

Rody seeks list of firms into labor-only contracting

The Philippine Star · 21 Apr 2018 · 1 · By ALEXIS ROMERO – With Jess Diaz, Sheila Crisostomo, Paolo Romero

President Duterte has ordered a crackdown on companies engaged in labor-only contracting following Malacañang's announcement that he would no longer sign an executive order against contractualization and just let Congress pass a law on security of tenure.

In a memorandum dated April 17, Duterte ordered the Department of Labor and Employment (DOLE) to conduct an inventory of companies practicing labor-only contracting.

“The Department of Labor and Employment Secretary is hereby directed to submit to the Office of the President within thirty days from issuance hereof a comprehensive report on the implementation of the DOLE Department Order Nos. 174 and 183 (s. 2017) including violations thereof, and a list of companies engaged and/or suspected to be engaged in labor-only contracting,” the memorandum read.

The DOLE memorandum prohibited labor-only contracting, regulated lawful contractual arrangements, and included workers in inspecting compliance with labor standards and laws.

Other practices that were prohibited by the memorandum include the farming of work through “cabo” or persons or entities that, under the guise of a labor organization, cooperative or any entity, supplies workers to an employer; contracting out of job or work through an in-house agency; contracting out of job or work through an in-house cooperative which merely supplies workers to the principal; and contracting out of job or work by reason of a strike or lockout and contracting out of job or work being performed by union members.

Duterte also ordered the National Labor Relations Commission to submit a list of cases involving respondents found to be engaged in labor-only contracting or have violated the DOLE orders.

“It's to tell them comply, otherwise the President will have you closed down. There will really be a tokhang against companies... He will run after them one by one. This will be a tokhang against cabo. Let me call it now, tokhang laban sa cabo,” presidential spokesman Harry Roque said.

“Tokhang” originally refers to the anti-narcotics campaign of the police wherein law enforcers visit the houses of drug pushers and users to advise them to stop their illegal activities.

Roque said the memorandum was in line with the President's promise to put an end to illegal labor practices.

“The President will ensure that there will be no 555 or cabo. Thirty days. Do not test the President's resolve. You know how strong the President's resolve is,” he added.

The term '555' refers to the practice of firing contractual employees after five months, Roque said.

Asked if the memorandum was because of the backlash over the President's decision not to sign an EO on contractualization, Roque replied: "Where is the backlash? There is no backlash."

Last Thursday, Labor Secretary Silvestre Bello III said Duterte would no longer sign an EO on contractualization and would just certify as a priority a bill on security of tenure.

The House of Representatives passed House Bill 6908 on third and final reading before lawmakers started their eight-week Lenten vacation last month.

Bello yesterday assured the workers' sector that the Duterte administration is still committed to put a stop to all illegal forms of contractualization.

He said the DOLE intends to implement Department Order No. 174 to regulate contractual practices at the work place.

"I assure the labor sector and I am assuring them again that they can trust the department," Bello added.

He also maintained that labor officials are doing their jobs, citing their order to fastfood giant Jollibee Foods Corp. to regularize its employees.

'Duterte betrayed workers'

But Duterte's decision did not sit well with some labor groups.

Labor groups and leftist lawmakers slammed Duterte, saying the President "betrayed" workers by reneging on his election promise to put a stop to the endo (end of contract) practice of many employers and to toss the issue to Congress.

"President Duterte has deluded us with his empty rhetoric of being pro-poor and pro-worker. He is the Ebenezer Scrooge who scrimped on workers rights and welfare while capitulating to big business and capitalists," Akbayan Rep. Tom Villarin said.

"The non-issuance of the anti-endo executive order changes nothing: workers have yet to see any significant progress on President Duterte keeping his campaign promise to those who voted him to office," he added.

Nagkaisa Labor Coalition spokesman Rene Magtubo pointed out that Duterte made the works wait for more than two years, "only to end up at the doorsteps of Congress begging for a stricter version of anti-contractualization bills."

"This only proves that the force of reason does not prevail in favor of labor as there are much powerful forces like the employers and their organizations that can sway the decision of the president," he added.

He also called on all labor organizations to launch protest actions and convert the May 1 Labor Day commemoration as national day of workers' indignation and protest.

Gabriela Rep. Arlene Brosas said Duterte betrayed workers by flip-flopping on his promise to sign an anti-contractualization order.

She also criticized the proposed law the House has passed.

“It is a fake security of tenure bill, since it still allows subcontracting and further legitimizes manpower agencies and third-party service providers,” she said.

Anakpawis Rep. Ariel Casilao said House Bill 6908 “is more of a job-contracting bill” rather than a proposed law that would prohibit contractualization.

He also cautioned workers not to hope for protection against endo from lawmakers.

“If President Duterte could betray the poor workers, more so the members of Congress, who will allow contractualization via job contracting under Bill 6908,” Casilao said.

“The moral of this story would be that regularization or fortified security of tenure totally relies in the hands of the workers, attainable through collective action and not credence to a campaign promise or benevolence of a traditional politician who just wants to earn votes,” he added.

Casilao said that with the Duterte’s refusal to sign the anti-endo EO, the administration should expect bigger Labor Day protests on May 1.

Senators to strike balance

Senators vowed to pass a bill on labor contractualization that will be investment-friendly but will protect workers.

Sen. Joseph Victor Ejercito said the passage of a bill that strengthens the ban against contractualization and balances the interests of both businesses and employees is possible in the Senate.

“I would support a balance. We must protect labor rights and at the same time create jobs. There is a balance in the middle,” Senate President Pro Tempore Ralph Recto earlier said.

Sen. Joel Villanueva, chair of the Senate committee on labor and employment, welcomed Duterte’s move but sought a clear position from Malacañang on what it wants in terms of legislation.

He said the labor department should come up with its definition of labor contracting, which the Senate could work on.

Even so, the committee has already come up with its version of the bill that is being circulated among members of the panel for review and signature, Villanueva said.

The committee report is expected to be presented in plenary when Congress resumes session in May.

For Sen. Sherwin Gatchalian, contractualization should be allowed for certain “seasonal” industries to protect employment and sustain businesses.

“Endo as a rule must be stopped but we can’t have a one-size-fits-all because businesses are different,” Gatchalian said.