



Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Intramuros, Manila



LABOR ADVISORY NO. 10
Series of 2016

PROHIBITION AGAINST LABOR-ONLY CONTRACTING

Pursuant to Articles 5 and 106 to 109 of the Labor Code, as amended, and consistent with the policy directives to strictly implement and enforce the workers' right to security of tenure, the following is hereby reiterated:

Section 1. Prohibition against labor-only contracting. – Labor-only contracting shall be declared prohibited. For this purpose, labor-only contracting shall refer to an arrangement where the contractor or subcontractor merely recruits, supplies or places workers to perform a job, work or service for a principal, and the following elements are present:

- a) The contractor or subcontractor does not have substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, and the workers recruited and placed by such person are performing activities which are directly related to the principal business of such employer. In such cases, the person or intermediary shall be considered merely as an agent of the employer who shall be responsible to the workers in the same manner and extent as if the latter were directly employed by him; or
- b) The contractor does not exercise the right of control over the performance of the work of the employee.

Section 2. Declaration of labor-only contracting; Effect.– Pursuant to Article 128 of the Labor Code of the Philippines, as amended, and existing jurisprudence¹, Regional Directors shall have authority to declare the existence of labor-only contracting between the contractors and subcontractors, and the principals. Workers of labor-only contractor/subcontractor are considered employees of the principal.

Be guided accordingly.




SILVESTRE H. BELLO III
Secretary

¹ DOLE Philippines vs. Medel Esteva, et al. G.R No. 161115, November 30, 2006; Norkis Trading Corp. vs. Joaquin Buena Vista, et al. G.R No. 182018, October 10, 2012.