

NEW RULES AND
REGULATIONS
IMPLEMENTING SERVICE
COOPERATIVE AND
WORKERS COOPERATIVE
PROVISIONS
UNDER RA 9520

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REFERENCES USED

- Constitution
- RA 9520
- CDA Memorandum circular 2012-12 dated July 18, 2012
- DOLE Department Order 18-A, Series of 2011

ON TYPES OF COOPERATIVE

- **RULE VIII implements**

**LABOR SERVICE COOPERATIVE AND
WORKERS COOPERATIVE**

On legal basis

Section 1. Legal basis. The legal basis for this Rule are as follows:

"ART. 23. Type and Categories of Cooperatives. – (1) Types of Cooperatives – Cooperatives may fall under any of the following types:

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(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 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."

On guiding principles

Section 2. Guiding Principles. It is the declared policy of the State to foster the creation and growth of cooperatives as a practical vehicle for promoting self-reliance and harnessing people power towards the attainment of economic development and social justice. The State shall encourage the private sector to undertake the actual formation and organization of cooperatives and shall create an atmosphere that is conducive to the growth and development of these cooperatives.

These Rules shall serve as a guide to service cooperatives which are engaged in labor contracting and sub-contracting arrangements as defined under existing laws, and workers cooperative that provides labor to, and produces products in, an enterprise owned by the worker-members. The purpose is to harmonize policies and practices of cooperatives in the light of existing treaties, laws, rules, and regulations on the matter.

On coverage

Section 3. Applicability. This Rule shall cover the following:

- Labor service cooperative – a cooperative that is engaged in providing a specific labor, job, or service to a principal under a contracting or sub-contracting arrangements 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); and
- Workers cooperative - a cooperative 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.

On distinctions

- As to nature of activities

Labor Service Cooperative

Engaged in contracting and sub-contracting arrangements as defined by law.

Workers Cooperative

May engage in labor and production, including contracting and subcontracting arrangements in support of its main activity as defined by law.

Continuation...

As to existence of employer employee relationship

Labor Service Cooperative

- Existence of employer employee relationship is at all times observed in contracting and sub-contracting arrangements during the deployment of the member. Trilateral relationship exists between and among the principal, contractor, and the member-employees.

Workers Cooperative

- Self-employed individual is allowed by the cooperative in regard to its enterprise.

On definition of terms

- Salient definition of terms:

For those falling 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.
- "**Worker-member**" is also referred to as member-owner. He/she also works in the cooperative or is deployed as a worker with a principal availing of the services offered by the cooperative. Worker-member ownership means work and management are carried out jointly, without the typical limitations of individual work, nor exclusively under the rules of conventional wage-based labor.

Continuation (definition)...

II. For those falling under Labor Service Cooperative:

- **“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.

Continuation (definition)...

- **"Substantial capital"** refers to 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.

On conditions of legitimate contracting arrangements

An employer-employee relationship should exist 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;**

On prohibition against labor only contracting arrangements

It shall be prohibited for labor service and workers cooperatives to engage in Labor-only contracting. For this purpose, labor-only contracting shall refer to an arrangement where:

a. The cooperative does not have 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;
or

b. The cooperative does not exercise the right to control over the

On required contracts

- (a) Membership agreement between the cooperative and the worker-member that includes the following:
 - (i) 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;
 - (ii) 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
 - (iii) adherence to cooperative principles in accordance with law;
- b. Employment contract between the contractor and its worker-member x x x
- c. Service Agreement between the principal and the contractor x x x

On content of Service Agreement

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

- 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.
- Provisions ensuring compliance with all the rights and benefits of the worker-member under the Labor Code and these Rules;
- A provision on the Net Financial Contracting Capacity of the contractor, which must be at least equal to the total contract cost.
- The contractor or subcontractor shall directly remit monthly the employers' share and employees' contribution to the SSS, ECC, Philhealth and PagIBIG.

Continuation (service agreement) ...

- 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:

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- Payable directly to member-employees

- Salaries xxx

- Night differential premium xxx

- ECOLA xxx

- 13th month pay xxx

- SIL xxx

- **Retirement benefits/ separation** xxx

- Subtotal

xxx

Continuation (service agreement)

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

•SSS		xxx	
•Philhealth	xxx		
•ECC Insurance	xxx		
•Pag-IBIG Fund	xxx		
•Subtotal			xxx
•TOTAL REIMBURSABLE COSTS		xxx	
•ADMINISTRATIVE FEE (10%)			xxx
•TOTAL CONTRACT COST		xxx	

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.

On bond of membership

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- **Section 10. Bond of Membership.** The bond of membership for both labor service and workers cooperative shall be **occupational.**

On scope of operations

- **Section 11.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.

On membership

Section 12. 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.

On security of tenure

Section 14. 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;

On termination of membership and employment

- **Section 16. 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, that those who have reached the mandatory retirement age shall not be denied continued membership.

On transitory provision

- **Section 21. 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.

Thank you!