Salient Features of the Revised IRR of R.A. 9520

- Consolidation of the Rules on Certain Provision and Special Provision into one IRR
- Simplified but comprehensive, some provisions are rephrased for clarity
- Revised IRR adopts latest applicable M.C. issued by the CDA
- Some of the provisions of the current IRR were relaxed in the revised IRR for easy compliance by the cooperative

This presentation only focuses on new provisions and amended provisions of the old IRR.

The format of this presentation is not the format laid down in the Revised IRR.

The presenter recommends that the full text of the Revised IRR is read and to be understood for proper guidance.

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<th>Certain Provisions</th>
</tr>
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<td>1</td>
<td>Representative Assembly</td>
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<td>9</td>
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</tr>
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</table>
DEFINITION OF TERMS:

INTEREST ON SHARE CAPITAL
- interest earned by the members’ paid up capital.
- computed by multiplying the rate of interest on share capital by members’ average shares.
- rate of interest on share capital is computed by dividing the amount allocated for total interest on share capital by the total average share month.

NET SURPLUS –
- excess payments made by members, which shall not be construed as profits, from the loans or goods and services availed of or the difference of the rightful amount due to the members for their products sold or services rendered to the cooperative.
- includes other inflow of assets resulting from its other operating activities, which shall be returned to the members as prescribed in the Code.

REVOLVING CAPITAL
- amount constituting the patronage refund and interest on share capital of the members, the payment of which has been deferred by the cooperative.
- corresponding revolving capital certificate shall be issued to the members.

COOPERATIVE BANK
- a cooperative organized primarily to provide a wide range of financial services to cooperatives and their members.

INSURANCE-LIKE ACTIVITY
- refers to any activity involving regular collection of premiums, fees, contributions, or charges prior to the occurrence of contingent event and the payment of guaranteed benefits upon the occurrence of such event.
- the term excludes risk pooling practices such as “damayan” or “abuloy” system wherein an individual or group of individuals voluntarily pledge and contribute a certain amount of money to a fund and the benefits are not pre-determined but are contingent to the amounts collected.

LABOR SERVICE COOPERATIVE
- refers to a cooperative that is engaged in providing a specific labor, job, or service to a principal under a contracting or subcontracting arrangement as may be defined under existing laws and in accordance with the cooperative principles set forth under the Philippine Cooperative Code of 2008, RA 9520.
ELECTION DEPUTIES

- refers to members from each sector, chapter or district duly elected during the general assembly meeting approving the adoption of the representative assembly who will conduct the election of the sector, chapter or district.

SERVICE COOPERATIVE

- refers to those which provide any type of service to its members, including but not limited to, transport, information and communication, insurance, housing, electric, health services, education, banking and savings, and credit.

WORKERS COOPERATIVE

- organized by workers, including the self-employed, who are at the same time the members and owners of the enterprise.
- principal purpose is to provide employment and business opportunities to its members and manage it in accordance with cooperative principles.

PART I
CERTAIN PROVISIONS

RULE 1: REPRESENTATIVE ASSEMBLY

- apply to cooperatives opting to conduct its general assembly meeting by way of representative assembly as provided for under Art. 5 (2) and (10) of RA 9520
- apply to cooperatives with numerous and dispersed membership
- adoption of representative assembly shall be stipulated in their By-laws.
- number of the members of the cooperative shall be at least One Thousand (1,000);
- basis in dividing the cooperative into sector, chapter, or district is the geographical location, scope of operation, cluster, work shift, or other similar conditions
- By-laws shall provide for the number of the regular members comprising each sector, chapter, or district.
- Quorum shall be at least twenty-five per centum (25%) of the members entitled to vote in each sector, chapter, or district.

RULE 2
SUBSIDIARY COOPERATIVE

A parent cooperative may organize a subsidiary cooperative provided

- it has a total net worth of at least Fifty Million Pesos (P50,000,000.00) as shown in its latest Audited Financial Statement
- The dissolution of either cooperative shall not affect the existence of the other.
- In case of the dissolution of the parent cooperative, the Subsidiary Cooperative shall subsequently amend its cooperative name to remove the words “Subsidiary Cooperative of (Name of Parent Cooperative)”.

- number of elected representatives of a sector, chapter, or district as provided in the By-laws and shall be within the range of 1% to 10% of the total number of the regular members entitled to vote in the sector, chapter, or district.
- term of office of the Representative or Delegate shall be provided in the By-laws shall not exceed two (2) years, commencing on the first regular representative assembly meeting
- sector, chapter, or district representative or delegate shall possess all the qualifications and none of the disqualifications as provided in the cooperative By-laws.
- Powers, Functions and Responsibilities of Representative/Delegate:
  - To present, after due consultation with the sector, chapter or district, the respective decision of the sector, chapter or district on issues and matters to be decided upon by the representative assembly.
  - Discretion, however, is given to the respective representative/delegate to decide on new matters raised during the said representative assembly;
  - To present to his/her sector, chapter, or district the report and the minutes of the proceedings of the Representative Assembly Meeting.
RULE 3
MULTI-PURPOSE COOPERATIVE

• No cooperative shall be registered as a multipurpose cooperative unless it has been in operation for at least two (2) years.

• Cooperatives with a minimum paid-up capital of One Hundred Thousand Pesos (₱100,000.00) or as required in the feasibility study, whichever is higher, may be allowed to transform into a multipurpose cooperative. Except agriculture cooperatives and agrarian reform cooperatives.

RULE 4
DIVISION OF COOPERATIVES

• In addition to the regular requirements for registration of cooperatives, a written approval or recommendation from the concerned government agency, if applicable, shall be filed with the Authority.

• Execution of a Memorandum of Understanding to Merge or Consolidate, stating the creation of a joint committee to formulate the plan and proposal to merge or consolidate.

RULE 5
PROCEDURE FOR MERGER OR CONSOLIDATION

• Duly approved board resolution of each constituent cooperatives to enter into merger or consolidation;

• Calling of a General/Representative Assembly to present and approve the Proposal and Plan of Merger or Consolidation of each constituent cooperative and the Amendment / New Articles of Cooperation and By-laws;

RULE 6
LABORATORY COOPERATIVES

• Primarily composed of students from a particular school, it may affiliate with the school's cooperative, if any, or appoint a cooperative of its choice within its area of operation.

• Laboratory Cooperative shall be affiliated with a duly registered cooperative, the Guardian Cooperative, before the Authority shall issue a Certificate of Recognition.

• The Guardian Cooperative shall submit to the Authority Articles of Cooperation and By-laws; Resolution of the Board of Directors of the Guardian Cooperative that it accepts its responsibility and liability as Guardian for it to be issued a Certificate of Recognition of the proposed Laboratory Cooperative.
• a member of a laboratory cooperative who reaches the age of majority may opt to join the Guardian Cooperative by signifying his/her intention to become a member of the Guardian Cooperative and shall upon comply with the requirements for membership in the Guardian Cooperative.

• Guardian Cooperative may supervise more than one (1) laboratory cooperative.

• the creation, organization, supervision and monitoring of laboratory cooperatives shall be prescribed by the Authority.

• shall be required to undergo a minimum of sixteen (16) hours of training on the fundamentals of cooperatives and another sixteen (16) hours on governance and management of cooperatives within the first half of their term. Micro-cooperatives shall only undergo sixteen (16) hours of training on the fundamentals, governance and management of cooperatives.

RULE 7
FUNCTIONS, RESPONSIBILITIES AND TRAINING REQUIREMENTS OF DIRECTORS, OFFICERS AND COMMITTEE MEMBERS

• Officers of the cooperative required to undergo the required training:
  1. Board of Directors
  2. Secretary
  3. Treasurer
  4. Election Committee
  5. Audit Committee
  6. Ethics Committee
  7. Mediation and Conciliation Committee;
  8. Other Committees created by the General/Representative Assembly
  9. General Manager or Chief Executive Officer

• The content of the training program shall be prescribed by the Authority in consultation with the accredited training providers and the cooperative sector.

  • trainings shall be conducted by federations, unions, training institutions, or local cooperative development offices and National Government Agencies (NGA) duly accredited by the Authority.

  • Advocacy cooperatives which promote and advocate cooperativism through socially-oriented projects, education and training, research and communication and other similar activities may also be accredited as training providers.
• Willful failure of the cooperative to comply with the training requirements despite due notice from the Authority shall be a ground for non-issuance of Certificate of Compliance for the succeeding year.

• Failure of any officer/s of a cooperative to undergo the prescribed trainings shall disqualify said officer/s to hold any elective or appointive position.

• OFFICERS OF COOPERATIVES ENGAGED IN SAVINGS AND CREDIT OPERATIONS shall be required to undergo an additional sixteen (16) hours of specialized training on financial management, risk management and credit management provided that these cooperatives have at least Five Million Pesos (Php5,000,000.00) worth of deposit liabilities based on the latest Audited Financial Statement of the cooperative.

RULE 8
REPORTS REQUIRED FOR COOPERATIVES

• Submit annual Cooperative Annual Progress Report (CAPR) with the following attachments:
  a. Social Audit Report including its program of activities pursuant to its socio-civic goals of the cooperative;
  b. Performance Audit Report, including copies of the semi-annual Report on mediation and conciliation as received by the Authority pursuant EO 97; -new
  c. Audited Financial Statements; and
  d. List of Officers and Trainings Undertaken / Completed

• Cooperative Annual Progress Report (CAPR) including all of the reports shall be made part of the Annual Report of the cooperative to its members during the Annual General Assembly Meeting.

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• Submit annual Cooperative Annual Progress Report (CAPR) with the following attachments:
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     the Authority pursuant EO 97; -new
  b. Audited Financial Statements; and
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  c. List of Officers and Trainings Undertaken / Completed

• Cooperative Annual Progress Report (CAPR) including all of the reports shall be made part of the Annual Report of the cooperative to its members during the Annual General Assembly Meeting.

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Mode of Filing Reports.

• reports must be filed within one hundred twenty (120) days from the end of each calendar year through personal delivery, by registered mail, by courier service, or if filed by electronic means, a printed copy of the electronically transmitted report within five (5) days from the date of transmission. The date of mailing shall be considered the date of filing.

• failure of the cooperative to furnish a printed copy shall be considered as if no report has been filed and shall be considered in delay in the submission. If documents submitted by electronic means is different from the original due to material alterations or tampering shall be considered as if no report has been filed and the electronic documents never been received.

• reports shall be typewritten or printed in a form prescribed by the Authority, duly certified by the Accountable Officers.

Sanction for Delayed Filing.

• Failure to file the required regular reports with the corresponding attachments on time shall subject the Accountable Officers to a fine of One Hundred Pesos (Php100.00) per day of delay.

• Cooperatives with assets of Three Million Pesos (Php3,000,000.00) and below are exempted from penalties but shall not issued a Certificate of Compliance.

• Note: For CDA-registered electric cooperatives: required to submit the List of Members with issued Share Capital Certificate in addition to the Cooperative Annual Progress Report (CAPR).
RULE 9
LIQUIDATION OF COOPERATIVES

• Coverage:
  1. Charter expired by its own limitation.
  2. Voluntary dissolution.
  4. Dissolved by Order of the Authority.

• Board of Liquidators/Trustees' shall submit its Final Report. Failure to submit, they shall not be released from their duties and functions, and the Authority will not issue a clearance for each of the members.

• Authority may cancel the cooperatives Certificate of Registration if it is proven that the coop has no assets, or its whereabouts is unknown, despite diligent efforts to ascertain it. These facts shall be stated in the Order of Cancellation. No winding up shall be observed.

RULE 10
CAPITALIZATION AND ACCOUNTING PROCEDURES OF COOPERATIVES

• Issuance of Preferred Share Capital shall be prescribed in the By-laws and it shall not exceed twenty five (25%) of the total authorized capital of the cooperative.

• Subscription Agreement shall be execute upon the admission of a member and whenever additional subscription shall be made after the member has fully paid his initial subscription.

• Share Certificates shall be issued by the Cooperative at the end of every calendar year based on the number of shares fully paid for the said period.

RULE 11
SOCIAL AUDIT OF COOPERATIVE

• All cooperatives, regardless of type and category, shall issue share capital certificates to its member in accordance to their share capital contribution and a List of Share Capital Certificates issued shall be maintained by the cooperative

• Par Value of Shares:
  • Primary Cooperative: may be fixed at any amount which should not be less than Php100.00 nor more than Php1,000.00.

Prohibitions:
  • Cooperatives cannot issue multiple types of Common Shares with different par value per share.
  • Par Value of the shares cannot be increased or decreased by way of amending its Articles of Cooperation and By-laws.

• Limitation on Share Capital Holdings.
  • No member of a primary cooperative other than a cooperative itself shall own or hold more than ten per centum (10%) of the share capital of the cooperative.
Social Audit
- undertaken by an independent social auditor accredited by the Authority
- Social Audit Report is submitted to the Board of Directors
- forms part of the Cooperative Annual Progress Report (CAPR)

COOPERATIVES SUBJECT TO SOCIAL AUDIT
- cooperatives with ASSETS OF AT LEAST ONE BILLION PESOS (P1,000,000,000.00)
  - the social audit shall be undertaken by an independent social auditor accredited by the Authority;
- cooperatives with ASSETS LESS THAN ONE BILLION PESOS (P1,000,000,000.00)
  - the social audit shall be undertaken by the internal auditor or the audit committee of the cooperative.

Rule 12
FINANCIAL SERVICE COOPERATIVE (FSC)
- No amendments introduced.

Rule 13
Voluntary Arbitration
- Rules on the Voluntary Arbitration were adopted from the Alternative Dispute Resolution, RA 9285 and MC No. 2012-13
- Sole Arbitrator / Arbitral Tribunal have original, and exclusive jurisdiction on cooperative disputes
- Power of the Arbitral Tribunal to Order Interim Measures/Provisional Remedies was expanded.
- CDA shall appoint the Sole Arbitrator/ Arbitral Tribunal should the parties fail to choose

PART II: SPECIAL PROVISIONS

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<td>III</td>
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<td>VII</td>
<td>LABOR SERVICE COOPERATIVE AND WORKERS COOPERATIVE</td>
</tr>
</tbody>
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RULE I
HOUSING COOPERATIVES

• Engage in the construction, development and/or management of housing projects
• Financial and Technical Assistance shall be provided by the Authority, in coordination with the appropriate government agencies and financial institutions for its projects.
• Financing of the projects shall be in the form of blanket loans or wholesale loans to qualified cooperatives without need for individual processing. Blanket loans or wholesale loans shall be created by the appropriate housing agencies and government financial institutions (GFIs)
• Interest rates and terms equal to, or better than those given for socialized housing project in accordance with their charters and rules and regulations.

CDA and GFIs must exercise prudence in providing special loan windows to housing projects of cooperatives including the system of identifying, measuring, monitoring and controlling risks arising from said activity.

• The special loan window must comply with the provisions of the Manual of Regulations for Banks (MORB), specifically Section X395

RULE II
AGRARIAN REFORM COOPERATIVES

• Cooperative Estates. Refers to landholdings like plantations, estates, or haciendas acquired by the State in accordance with the CARP, as amended, for the benefit of the workers. It shall be collectively owned by the worker beneficiaries under a cooperative set-up through a Collective CLOA

RULE III
INSURANCE COOPERATIVES

• Cooperative proposing to engage in the business of insuring life and property of cooperatives and their members shall file their duly accomplished application for registration with the CDA ... Registration Division with prior endorsement from the Insurance Commission for it to engage in the business of insurance

• Failure to secure the Certificate of Authority from the Insurance Commission within two (2) years from the date of its registration with CDA shall be a ground for the revocation/cancellation of the Certificate of Registration.

• The Certificate of Authority will expire 3 years from the date of its issuance or on the last day of December. It is renewable every three (3) years thereafter, subject to the insurance cooperative’s continuing compliance with the provisions of the Insurance Code, circulars, instructions, rulings or decisions of the Commission.
Limitation of Primary Cooperatives which are not licensed by the Insurance Commission to engage in insurance business as a commercial insurance are prohibited to engage in insurance, insurance-like and other similar business activities with their members and the public.

However, those already engaged in insurance shall be given a transition period by the Insurance Commission to undertake any of the following options:

1. To organize an insurance cooperative with other primary cooperatives that have the same insurance-like business activity;
2. To organize as a Life or Non-life insurance company;
3. To organize as a Mutual Benefit Association; or
4. To affiliate with an existing Insurance Cooperative or Mutual Benefit Association.

**RULE IV**

**WATER SERVICE COOPERATIVES**

- No amendments introduced.

**RULE V**

**TRANSPORTATION SERVICE COOPERATIVES**

- Capitalization.
  
  For purposes of registration with the Authority, Transportation Service Cooperatives shall have a minimum paid up capitalization of Fifteen Thousand Pesos (P15,000.00).
  
  However, to operate as such, the minimum capitalization and number of units owned by the cooperative shall be in accordance with the rules and regulations prescribed by the concerned government agency as shown below:

<table>
<thead>
<tr>
<th>TYPE OF VEHICLE</th>
<th>MINIMUM CAPITALIZATION</th>
<th>NO. OF UNITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Land</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tricycle</td>
<td>P15,000.00</td>
<td>5</td>
</tr>
<tr>
<td>Jeepney</td>
<td>P30,000.00</td>
<td>5</td>
</tr>
<tr>
<td>Taxi</td>
<td>P30,000.00</td>
<td>5</td>
</tr>
<tr>
<td>AUV/FX/VAN</td>
<td>P30,000.00</td>
<td>5</td>
</tr>
<tr>
<td>Mini Bus/Bus</td>
<td>P50,000.00</td>
<td>2</td>
</tr>
<tr>
<td>Trucks for Hire</td>
<td>P50,000.00</td>
<td>2</td>
</tr>
<tr>
<td>A. Water</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ship</td>
<td>P10,000,000.00</td>
<td>1</td>
</tr>
<tr>
<td>Ferry Boat</td>
<td>P5,000,000.00</td>
<td>1</td>
</tr>
<tr>
<td>Motorized Banca</td>
<td>P100,000.00</td>
<td>1</td>
</tr>
</tbody>
</table>
• Newly registered cooperatives and those intending to include transport services as one of their business activities shall have five (5) years from the date of registration/approval of amendments to comply with the minimum number of units owned by the cooperative as required above.

• Existing transportation service cooperatives shall have three (3) years, from the approval of this Revised Rule, within which to comply with the above requirements.

• Failure to comply with the required number of units owned by the transportation service cooperatives shall cause the cancellation of the Certificate of Registration after due process.

• Endorsement from the Office of Transportation Cooperative (OTC) or other government agency designated by DOTC;

RULE VI
ELECTRIC COOPERATIVES

• ECs registered with the Authority shall conduct their affairs in accordance with Filipino culture, good values and experience and the universally accepted principle of cooperation in accordance with Article 4 of RA 9520.

• All cooperatives which seek to engage in power generation, subtransmission, and/or power distribution and supply are required to secure the necessary secondary certificate from the appropriate government agencies.

• Procedure in the Conduct of Referendum for Conversion shall be in accordance with the prescribed guidelines of the Department of Energy (DOE) or National Electrification Administration (NEA), in coordination with the Authority.

• Capitalization of ECs
  • minimum paid up capitalization of Fifteen Thousand Pesos (P15,000.00) for an EC to be registered with the Authority

• Share Capital in the Electric Cooperatives.
  • ECs shall issue and distribute share certificates under the name of their members. The share certificates shall consider, among others, the previous equity contributions, the amortization component, through the payments made, capital build-up and other capital contributions.

• Interest on Share Capital
  • shall be paid to the members in accordance with Rule 10, Section 12 on the Revised Special Provisions of the Philippine Cooperative Code of 2008.

• Equity Share Certificates shall be issued by the ECs to its Member-Customer-Owners (MCOs) on record after the National Electrification Administration (NEA) shall have, within ten (10) days, from the final completion of reconciliation of relevant loan accounts with the EC concerned shall issue a certification on the aggregate amount of payments made on the principal component of the amortizations.

• The Energy Regulatory Commission (ERC) shall, within forty-five (45) days from the close of each fiscal year, issue a certificate to the EC concerned on the total amount collected for capital contributions (Reinvestment Fund for Sustainable Capex, or RFSC) from the MCOs, for such period, as the basis for the EC’s determination of at least ten per centum (10%) that the EC will credit to each individual account of the MCO and for which equity share certificate will be issued.
No share capital certificate shall be issued to a subscriber until the full amount of his/her subscription together with interest and expenses, if any is due, has been paid.

The distribution of share capital certificates shall be done annually preferably on the General Assembly.

In case of loss or destruction, the EC may issue a duplicate certificate, if such certificate is proven to have been lost or destroyed or defaced or mutilated or torn or is surrendered to the electric cooperative upon execution and submission by a member of an Affidavit of Loss or such other documents evidencing defacement/mutilation or surrender of such share capital certificate.

Term of Office.

- Unless otherwise provided in the By-laws of the EC, the term of office of the members of the Board shall not exceed three (3) years; however, they shall be eligible for re-election.

Additional Report for ECs

- All ECs duly registered with the Authority shall submit a List of Members with Share Capital Certificates as mandated under the Revised Implementing Rules and Regulations Implementing Certain and Special Provision of Republic Act No. 9520.

  - In case of non-compliance despite due notice, the EC shall pay the penalty in the amount of One Hundred Pesos (P 100.00) per day of delay;
  
- Ecs shall be given two (2) years from the effectivity of these Rules within which to comply with the provisions of Section 13 herein.

RULE VII
Dairy Cooperatives

No amendments introduced.

RULE VIII
Labor Service Cooperative and Workers Cooperative

- These Rules serves as a guide to service cooperatives engaged in labor contracting and sub-contracting arrangements as defined under existing laws, and workers cooperatives that provides labor to, and produces products in, an enterprise owned by the worker-members.

- MC 2012-12 "Revised Guidelines in the Registration of Labor Service and Workers Cooperatives" and D.O. 18-A of DOLE was adopted.
Legal Basis of Rule:

- "ART. 23. Type and Categories of Cooperatives. – (1) Types of Cooperatives – Cooperatives may fall under any of the following types:
  
  xxx
  
  (e) Service Cooperative is one which engages in medical and dental care, hospitalization, transportation, insurance, housing, labor, electric light and power, communication, professional and other services;
  
  xxx
  
  "(t) Workers Cooperative is one organized by workers, including the self-employed, who are at the same time the members and owners of the enterprise. Its principal purpose is to provide employment and business opportunities to its members and manage it in accordance with cooperative principles.

Labor Service Cooperative vs. Workers Cooperative:

<table>
<thead>
<tr>
<th></th>
<th>Labor Service Cooperative</th>
<th>Workers Cooperative</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>As to nature of activities</strong></td>
<td>Engaged in contracting and sub-contracting arrangements as defined by law.</td>
<td>May engage in labor and production, including contracting and subcontracting arrangements in support of its main activity as defined by law.</td>
</tr>
<tr>
<td><strong>As to existence of employer-employee relationship</strong></td>
<td>Existence of employer-employee relationship is at all times observed in contracting and sub-contracting arrangements during the deployment of the member. Triangular relationship exists between and among the principal, contractor and the member-employees.</td>
<td>Self-employed individual is allowed by the cooperative in regard to its enterprise.</td>
</tr>
</tbody>
</table>

• **Labor Service Cooperatives**
  - Cooperatives engaged in providing a specific labor, job, or service to a principal under a contracting or sub-contracting arrangements as defined under existing laws and in accordance with the cooperative principles set forth under the Philippine Cooperative Code of 2008 (RA 9520); and
  - Workers cooperative –
    - Cooperatives organized by workers, including the self-employed, who are at the same time members and owners of the enterprise. The principal purpose is to provide employment and business opportunities to its worker-members and manage it in accordance with the cooperative principles.

• **DEFINITION OF TERMS UNDER WORKERS COOPERATIVE**
  - *Self-employed* refers to one who has his/her own personal occupational capacity put to reproductive use by applying his/her own capital raised by himself or together with other self-employed persons pursuing related occupational interest.
  - *Skilled Worker* refers to a worker possessing technical knowledge and expertise to accomplish a work.
  - *Worker Cooperatives* refers to a cooperative organized by workers, including self-employed individuals who are owners and members of the enterprise.
  - *Worker-member* refers to the member-owner. He/she is a worker in the cooperative or is deployed as a worker with a principal availing of the services offered by the cooperative.
Worker-member ownership refers to the work and management carried out jointly, without the typical limitations of individual work, nor exclusively under the rules of conventional wage-based labor.

DEFINITION OF TERMS UNDER THE LABOR SERVICE COOPERATIVES:
- “Cabo” a prohibited activity where a person/group of persons or a labor group, in the guise of cooperative, supplies individual members or workers to an employer, with or without any monetary or other consideration, whether in the capacity of an agent of the employer or as an ostensible independent contractor.
- Contracting” or “Sub-contracting” or “Labor Contracting” arrangement where a principal agrees to provide a contractor workers for the performance or completion of a specific job, work or service within a predetermined period, regardless of whether job to be performed or completed is within or outside the premises of the principal.

Contractor refers to a labor service cooperative engaged in a legitimate contracting or subcontracting arrangement providing either labor services, skilled or temporary workers, including individual member-employees, or a combination of services to a principal under a Service Agreement.

Contractor's member-employee includes an individual member of a cooperative who has been deployed by the cooperative to perform or complete a job, work, or service pursuant to a Service Agreement. It also refers to members who are regular employees of the contractor whose functions are not dependent on the performance or completion of a specific job, work, or service within a definite period of time, such as, administrative staff.

Principal refers to a person or entity, including government agencies and government-owned and controlled-corporations, who puts out or farms out a specific job, service or work to a contractor.

Service Agreement refers to the contract between the principal and contractor containing the terms and conditions governing the performance or completion of a specific job, work or service being farmed out for a definite or predetermined period.

Solidary liability refers to the liability of the principal pursuant to the provision of Article 109 of the Labor Code, as direct employer together with the contractor for any violation of any provision of the Labor Code, as amended, and these Rules.

- It also refers to the liability of the principal, in the same manner and extent that he/she is liable to his/her direct employees, to the extent of the work performed under the contract when the contractor fails to pay the wages of his/her employees, as provided in Article 106 of the Labor Code, as amended, and these Rules.

Substantial capital is the capital required by DOLE for labor service cooperatives to engage in labor contracting and sub-contracting arrangement. However, for purposes of registration with the Authority, the minimum capital requirement is Fifteen Thousand (Php15,000.00) Pesos.

Trilateral Relationship refers to the relationship in a contracting or subcontracting arrangement where there is a contract for a specific job, work or service between the principal and the contractor, and a contract of employment between the contractor and its worker-member. There are three (3) parties involved in these arrangements: the principal who decides to farm out a job, work or service to a contractor; the contractor who has the capacity to independently undertake the performance of the job, work or service; and the contractual employees who may or may not be cooperative members, engaged by the contractor to accomplish the job, work or service.
Legitimate Contracting or Subcontracting. How Undertaken.

a. The contractor must be registered as a labor service cooperative with the Authority in accordance with these Rules, and carries a distinct and independent business and undertakes to perform the job, work or service on its own responsibility, according to its own manner and method, and free from control and direction of the principal in all matters connected with the performance of the work except as to the results thereof;

b. The contractor has substantial capital and/or investment; and

c. The Service Agreement ensures compliance with all the rights and benefits under existing laws.

Trilateral Relationship in Contracting Arrangements Undertaken by a Cooperative. How it exist.

• An employer-employee relationship between the contractor and the worker-member it engaged to perform the specific job, work or service being contracted.

• Any cooperative that does not recognize the existence of such relationship in regard to this arrangement shall not be treated as engaging in legitimate contracting or subcontracting arrangements; and

• A contractual relationship between the principal and the contractor as governed by the provisions of the Civil Code.

Violation of any provision of the Labor Code, including failure to pay wages, the principal and the contractor are solidarily liable for the purpose of enforcing the provisions of the Labor Code and other social legislation, to the extent of the work performed under the employment contract.

The principal is deemed the direct employer of the contractor's worker-member in cases where there is a finding by a competent authority of labor-only contracting, or commission of prohibited activities as defined under existing laws, rules, and regulations.

Labor-only Contracting, Definition. Other Prohibited Activities.

• Labor-only contracting refers

  • to an entity that does not have any substantial capital or investment in the forms of tools, equipment, machineries, work, premises, among others and the employee recruited and placed are performing activities which are usually necessary or desirable to the operation of the company, or directly related to the main business of the principal within the definite or predetermined period, regardless of whether such job, work, or service is to be performed or completed within or outside the premises of the principal;

  • The cooperative does not exercise the right to control over the performance of the work of the worker-member.
• Activities declared prohibited for being contrary to law or public policy:

1. Contracting out of jobs, work or services when not done in good faith and not justified by the exigencies of the business i.e. resulting in the termination or reduction of regular employees and reduction of work hours or reduction or splitting of the bargaining unit.

2. Contracting out of work with a “Cabo”

4. Contracting out of a job, work or service through an in-house agency.

5. Contracting out of a job, work or service that is necessary or desirable or directly related to the business or operation of the principal by reason of a strike or lockout whether actual or imminent.

6. Contracting out of work or service being performed by union members when such will interfere with, restrain or coerce employees in the exercise of their rights to self-organization as provided in Art. 248 of the Labor Code, as amended.

7. Repeated hiring of employees under the employment contract of short duration or under a Service Agreement with the same and different contractors, which circumvents the Labor Code provision on the security of tenure.

8. Requiring employees under a subcontracting arrangement contract of short duration or under a Service Agreement to sign the contract fixing the period of the employment to a term shorter than the term of the Service Agreement, unless the contract is divisible into phases for which substantially different skills are required and this is made known to the employee at the time of the engagement.

9. Refusal to provide a copy of a Service Agreement and the employment contract between the contractor and the employees deployed by the contractor to the principal’s certified bargaining agent to the sole and exclusive bargaining agent (SEBA).

10. Taking undue advantage of the economic situation or lack of bargaining strength of the contractor’s employees, or undermining their security of tenure or basic rights, or circumventing the provisions of regular employment, in any of the following instances:

a) Requiring them to perform functions which are currently and by requiring them to sign, as a precondition to employment or continued employment, an antedated resignation letter; a blank payroll; a waiver of labor standards including minimum wages and social or welfare benefits; or a quitclaim releasing the principal, contractor or from any liability as payment of future claims.

b) Requiring them to sign, as a precondition to employment or continued employment, an antedated resignation letter; a blank payroll; a waiver of labor standards including minimum wages and social or welfare benefits; or a quitclaim releasing the principal, contractor or from any liability as payment of future claims.

11. Contracting out of jobs, work or services when not done in good faith and not justified by the exigencies of the business i.e. resulting in the termination or reduction of regular employees and reduction of work hours or reduction or splitting of the bargaining unit.

12. Contracting out of work with a “Cabo”
• Required contracts under these Rules.

  a) Membership agreement between the cooperative and the worker-member that includes the following:

  1. The entitlement of the individual member to enjoy the rights and privileges as a member of the cooperative, including the share in patronage refund and dividends, if and when due;

  2. voluntary acceptance by the individual member to comply with his obligations as such as defined under the cooperative by-laws, and its policies and practices, including payment of share capital contribution and capital build up; and

  3. adherence to cooperative principles in accordance with law;

  b) Employment Contract between the contractor and its worker-member which shall include the following terms and conditions:

  1. The specific description of the job, work or service to be performed by the worker-member;

  2. The place of work and terms and conditions of employment, including a statement of the wage rate applicable to the worker-member; and

  3) The term or duration of employment that must be co-extensive with the Service Agreement or with the specific phase of work for which the worker-member is engaged.

  The contractor shall inform the worker-member of the foregoing terms and conditions of employment in writing on or before the first day of his/her employment.

  c) Service Agreement between the principal and the contractor which includes the following:

  1. The specific description of the job, work or service being subcontracted.

  2. The place of work and terms and conditions governing the contracting arrangement, to include the agreed amount of the services to be rendered, the standard administrative fee of not less than ten percent (10%) of the total contract cost.

  3. Provisions ensuring compliance with all the rights and benefits of the worker-member under the Labor Code and these Rules;

  4. A provision on the Net Financial Contracting Capacity of the contractor, which must be at least equal to the total contract cost.

  5. The contractor or subcontractor shall directly remit monthly the employers' share and employees' contribution to the SSS, ECC, Philhealth and PagIBIG.

  6. The term or duration of engagement. The Service Agreement must conform to the Standard Service Agreement as defined under existing laws, rules, and regulations. The Standard computation of Administrative fees shall be as follows:
REIMBURSABLE COSTS: Reimbursable costs as herein defined shall not form part of the income of the contractor. It shall be treated as a refund by the principal of the funds advanced by the contractor.

PAYABLE DIRECTLY TO MEMBER-EMPLOYEES

(i) Salaries xxx
(ii) Night differential premium xxx
(iii) ECOLA xxx
(iv) 13th month pay xxx
(v) SIL xxx

Subtotal xxx

b. Mandatory contributions for member-employees benefits as employer share payable to the:

(i) SSS xxx
(ii) Philhealth xxx
(iii) ECC Insurance xxx
(iv) Pag-Ibig Fund xxx

Subtotal xxx

Subtotal REIMBURSABLE COSTS xxx

ADMINISTRATIVE FEE (10%) xxx

TOTAL CONTRACT COST xxx

Bond of Membership.

- The bond of membership for both labor service and workers cooperative shall be occupational.

Scope of Operations.

- Labor service and workers cooperative may operate nationwide provided that the cooperative can show that it has the technical and financial capacity to pursue its undertaking, and that its members may be able to exercise their rights and privileges as such in accordance with law.

Membership in the labor service and workers cooperatives.

- Membership in the labor service and worker cooperatives registered with the Authority shall have the following types:
  
a. Regular Member - refers to a worker-member who has the right to vote and be voted upon and entitled to all the rights and privileges of membership under the Code.

b. Associate Member - refers to a worker-member not entitled to vote and be voted upon. However, he/she shall be entitled to the preferential rights and privileges as indicated in the by-laws and under the Code.

An associate member who has patronized the cooperative for two (2) years, may apply for regular membership provided he/she meets the minimum requirements of regular membership. Failure of the associate member to apply for regular membership after the lapse of two (2) years as mentioned herein shall mean termination of his/her membership in the cooperative.

Rights and Obligations of worker-member.

- Entitled to all the rights and privileges as provided for in the Labor Code as amended and the Cooperative Code, as amended;

- Duty to comply with their respective obligations as members of the cooperative as provided under the Cooperative Code and related laws, rules, regulations and jurisprudence.

Security of Tenure of Contractor's Employees.

- Termination of membership does not automatically terminate employment.

- However, it may be a ground to terminate employment if the basis of termination of membership constitutes violation of the policies, rules, and regulation of the cooperative.
Observance of Required Standards of Due Process; Requirements of Notice.

- In all cases of termination of employment, the standards of due process laid down by law shall be followed.
- In cases of termination of membership of the worker-member, the procedures laid down in the by-laws and the cooperative's policies, rules, and regulations shall be observed.

Termination of Membership and Employment, Effects.

- Termination of employment does not automatically terminate membership.
- However, refusal of the member to be deployed by the cooperative without justifiable reason may be a ground to terminate membership in accordance with the by-laws, policies, rules, and regulations of the cooperative provided,
- Those who have reached the mandatory retirement age shall not be denied continued membership.

Mandatory Registration/Accreditation of Cooperatives as Contractors/Sub-contractors with the DOLE.

- Consistent with the rules of the Department of Labor and Employment (DOLE), all labor service cooperatives and multi-purpose cooperatives engaged in labor service contracting shall register/seek accreditation with the Regional Office of the DOLE where they principally operate.

Procedures.

1. Technical assistance. The proposed cooperative may inquire from the Extension/ Regional office the list of requirements, and any Cooperative Development Specialist (CDS) may assist in explaining the procedure and compliance hereto.

2. Submission of required documents in accordance with the guidelines in the registration of primary cooperatives issued by the Authority.

Use of Cooperative Name and Prohibition.

- No cooperative name shall be allowed by the Authority if the proposed name is identical or deceptively or confusingly similar to that of any existing cooperative, contrary to public policy, moral and existing laws.

- The use of the following in the names of the cooperative shall not be allowed:
  1. “Manpower”;
  2. “Development”;
  3. “Integrated”;
  4. “Incorporated”;
  5. “Corporation”;
  6. “Partnership”;
  7. Other similar connotation and abbreviations.

In addition, the use of the word “federation” and “union” in the name of the proposed primary cooperative is likewise prohibited except if it is part of the registered name of association or institution where the members of the proposed cooperative comes from.

Compliance with Other Laws.

- Labor service cooperatives shall comply with:
  - The Labor Code and all other labor laws;
  - The Social Security Act, the Medical Care Act, and all other social legislations;
  - All other laws and executive orders whose provisions are applicable to cooperatives and not contrary to R.A. 9520 and this IRR, and existing jurisprudence.

Transitory Provision.

- Existing cooperative engaged in labor service, manpower service, and workers service registered with the Authority previous to the issuance of these Rules shall strictly comply with the requirements prescribed herein.
- The necessary amendment to registered objectives and purposes including membership qualification should be modified accordingly following the process of amendment within two (2) years from approval of this IRR.
Monitoring and Inspection.

- The Extension Office (EO) concerned shall monitor and conduct inspection of the said Labor Service and Workers Cooperatives to ensure compliance with these guidelines, laws, rules and regulations, issuances of the Authority and other appropriate government agencies.

Repealing Clause.

- Any provisions of previous issuances of the Authority which are inconsistent with these Rules are hereby repealed or modified accordingly.

• COMMON PROVISIONS