits, and free inland transportation at the jobsite or off-setting benefits;
- g. Regular work hours and day off;
- h. Overtime pay for services rendered beyond the regular working hours, rest days and holidays;
- i. Vacation leave and sick leave for every year of service;
- j. Free emergency medical and dental treatment;
- k. Just/valid/authorized causes for termination of the contract or of the services of the workers, taking into consideration the customs, traditions, norms, mores, practices, company policies and the labor laws and social legislations of the host country.
- l. Settlement of disputes;
- m. Repatriation of worker in case of imminent danger due to war, calamity, and other analogous circumstances, at the expense of employer; and
- n. In case of worker's death, repatriation of Overseas Filipino Workers human remains and personal belongings, at the expense of the employer. (Section 135)

V. Recruitment Violations and Disciplinary Action Cases

Question:	What is the exclusive and original jurisdiction of the POEA?
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Answer: The Administration shall exercise original and exclusive jurisdiction to hear and decide all cases which are administrative in character, involving or arising out of violations of recruitment rules and regulations, including refund of fees collected from Overseas Filipino Workers and any violation of the conditions for the issuance of the license to recruit Overseas Filipino Workers.

The Administration shall likewise exercise original and exclusive jurisdiction to hear and decide disciplinary action cases against Overseas Filipino Workers and principals/employers that are administrative in character, excluding money claims. (Section 138)

Question:	Is conciliation of complaints mandatory?
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Answer: Before docketing, the Administration or the POLO, shall mandatorily conciliate any complaint involving an Overseas Filipino Worker, licensed recruitment agency, or principal/employer relating to overseas employment. (Section 139)

In case of money claims, the same will also be conciliated in accordance with the Single Entry Approach (SEnA). (Section 135)

Question:	What are the cases not subject to Single Entry Approach (SEnA)?
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Answer: The following cases are not subject to SEnA:

- a. Cases referred by the POLO or any other government agency;
- b. Cases initiated by the Administration; and
- c. Cases involving acts of misrepresentation for the purpose of securing a license.(Section 139)

Question:	What are the recruitment violations considered as serious offenses and the corresponding penalty?
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Answer: I. SERIOUS OFFENSES are those that, by their nature and effect, are punishable by cancellation of license.

- a. Knowingly deploying a minor.
- b. Engaging in acts of gross misrepresentation for the purpose of securing a license or renewal thereof, such as violation of the Anti-Dummy Law, or giving false information or fictitious documents in relation to a matter that is material for the approval of the license application or renewal.
- c. Engaging in an act of reprocessing by documenting workers through a job order that pertains to: (1) non-existent work; (2) positions different from the actual overseas work or for positions different from the actual visa category, unless covered by an undertaking of visa usage by the licensed recruitment agency and an affidavit of awareness and consent by the worker, and a job description signed by the worker and approved by the Administration; or (3) a different principal/employer whether or not accredited with the POEA.
- d. Engaging in the recruitment or placement of workers in jobs declared by the Administration as harmful to public health or morality or to the dignity of the Republic of the Philippines.
- e. Transfer or change of ownership or control of a single proprietorship licensed to engage in overseas employment.
- f. For the sole proprietor, partner, or officer/s or member/s of the Board of any licensed recruitment agency to become an officer or member of the Board of any corporation or partnership engaged directly or indirectly in the management of a travel agency.
- g. Charging and collecting of placement fee for deployment to countries where the prevailing system, either by law, policy or practice does not allow the charging and collection of placement and recruitment fees as determined by the Administration.
- h. Charging and accepting directly or indirectly any amount greater than that specified in the schedule of allowable placement fees, or when such charging or collection is prohibited by any law, rules or policy, or making a worker pay

or acknowledge any amount greater than that actually received by him/her as loan or advance.

- i. Passing on to the worker fees and costs chargeable to the principal/employer.
- j. Deploying workers whose employment and travel documents were not processed by the Administration.
- k. Allowing a non-Filipino citizen to head or manage, directly or indirectly, a licensed recruitment agency. For this purpose, "heading or managing" a licensed recruitment agency.

Question:	What are the recruitment violations considered as less serious offenses and the corresponding penalties?
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Answer: II. LESS SERIOUS OFFENSES are those that by their nature and effect are punishable by the penalty of suspension to cancellation of license.

- a. Knowingly deploying a worker below the minimum age requirement.
- b. Charging, imposing and accepting directly or indirectly, any amount of money, goods or services, or any fee or bond for any purpose whatsoever before employment is obtained for an applicant worker.
- c. Collecting any fee from a worker without issuing the official receipt clearly showing the amount paid and the purpose for which payment was made.
- d. Engaging in any other acts of misrepresentation in connection with recruitment and placement of workers, such as furnishing or publishing any false notice, information or document in relation to recruitment or employment.
- e. Obstructing inspection by the Secretary, the Administrator or their duly authorized representatives.
- f. Substituting or altering, to the prejudice of the worker, a POEA-approved employment contract, from the time of actual signing thereof by the parties up to and including the period of the expiration of the same, without the approval of the POLO or POEA.
- g. Withholding or denying release of travel or other pertinent documents from a worker despite demand.

Plus return of the documents, or refund of the cost of the documents that the licensed recruitment agency failed to return.
- h. Engaging in recruitment activities in places other than that specified in the license or branch authority without a special recruitment authority.
- i. Appointing or designating, representatives or employees without notice to the Administration, in accordance with Section 27 of these Rules.
- j. Allowing an accredited principal/employer or its representative to conduct or participate in recruitment activities outside the registered business address of

the licensed recruitment agency without prior approval from the Administration.

- k. Allowing persons who are disqualified to participate in the overseas employment program under existing laws, rules and regulations to participate in the ownership, management and operation of the recruitment agency.
- l. Failure to reimburse expenses incurred by the worker in connection with his/her documentation and processing for purposes of deployment, where deployment does not take place without any fault on the part of the worker.
- m. Failure to comply with any of the undertakings submitted to the Administration in relation to Section 4(F).
- n. Imposing a compulsory and exclusive arrangement whereby an OFW is required to undergo health examinations, training, seminar, instruction or schooling of any kind only from specifically designated institutions, entities, or persons or medical clinics, as the case may be, unless the cost is shouldered by the principal or licensed recruitment agency.
- o. Imposing a compulsory and exclusive arrangement whereby an OFW is required to avail of a loan from a specifically designated institution, entity, or person.
- p. Refusing to condone or renegotiate a loan incurred by an OFW after the latter's employment contract has been prematurely terminated through no fault of his/her own.
- q. Facilitating, arranging or granting of a loan to an OFW with interest exceeding eight percent (8%) per annum which will be used for payment of legal and allowable placement fees and making the OFW issue, either personally or through a guarantor or accommodation party, postdated checks in relation to the said loan.
- r. Failure to monitor and report significant incidents regarding the condition and status of the deployed worker in relation to Section 209.
- s. Collecting any amount as payment for documentation costs not prescribed by these Rules or other issuances of the Administration, or an amount greater than the actual documentation costs, as covered by official receipts issued by entities which received the payments.
- t. Falsifying or altering employment or travel documents of applicant worker.
- u. Inducing a worker already pre-qualified/ contracted, whether deployed or not, to withdraw from or to abandon his/her employment in order to offer him/her another, unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment.
- v. Willful disobedience of lawful orders, notices, or other legal processes issued by the Administration.
- w. Failure to submit reports as required under the rules and other issuances of the Administration.

Penalty:

1stOffense — Suspension of License (Two Months to

		Six Months)
2 nd Offense	—	Suspension of License (Six Months and One day to One year)
3 rd Offense	—	Suspension of License (One year and One day to Two years)
4 th Offense	—	Cancellation of License

Question:	What are the recruitment violations considered as light offenses and the corresponding penalties?
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- Answer: III. LIGHT OFFENSES are those that by their nature and effect are punishable by the penalty of reprimand to suspension of license.
- a. Influencing any person or entity not to employ any worker who has not applied for employment through his/her agency, or influencing any person or entity not to employ any worker who has formed, joined or supported, or has contacted or is supported by any union or workers' organization;
 - b. Failure to actually deploy a contracted worker within sixty (60) days from the issuance of OEC without valid reason.
 - c. Violations of other pertinent provisions of the Labor Code and other relevant laws, rules and regulations, guidelines and other issuances on recruitment and placement of workers for overseas employment and the protection of their welfare.

Penalty:		
1 st Offense	—	Reprimand
2 nd Offense	—	Fine of PhP20,000.00
3 rd Offense	—	Suspension of License (One month to Three months)
4 th Offense onwards	—	Suspension of License (Three months to Six months)

Question:	What are grounds for the disciplinary action against principal/employer and considered as serious offenses?
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- Answer: SECTION 144. Grounds for Disciplinary Action Against Principals/Employers and Penalties. — Commission by a principal/employer of any of the offenses below shall be a ground for disciplinary action for which the corresponding penalty shall be imposed.
- I. The following are SERIOUS OFFENSES with their corresponding penalties:
- a. Unauthorized/unjustified collection of fee or illegal exaction from an Overseas Filipino Worker through whatever means, including salary deduction.
 - b. Passing on to the worker or deducting from the Overseas Filipino Worker's salary the payment of the cost of the premiums, as provided under the compulsory worker's insurance coverage.
 - c. Gross negligence leading to serious injury or illness or disability or death of the Overseas Filipino Worker.
 - d. Grave misconduct against the Overseas Filipino Worker.

- e. Conviction of an offense against the Overseas Filipino worker.
- f. Compelling an Overseas Filipino Worker to work for another principal/employer or in another jobsite/worksites, or perform work different from what is provided in the contract.
- g. Unreasonable/unjustifiable delay and refusal in securing an exit visa for an Overseas Filipino Worker who needs to be repatriated.
- h. Non-payment or underpayment of wages and benefits.
- i. Substitution or alteration of the POEA-approved contract to the prejudice of the Overseas Filipino Worker.
- j. Violation of the Anti-Human Trafficking Law.

Question:	What is the penalty for serious offenses by the principal/employer?
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Answer: Permanent disqualification and delisting from the roster of accredited principals/employers.

Question:	What are considered less serious offenses of the principal/employer and the corresponding penalties?
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Answer: II. The following are LESS SERIOUS OFFENSES with their corresponding penalties:

- k. Default on other contractual obligations to the Overseas Filipino Worker.
- l. Withholding or denying of the worker's travel and other pertinent documents.
- m. Non-acceptance of the results of valid health examinations conducted by a DOH-accredited or DOH-operated clinic.
- n. Failure to monitor and report the status, condition, or significant events relating to its hired worker.
- o. Negligence leading to injury or illness of the worker.
- p. Simple misconduct against the worker.

Penalty:

- | | |
|---------------------------|---|
| 1 st Offense — | Suspension from participation in the overseas employment program (Six months to One year) |
| 2 nd Offense — | Permanent Disqualification and delisting from the roster of accredited principals/employers |

Question: What are grounds for the disciplinary action against overseas Filipino workers and considered as serious offenses?

Answer: Section 145 (I) Grounds for Disciplinary Action and their Penalties. — Commission by an Overseas Filipino Worker of any of the offenses enumerated below shall be a ground for disciplinary action for which the corresponding penalties shall be imposed:

I. SERIOUS OFFENSES:

A. Pre-Employment Offenses

- a. Submitting, furnishing or using false information or documents or any form of misrepresentation for the purpose of job application or employment.
- b. Unjustified refusal to continue his/her application after signing an employment contract, or to depart for the worksite after all employment and travel documents have been duly approved by the appropriate government agencies.

Penalty:

- 1st Offense — Suspension from participation in the overseas employment program (Six months to One year)
- 2nd Offense — Suspension from participation in the overseas employment program (One year and one day to Two years)
- 3rd Offense — Permanent Disqualification from participation in the overseas employment program.

B. Offenses during Employment

- a. Commission of a felony, or crime punishable by the laws of the Philippines or by the host country, committed during employment.
- b. Assaulting a fellow worker, the principal/employer or any member of his/her family, or any of the directors, officers, managerial or supervisory staff of the principal/employer.
- c. Grave abuse of authority by an officer exercising supervision over other employees.
- d. Possession or use of prohibited drugs, contraband, alcohol or pornographic materials in violation of company policy or laws of the host country.
- e. Unjustified refusal to be repatriated in case of mandatory repatriation in accordance with the declaration of the Philippine government.

Question: What are the penalties for serious offenses by the overseas Filipino workers?

Answer: **Penalty:**
1st Offense — Suspension from participation in the overseas employment program (Six months to One year)

- 2nd Offense — Suspension from participation in the overseas employment program (One year and one day to Two years)
- 3rd Offense — Permanent Disqualification from participation in the overseas employment program.

Question: What are considered less serious offenses by the overseas Filipino workers and the corresponding penalties?

- Answer: II. LESS SERIOUS OFFENSES
- f. Unjustified breach of employment contract.
 - g. Embezzlement of company funds or monies and/or properties of a fellow worker entrusted for delivery to kin or relatives in the Philippines.
 - h. Violation of the religious and cultural practices of the host country.
 - i. Violation of company policies and regulations.
 - j. Insubordination or refusal to obey a lawful order of the employer or the duly authorized representative.
 - k. Failure to refund the cost of his/her repatriation advanced by the principal or recruitment agency, where termination of employment was due to his/her own fault as determined by final judgment.
 - l. Violation of the Code of Discipline for Overseas Filipino Workers.
Penalty:
 - 1st Offense — Suspension from participation in the overseas employment program (Two months to Six months)
 - 2nd Offense — Suspension from participation in the overseas employment program (Six months and One day to One year)
 - 3rd Offense — Permanent Disqualification from participation in the overseas employment program.

Question: What are the grounds for the issuance of Order of preventive suspension?

- Answer: SECTION 168. Grounds for the Issuance of Order of Preventive Suspension.—
- (1) For the recruitment agency:
 - a. There exist reasonable grounds to believe that the continued operation of the licensed recruitment agency will lead to further violation or exploitation of workers being recruited or will adversely affect friendly relations with any country or will prejudice national interest; and
 - b. The evidence of guilt is strong that there is a case for violation of the pertinent provisions of the Labor Code, its implementing rules and regulations, and POEA Rules and Regulations pertaining to serious or less serious offenses as described in these Rules or any issuance of the Administration.
 - (2) For a Foreign Principal/Employer:
 - a. When the evidence of guilt is strong; and
 - b. There is reasonable ground to believe that the continued deployment to the principal will result in further violation or exploitation of Overseas Filipino Workers.

- (3) For a Migrant Worker:
- a. When the evidence of guilt is strong; and
 - b. The charge involves a serious offense.

Question: On what instance could the POEA issue an Order of preventive suspension even without prior notice and hearing?

Answer: **Deployment of minor**

Question: What are the conditions before an order of preventive suspension could be issued on recommendation of embassy/POLO, IACAT and PTF AIR?

Answer: The Administration may likewise issue an Order of Preventive Suspension upon recommendation of the embassy/POLO, or when recommended by any government agencies who are members of the Inter-Agency Council Against Trafficking (IACAT) or the Presidential Task Force Against Illegal Recruitment (PTFAIR), supported by a detailed report, sworn statement/s of worker/s, and other evidence; Provided that, the concerned party shall be given a period of five (5) days from receipt of the Show Cause Order within which to file an Answer/Explanation. Failure to file such Answer/Explanation within the prescribed period may result in the imposition of Order of Preventive Suspension on the agency concerned. No Motion for Extension to file an Answer/Explanation shall be allowed. Section 169 (c)

Question: What are the instances when an Order of preventive suspension could be issued against a principal/employer?

Answer: The Administration may, upon docketing of the case against a principal or employer, issue an Order of Preventive Suspension in the following instances:

- a. When there are five (5) or more complainants and the nature of the offense involves serious or less serious offense;
- b. When the worker involved is an underage migrant worker;
- c. When the worker dies or suffers severe physical/psychological maltreatment or sexual abuse in the course of the employment; or
- d. When recommended by the embassy/POLO supported by a detailed report and sworn statement/s of workers.

In case of a foreign placement agency, an Order of Preventive Suspension shall be issued on the basis of direct or indirect participation in the above-mentioned circumstances. Section 169 (C 3rd parg)

Question: What is the period for the Administrator to render a decision from the receipt of the Order of preventive suspension?

Answer: The Administrator shall render a decision within ninety (90) days from the date of receipt of the Order of Preventive Suspension. Otherwise, the suspension shall be deemed lifted without prejudice to the outcome of the investigation. Section 169 (last parg)

Question: What is the effect of an Order of preventive suspension?

Answer: An Order of Preventive Suspension, Suspension or Cancellation of License shall have the effect of suspending or terminating all activities of the recruitment agency which fall under the definition of recruitment and placement, including the processing of pending contracts of applicant workers. The suspension or cancellation shall not, however, affect the transfer of accreditation of the principal/employer to another licensed recruitment agency. (Section 170)

Question: What is the penalty when a case involves five or more complainants?

Answer: The penalty of cancellation of license shall be imposed upon a respondent agency found liable for committing a less serious or light offense against five (5) or more workers in a single case. (Section 174)

Question: What are the conditions for the grant of clemency to principal/employer?

Answer: The Administration may, upon motion by the principal/employer, grant clemency to a principal/employer who is penalized with the penalty of disqualification from participation in the overseas employment program, provided, that the following conditions exist:

- a. the respondent is a first time offender;
- b. the respondent did not commit a serious offense;
- c. the claims against respondent have been settled;
- d. the offended party has pardoned the respondent; and
- e. the principal/employer has the capacity to provide decent employment for Overseas Filipino workers.

The respondent may file a Motion for Clemency in lieu of an appeal. The filing of a Motion for Clemency shall be deemed a waiver of the right to appeal, or the automatic withdrawal of a pending appeal. (Section 182)

Question: What are the conditions for the grant of clemency to an overseas Filipino worker?

Answer: The Administration may, upon motion, grant clemency to an Overseas Filipino Worker who is penalized with the penalty of disqualification from participation in the overseas employment program, provided, that any of the following conditions exists:

- a. The offense committed does not involve a serious offense, or crime involving moral turpitude, misrepresentation or theft; or
- b. There is a settlement of claims or the complainant has condoned the acts of respondent. (Section 183)

Question: What are the conditions for the grant of clemency to a partner, officer, or director of a cancelled licensed recruitment agency?

Answer: The Administration, upon motion, may grant clemency to a partner, officer or a director of a recruitment agency whose license has been cancelled and whose name has been included in the list of persons with derogatory record, provided, that the following conditions are met:

- a. the licensed recruitment agency has only one (1) case involving not more than ten (10) workers for which the license has been cancelled as certified by the Adjudication Office;
- b. the Officer or Director must prove that he/she did not participate in the commission of the charged violation;
- c. proof of the full satisfaction of the awards on the case, if any;
- d. the complainant/s had condoned the acts of the licensed recruitment agency;
- e. the partner, officer, or director has not participated in the overseas employment program for at least four (4) years from the time of cancellation of license;
- f. submission of NBI clearance; and
- g. proof of publication in a newspaper of general circulation of the movant's intent to apply for re-admission to the overseas employment program.

The grant of clemency under this section may be availed of only once. (Section 184)

Question:	What is the period to appeal the decision of the POEA to the office of the DOLE Secretary?
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Answer: The party aggrieved by a decision of the Administration may appeal the same to the office of the DOLE Secretary within fifteen (15) calendar days from receipt of a copy of the decision. Failure of the aggrieved party to perfect the appeal within the reglementary period shall render the decision of the Administration final and executory. (Section 186)

VI. Assistance to Workers

Question:	Who has the primary responsibility to repatriate the overseas Filipino workers?
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Answer: The repatriation of an Overseas Filipino Worker or his/her remains, and the transport of his/her personal effects shall be the primary responsibility of the principal/employer and licensed recruitment agency that recruited and/or deployed him. This entails the obligation to cover repatriation and attendant costs, including airfare and immigration fines/penalties. This obligation shall be without prior determination of the cause of the need to repatriate the Overseas Filipino Worker. After the Overseas Filipino Worker has returned to the country, the principal/employer or licensed recruitment agency may, however, recover the cost of repatriation from the Overseas Filipino Worker if the termination of the employment was due solely to the Overseas Filipino Worker's fault. (Section 213)

Question:	What is the POEA's public education program?
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Answer: The Administration shall undertake a comprehensive and integrated public education program on overseas employment involving workers, licensed recruitment agencies, principals/employers and government personnel, for the purpose of promoting safe and legal migration and preventing illegal recruitment and trafficking in persons. (Section 220)

Question:	Is attendance to Pre-Employment Orientation Seminar mandatory?
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Answer: Attendance to the PEOS shall be mandatory for all applicants for overseas employment. The PEOS shall cover all stages of employment and may be country and skill-specific.

For domestic workers, the mandatory PEOS shall include their immediate family members. (Section 221)

Question:	What are the obligations of overseas Filipino workers?
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Answer: It is the duty of all Overseas Filipino Workers to conduct themselves in the most professional, responsible and ethical manner in the performance of their duties and fulfill the following obligations:

A. Family:

1. provide the family ample financial and moral support;
2. communicate regularly; and
3. preserve the integrity of the family.

B. Fellow Workers:

1. assist, support, and cooperate with fellow workers; and
2. refrain from committing acts which are detrimental to the interest of fellow workers.

C. Country:

1. obey the laws of the Republic of the Philippines at all times;
2. abide by this rules and regulations; and
3. be an ambassador of goodwill of the country.

D. Licensed Recruitment Agency and Principal/Employer:

1. provide the licensed recruitment agency and principal/employer with accurate statements/certifications regarding his/her skill, experience and other qualifications;
2. understand and abide with the terms and conditions of the employment contract as wells as the company rules and regulations;
3. maintain a high level of professionalism and productivity in the performance of contractual obligations; and
4. refrain from committing acts which are detrimental to the interest of the licensed recruitment agency or principal/employer during the documentary processing and employment.

E. Host Country:

1. respect the customs, traditions and religious practices of the host country; and
2. obey the laws of the host country. Section 232

VII. Awards and Incentives

Question:	What are the categories of awards given to licensed recruitment agencies?
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Answer: Three-tiered award system.....

Question: What are the criteria for the agency awards:

Answer: The licensed recruitment agencies qualified for the awards shall be evaluated based on the following criteria:

- a. Compliance with Recruitment Rules and Regulations refers to the absence of record of adverse decision, preventive suspension, documentary suspension, and pending recruitment violation cases, and cases before the DOLE and NLRC.
- b. Technical Capability refers to the agency's management and recruitment capability in terms of qualification of personnel, office facilities/work environment, an ISO Certified Quality Management System, and an automated system of recruitment and deployment, including monitoring of workers onsite. It also covers the existence of a Human Resource Development Plan for agency personnel, as well as compliance with general labor standards and occupational safety and health standards, provision of in-house PEOS and other similar education programs to prepare workers for overseas employment.
- c. Industry Leadership (for Award of Excellence/ Presidential Award) refers to the agency's pioneering achievement in the entry to new or emerging markets (entirely new country and new market), no placement fees charged for workers deployed, expansion of market opportunities for Overseas Filipino Workers, membership in industry associations or positions of leadership in industry associations, and participation in the development and formulation of policies on overseas employment.
- d. Marketing Capability (for Top Performer candidates) refers to the agency's accomplishment in the generation of new principals/employers.
- e. Deployment refers to the volume and quality of deployment of a licensed recruitment agency during the period under review, terms and conditions of employment beyond minimum standards, ensuring good employers, and dealing with direct employers.
- f. Welfare Programs and Corporate Social Responsibility refers to the provision of responsive welfare and allied services for the Overseas Filipino Workers, their dependents/families, exemplary acts of assistance in times of hazardous, dangerous or distressed situations, corporate social responsibility (socio-economic and civic programs and projects) in coordination with government or with private entities/organizations, contribution to continuous manpower training and development, and skills upgrading of Overseas Filipino Workers. Section 233 (2nd para)

Question: What is the two-level award system for principal/employer?

Answer: SECTION 236. Two-Level Award System for Principals/Employers.— The Administration shall confer every four (4) years a two-level award to deserving principals/employers who have been major providers of decent and quality employment to Overseas Filipino Workers and who have significantly contributed to their development as well as the protection and promotion of their well-being, as follows:

- a. MINISTERIAL AWARD OF COMMENDATION – The award shall be conferred once every two (2) years by the Secretary of Labor and Employment to

- principals/employers who, based on safe, fair and ethical recruitment, have continuously hired Overseas Filipino Workers during the past four (4) years.
- b. **PRESIDENTIAL AWARD OF DISTINCTION** – The award shall be conferred once every six (6) years by the President of the Philippines to principals/employers who, based on safe, fair and ethical recruitment, have continuously hired Overseas Filipino Workers during the past four (4) years and has been a Ministerial Awardee for three (3) consecutive times. Section 236

Question: What are the criteria for the employer's awards:

Answer: SECTION 237.Criteria for Ministerial Award.— The following shall be the criteria for the Ministerial Award:

1. Demonstrated preference and active hiring of Overseas Filipino Workers within the last four (4) years;
2. Provision of superior terms and conditions of work that will enhance the productivity of Overseas Filipino Workers;
3. Compliance with Philippine laws, rules and regulations on the recruitment and employment of Overseas Filipino Workers;
4. Active participation and contribution to the welfare and benefit of Overseas Filipino Workers' families;
5. Observance of no placement fee policy; and
6. No derogatory record within the last four (4) years.

SECTION 238.Qualification for Presidential Award.— A recipient of the Ministerial Award may qualify for Presidential Award on the basis of the following criteria:

1. Contribution to the continuous manpower training and development and skills upgrading of Overseas Filipino Workers;
2. Implementation of corporate social responsibility programs; and
3. Extraordinary acts of assistance to Overseas Filipino Workers in times of hazardous, dangerous or distressed situations.(Section 237 and 238)

Question: What are the incentives for the awardees?

Answer: Section 234 , 239 and 240

SECTION 234.Incentives and System of Recognition.— The recipients of Outstanding Agency Awards shall be entitled to the following package of incentives:

A. Presidential Awardees

1. Extension of license validity for three (3) full terms, effective upon expiration of license, subject to corresponding license fee and escrow agreement;
2. Exemption in the submission of requirements for the following applications/ requests upon notice:
 - a. Renewal of license, subject to corresponding license fee and escrow agreement;
 - b. Establishment of branch office and additional office;
 - c. Transfer of business address; and

- d. Letter of Acknowledgement to principals'/employers' representatives.
3. Approval of the following applications/requests upon notice, subject to post submission and evaluation of documentary requirements:
 - a. Renewal of registration/accreditation of principals/employers;
 - b. Additional job order except for domestic worker;
 - c. Upgrading of registration/accreditation;
 - d. Revalidation of job order; and
 - e. Change of officers/personnel.

Except for item no. 1, all agencies previously conferred with Presidential Award of Excellence shall continue to enjoy the above incentives and privileges.

B. Awardees of Excellence

1. Extension of license validity for two (2) full terms, effective upon expiration of license, subject to corresponding license fee and adjustment of bonds;
2. Approval of the following applications/requests upon notice, subject to post submission and evaluation of documentary requirements:
 - a. Licensing concerns
 - i. Renewal of license
 - ii. Establishment of branch office and additional office
 - iii. Transfer of business address
 - iv. Change of officers/personnel
 - v. Letter of authority to principals'/employers' representatives
 - b. Registration/Accreditation concerns
 - i. Renewal of registration/accreditation of principals/employers
 - ii. Additional job orders except for domestic workers
 - iii. Upgrading of registration/accreditation
 - iv. Revalidation of job order

Except for item no. 1, the previous recipients of the Award of Excellence shall continue to enjoy the above incentives and privileges.

Further, the Presidential Awardees and Awardees of Excellence shall also enjoy the following incentives:

1. Exemption from Philippine Embassy/POLO authentication/verification of employment documents of principal/employer except for domestic workers;
2. Open job order system;
3. Waiver in the submission of requirements for special recruitment authority and jobs fair authority; and
4. Publication of list of awardees in the POEA website with link to their websites.

C. Top Performers

1. Extension of license validity for one (1) full term, effective upon expiration of license, subject to payment of corresponding license fees, adjustment of bonds and post submission of evaluation of documentary requirements; and

2. Publication of list of awardees in the POEA website, with links to their websites.

All other incentives shall be valid until a new set of awardees has been selected. Such incentives shall be revoked in case of suspension or cancellation of license of an awardee.

SECTION 239. Incentives for the Ministerial Awardees — Ministerial awardees shall have the following incentives:

1. Exemption from POLO Verification of employment documents;
2. Exemption from securing Letters of Acknowledgment for the conduct of interviews of applicants;
3. Open job orders; and
4. Extension of validity period of accreditation to five (5) years.

Such incentives shall be automatically revoked in case of suspension or disqualification of the awardee.

SECTION 240. Incentives for the Presidential Awardees —In addition to the incentives provided in immediately preceding section, Presidential Awardees shall enjoy the following incentives:

1. Exemption from the maximum limit on multiple accreditation; and
2. Extension of validity period of accreditation to six (6) years.

Such incentives shall be automatically revoked in case of suspension or disqualification of the awardee.