

MEMORANDUM CIRCULAR NO. _____

Series of 2021

SUBJECT: Guidelines Governing the Registration, Development, and Regulation of Labor Service Cooperatives and Multipurpose Cooperatives with Labor Service Activities

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Pursuant to the powers vested upon the Cooperative Development Authority (CDA) by Republic Act No. 6939, as amended by Republic Act No. 11364 and RA 9520, the CDA hereby promulgates the following guidelines in the registration, development and regulation of labor service cooperatives and multipurpose cooperatives with labor service activities.

Section 1. Title. This Guidelines shall be known as the “***Guidelines Governing the Registration, Development and Regulation of Labor Service Cooperatives and Multipurpose Cooperatives with Labor Service Activities.***”

Section 2. Coverage. This Guidelines shall govern the registration, development and regulation of labor service cooperatives as well as multipurpose cooperatives with labor service activities as provided under *Article 4(1) and (3); Article 6; Article 15 (2.a) and (2.b); Article 23(e) & (t); Article 58; Article 72 (1); Article 75 and Article 135 of Republic Act No. 9520, its implementing rules and regulations and all other issuances by the Authority.*

Section 3. Purpose. This Guidelines is issued to ensure that practices of labor service cooperatives or multipurpose cooperatives with labor service activities conform to the requirements of laws, rules and regulations and to identify the needed intervention for their development.

Section 4. Definition of Terms. As used in this Guidelines, the following terms are defined as follows:

Area of Operation –refers to the area where the cooperative operates and where its members come from as provided for in their Articles of Cooperation and By-laws.

Board of Directors – refers to the body entrusted with the management of the affairs of the cooperative under its Articles of Cooperation and By-laws.

Bond of Membership. Refers to the condition where the members group themselves to attain their common goals and objectives which shall be:

1. *Occupational* for LSC;
2. *Residential or occupational or associational* for multipurpose cooperatives with labor service as one of its business activities.

Cooperative – refers to an autonomous and duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve their social, economic, and cultural needs and aspirations by making equitable contributions to the capital required, patronizing their products and services and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.

Cooperators – refer to those members mentioned in the Articles of Cooperation as originally forming and composing the cooperative and who are signatories thereof.

Field of Membership – refers to the specific identification/limitation of the cooperative membership which shall be closed to specific line of skills or profession.

Labor Service Cooperative – refers to a cooperative engaged in a legitimate contracting or subcontracting arrangement providing services for a specific job or undertaking farmed out by a principal under a Service Agreement.

Member-employee – refers to an individual member of a labor service cooperative or multipurpose cooperatives with labor service activities adhering to the principles set forth in RA No. 9520 and in the Articles of Cooperation and By-Laws (ACBL), has been admitted by the cooperative as member and who has been deployed by cooperative to perform or complete a job, work, or service pursuant to Service Agreement.

Principal– refers to any natural or juridical entity, whether an employer or not, who puts out or farms out a job or work to a contractor.

Registration –refers to the operative act of the CDA granting juridical personality to a proposed cooperative and is evidenced by a Certificate of Registration.

Section 5. Scope of Operations. Labor service cooperatives or multipurpose cooperatives with labor service activities 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.

Section 6. Membership in the Labor Service Cooperatives. All cooperatives engaged in labor service are strongly encouraged to make all their member-employees as regular members for them to be entitled to the full enjoyment of their rights and benefits as cooperative members.

Section 7. Bond of Membership. The bond of membership for labor service cooperative shall be *occupational*. For multipurpose cooperatives with labor service as one of its business activities, the bond of membership shall be either *residential*, *occupational* or *associational*. For this purpose, a cooperative having *institutional* as bond of membership is barred from engaging into labor service as its business activity.

Section 8. Pre-Registration Seminar (PRS). The conduct of pre-registration seminar (PRS) for prospective members of would-be cooperatives and for existing cooperatives intending to include labor service as business activity shall be in accordance with the guidelines on the conduct of PRS as prescribed by the Authority.

Section 9. Completion of Pre-Membership Education Seminar. The prospective member of a labor service cooperative or multipurpose cooperative with labor service activities must have completed a Pre-Membership Education Seminar (PMES) in accordance with the Module prescribed by the Authority.

Section 10. Requirements for New Registration. For new cooperatives, the following documents shall be submitted to the CDA in four (4) original copies except for item (1) below:

1. Cooperative Name Reservation Notice (CNRN);
2. Economic Survey;
3. Articles of Cooperation and By-Laws:
 - 3.1 The Articles of Cooperation shall be signed by all the co-operators on each and every page;
4. Treasurer's Affidavit;
5. Surety Bonds of accountable officers;
6. Certification of Attendance to PRS signed by the Senior CDS for CRITS and noted by the Extension Office Director; and
7. Business Plan showing the viability of engaging in labor service activity.

A registration fee is required and shall be paid only upon the approval of the application which is 1/10 of one percent (1%) of the paid-up capital or Php500.00, whichever is higher. In addition, one percent (1%) of the total registration fee shall be charged and paid as legal research fee.

Section 11. Requirements for amendments of Articles of Cooperation and/or Bylaws for the purpose of engaging in labor service activities.

The following requirements shall be submitted to the Authority in three (3) original copies, except for item (1) below:

1. Cooperative Name Reservation Notice(CNRN), in case of change of name;

2. A General Assembly (GA) Resolution prepared by the cooperative's Secretary and attested by at least majority of the Board of Directors stating the fact that said amendments have been duly approved by at least two-thirds (2/3) vote of all the members with voting rights;

3. BOD and Secretary Certificate that said amendments have been duly approved by at least two-thirds (2/3) vote of all the members with voting rights;

3. Amended Articles of Cooperation and By-Laws;

4. Updated Treasurer's Affidavit in case of amendment in the authorized capital; and

5. Feasibility Study indicating viability of each proposed business activity, including a Business Plan.

An amendment fee is required and shall be paid only upon the approval of the application which is 1/10 of one percent (1%) of the paid-up capital if there is an increase in the paid-up capital and/or basic fee of Php300.00, whichever is higher. In addition, one percent (1%) of the total amendment fee shall be charged and paid as legal research fee.

Section 12. Multipurpose Cooperative intending to engage in labor service as one of its business activities. A multipurpose cooperative intending to engage in labor service as one of its business activities must have a minimum net worth of at least Ten Million Pesos (Php 10, 000, 000.00), as shown in the latest Annual Financial Statement, and must have an available paid-up capital for labor service operation of at least Five Million Pesos (Php 5,000,000.00) as provided for in the Business Plan. Provided that, the cooperative did not incur net loss for the last three consecutive years and its net worth is progressive for the last three (3) years from the date of application.

In addition to the foregoing, the following must be complied with:

- a. The said cooperative must be operating and reporting for at least five (5) years.
- b. Existing Business Plan showing the viability of engaging in labor service activity;
- c. There must be at least three (3) prospective principals;
- d. All officers of the cooperative must have undergone intensive trainings relative to applicable labor laws, rules and regulations; and
- e. The General Assembly Resolution approving the engagement of the cooperative in labor service activity as well as allocating funds of Five Million Pesos (Php5,000,000.00).

Section 13. Registry of Members for Multipurpose Cooperative with Labor Service Activities. The multipurpose cooperative with labor service activities shall maintain a separate registry of its deployed

member-employees, taking into consideration the following types of membership:

a. *Regular Member* - refers to a member-employee 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 member-employee 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 RA No. 9520. 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.

Section 14. Jurisdiction. All applications for registration of labor service cooperatives and any amendment thereto as well as amendments for multipurpose cooperatives intending to engage into labor service activities shall be filed and registered with the CDA Extension Office (EO) having jurisdiction over the principal office of the proposed or existing cooperative.

Section 15. Capital Requirements. All labor service cooperatives shall be organized with share capital contributions from members. The authorized share capital of a cooperative shall be provided for in its Articles of Cooperation. At least twenty-five percent (25%) of the authorized share capital shall be subscribed by the members and at least twenty-five percent (25%) of the subscribed share capital shall be paid by the members prior to registration.

For purposes of registration, the paid up capitalization requirement for the labor service cooperatives shall not be less than fifteen thousand pesos (Php15,000.00). However, to operate as such labor service cooperative by engaging in a legitimate contracting or subcontracting arrangement, it must comply with the paid up capital requirement by the Department of Labor and Employment (DOLE) of at least five million pesos (Php5,000,000.00), in which case, the authorized share capital shall be amended accordingly.

Section 16. Prohibited Practices and Activities. The following practices and activities are prohibited:

1. Contracting the services of another entity/unit/group to manage a contract entered into by the cooperative;
2. Officers transacting business with the cooperative such as lending and financing under terms and conditions which are not fair and reasonable under the circumstances;
3. Officers or employees of the principal transacting business with the cooperative under terms and conditions which are not fair and reasonable under the circumstances;
4. Members of an employee cooperative of any institution/entity cannot be deployed to perform the services contracted out by the said institution/entity.
5. A cooperative having institutional as bond of membership engaging into labor service as its business activity.

6. Acceptance as well as the terms and conditions of employment of the members-employees are controlled directly or indirectly by the HR of the principal.

7. Existence of the same key officers and/or employees both in the cooperative and in the principal.

8. Transferring or accepting of member-employee from one labor service cooperative to another without the knowledge and consent of the concerned member-employee.

9. The period of deployment of the member-employee is shorter than the duration of the service contract of the cooperative with the principal.

Section 17. Members Rights and Benefits. Member-employees shall be entitled to the following rights and benefits aside from those provided for by labor laws, rules and regulations:

1. Interest on Share Capital;
2. Patronage Refund;
3. Accident and Health Insurance. For accident insurance the same shall not be less than Php50,000.00 per member, preferably from any insurance cooperatives.
4. Separation/retirement pay;
5. Membership capability and awareness seminar;
6. Other benefits that the cooperative may provide.

Section 18. Fund For Separation and Retirement Benefits. To protect the interest of a member-employee, the cooperative shall create a separate fund to cover the separation and retirement benefits of its member-employee in accordance with the provision of the labor law and policy of the cooperative.

If upon separation and/or retirement, the member-employee also opts to terminate or withdraw his/her membership from the cooperative, he or she shall also be entitled to a refund of all capital contributions and savings including earnings of such contribution, net of amount due to the cooperative subject to the provisions of Articles 30 (1) and 31 of RA 9520.

Subject to the condition as stated in Rule 10 of the Revised IRR, the terminated member shall still be entitled to interest on share capital and patronage refund accruing to him/her until fully paid, unless the delay is caused by the member in which case, it shall be computed based on the effectivity date of the termination/withdrawal.

Section 19. Effects of Termination of Membership and Employment.

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.

Section 20. Transparency to Members. The cooperative shall be obliged to regularly update its members on the financial condition of the cooperative by posting its financial statements in a conspicuous place within the cooperative premises.

Every member of the cooperative shall have the right to access its own information in accordance with Memorandum Circular No. 2013-06 entitled, *“Clarificatory Policy on the Member’s Right to Examine under Article 83 in relation to Article 52 of Ra No. 9520.”*

Section 21. Security of Tenure. All member-employees of the cooperative engaged in labor service shall be considered as regular employees thereof. As such, their employment cannot be terminated except on just and/or authorized causes as provided in the labor code.

They shall also enjoy the rights and privileges as well as the duty to comply with their respective obligations as members of the cooperative as provided under RA No. 9520 and related laws, rules and regulations and jurisprudence.

Section 22. Required Number of Principals. Labor service cooperatives and multipurpose cooperatives with labor service activities shall, during its first year of operation, enter into a contracting or subcontracting arrangement with at least one (1) principal. Provided that, after two (2) years of operation, the said cooperative shall have three (3) or more different principals.

Section 23. Computation of Administrative fees. The Standard computation of Administrative fees shall be as follows:

REIMBURSABLE COSTS:

a. Payable directly to member-employees

(i)	Salaries	XXX
(ii)	Night differential premium	XXX
(iii)	ECOLA	XXX
(iv)	13 th month pay	XXX
(v)	Service Incentive Leave (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
	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 cooperative. They shall be treated as a refund by the principal of the funds advanced by the cooperative.

Section 24. Administrative Fee. The service agreement between the principal and the labor service cooperative or multipurpose cooperative with labor service activities shall include the standard administrative fee of not less than ten percent (10%) of the total contract cost.

Section 25. Certificate of Compliance. All labor service cooperatives and multipurpose cooperatives with labor service activities shall submit the required reports for the issuance of Certificate of Compliance (COC) by the Authority. In the renewal of COC, the said cooperatives shall be required to secure a group policy of accident insurance for the deployed members, both regular and associate, considering the high risk of labor service.

Section 26. Allocation and Utilization of Statutory Funds. All labor service cooperatives and multipurpose cooperatives with labor service activities shall comply with the rules, regulations and issuances promulgated by the Authority in the allocation and utilization of Statutory Funds.

Section 27. Developmental Intervention. The Authority shall formulate programs for the development of labor service cooperatives or multipurpose cooperatives with labor service activities for their viable and efficient operation.

Section 28. Capital Build-up. The by-laws and/or policies of every cooperative shall provide for a reasonable and realistic member capital build-up program to allow the continuing growth of the member's investment in their cooperative as their own economic conditions continue to improve.

Section 29. Capital Build-Up Program and Savings Mobilization. To promote continuous capital build-up, every member shall invest in the share capital of the cooperative. The by-laws and policies of labor service cooperatives or multipurpose cooperatives with labor service activities shall provide for the continuous contribution of share capital.

To strengthen the asset-base of members and to promote the financial stability of the cooperative, thrift and savings mobilization is encouraged among members. For this purpose, the cooperative shall accept savings and time deposits of its members.

Section 30. Treatment and Effect of Capital Build-Up Program and Savings Mobilization. Capital Build-Up deducted from every member shall be treated as an asset of member and the cooperative shall serve as depository of such money. The amount deducted as Capital Build-up shall be posted in every ledger of the members and shall be recorded as paid-up share capital once the amount thereof equals the required par value.

Section 31. By-laws/Policy and Subscription Agreement. The By-laws/Policy of the cooperative shall provide for the mode, manner and condition of payment of the members' contributions to the capital build-up and savings mobilization. Members' contributions to the capital build-up shall be covered by a subscription agreement.

Section 32. Issuance of Share Certificate and Evidence or Proof of Deduction and Receipt of Payment. Every payment or deduction made from the members' salary intended for payment of his/her share capital or capital build-up contribution shall be covered by an evidence or proof of deduction and receipt of payment issued by the cooperative. The cooperative shall also issue a share certificate to the member based on the number of shares fully paid at least every end of the calendar year or unless otherwise provided for in the Bylaws.

Section 33. Instrument for Salary or Wage Deduction. A member of a cooperative may, notwithstanding the provisions of existing laws to the contrary, execute an instrument in favor of the cooperative authorizing his employer to deduct from his/her salary or wages, commutation of leave credits and any other monetary benefits payable to him by the employer and remit such amount as maybe specified in satisfaction of a debt or other demand due from the member to the cooperative.

Section 34. Member Individual Written Authorization. In cases where the collection of share capital or capital build-up contribution is by salary deduction, the member shall issue an instrument authorizing the employer to deduct from his/her salary an amount representing his/her share capital or capital build-up contribution in accordance with Article 113 (3) of the labor code in relation to Article 58, RA 9520. Any deduction of said contribution from the payroll of any member without his/her written authority shall not be allowed.

Section 35. Treatment of Unclaimed Share Capital, Interests, Savings, and other benefits due to a former member-employee. In cases of termination of the membership and/or employment of a member-employee, any unclaimed share capital and interests thereto, savings, patronage refund and other benefits due to former member-employee shall be held in trust by labor service cooperative or multipurpose cooperative with labor service activities and treated as payables. Provided that, due diligence in notifying the said former member-employee must be exerted by the said cooperative.

Section 36. Conduct of Inspection. The Extension Office (EO) concerned shall conduct regular inspection of the labor service cooperative or multipurpose cooperative with labor service activities to ensure compliance with this Guidelines, laws, rules and regulations, issuances of the Authority and other appropriate government agencies.

Section 37. Compliance with general labor standards and other laws. Labor service cooperatives or multipurpose cooperatives with labor service activities are required to comply with the requirements of labor laws and its implementing rules and regulations and the minimum requirements prescribed by existing laws, rules and regulations relating to wages, hours of work, allowances and other monetary and welfare benefits, including those set by occupational safety and health standards.

Section 38. Sanctions. The Authority may, after due notice and hearing, revoke the Certificate of Compliance copy furnished to the concerned government agencies on any violation of this Guidelines. The Authority may, however, proceed with the dissolution proceedings after due notice and hearing.

Section 39. Repealing Clause. Any provision of previous issuances of the Authority which are inconsistent with this Guidelines are hereby repealed or modified accordingly.

Section 40. Separability Clause. If any provision of this Guidelines is declared null and void or unconstitutional, the other provisions not affected thereby shall continue to be in force and effect.

Section 41. Effectivity. This Guidelines shall take effect fifteen (15) days after filing with the Office of National Administrative Registry (ONAR), University of the Philippines (UP) Law Center, Diliman, Quezon City, pursuant to Presidential Memorandum Circular No. 11 dated 09 October 1992.

Approved pursuant to BOD Resolution No. _____ dated _____.

FOR THE BOARD OF DIRECTORS

By:

USEC. JOSEPH B. ENCABO

Chairman