

FAQs ON OUTSOURCING JOBS IN NEPAL

LABOUR OUTSOURCING IN NEPAL: EVERYTHING YOU NEED TO KNOW



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FAQS ON OUTSOURCING JOBS IN NEPAL

1. WHAT ARE THE MAJOR LEGAL PROVISIONS TO AVAIL SERVICES FROM AN EMPLOYEE EMPLOYED THROUGH A LICENSED EMPLOYEE SUPPLIER AGENCY?

- 1.1. To understand the legal provisions related to obtaining services from an employee employed through a licensed employee supplier agency in Nepal, we need to consider several key aspects of the **Labour Act 2074 (2017)** (the "**Labour Act**") and associated regulations and directives as explained in foregoing paragraphs.
- 1.2. **Definition of Labour Supplier: Section 2(y)** of the Labour Act defines a labour supplier as follows:
 - 1.2.1. "Labour supplier" means a person or body having obtained the licence pursuant to **Chapter 11** of the Labour Act to supply labour.
- 1.3. **Publication of List of Works:** Chapter 11 of the Labour Act, specifically in **Section 58(1)**, stipulates that the Ministry of Labour, Employment, and Social Security upon the recommendation of the Council, must publish a list of works in which labour can be employed

through labour suppliers. This publication is done by issuing a notification in the Nepal Gazette.

- 1.4. **Scope of Employment: Section 58(2)** of the Labour Act further elaborates on this by stating that when employing labour through a labour supplier as per **Sub-Section (1)**, the employer shall hire them for work other than the core work of the business or service.
- 1.5. **The Notice:** In accordance with **Section 58(1)** of the Labour Act, the Ministry of Labour, Employment, and Social Security published a notice in the Nepal Gazette on **19 Ashoj 2075 (5 October 2018)**. This notice lists the specific services that can be procured from labour suppliers, which include:
 - 1.5.1. Security
 - 1.5.2. Support Staff
 - 1.5.3. Business Assistance
 - 1.5.4. Household Support
- 1.6. **Implications:** Collectively, when interpreting **Section 58(1)**, **Section 58(2)** of the Labour Act, and the Notice, it can be inferred that an employer can engage labour from licensed employee suppliers for services related to security, support staff, business assistance, and

household support. Importantly, these services should not constitute a part of the core work of the employer's business or service.

- 1.7. **Licensing for Labour Suppliers:** Additionally, as per **Section 59(1)** of the Labour Act, a company seeking to outsource employees is required to obtain a licence. **Section 59(4)** further specifies that the licence should include details about the type of work or service and the scope of work related to the supply of labour. Notably, the same company is typically not permitted to supply labour for more than two types of works or services.
- 1.8. In essence, these provisions establish that a company intending to supply labour must obtain a licence specifying the types of services it is authorized to provide. Employers are allowed to engage labour suppliers for services listed in the Notice, and these services should not overlap with their core business activities.

2. QUESTION 2: WHETHER ENTERPRISES CAN PROCURE EMPLOYEES THROUGH A LABOUR SUPPLIER FOR OTHER SERVICES WHICH ARE NOT COVERED BY THE NOTICE?

- 2.1. As clarified in para 1.5 above, labour suppliers are constrained by their licence to provide employees only for the specific services they are authorized to offer. Consequently, it is not

feasible for Enterprises to utilize labour suppliers for services that fall outside the scope of those mentioned in the Notice.

3. QUESTION 3: CAN THOSE OTHER SERVICES WHICH ARE NOT MENTIONED IN THE NOTICE BE PROCURED UNDER THE SERVICE PROCUREMENT CONTRACT MODEL FROM A LABOUR SUPPLIER?

- 3.1. The Labour Act does not explicitly address the procurement of services not included in the Notice. However, as mentioned in para 1.6, labour-supplying companies are typically limited to supplying employees for the specific types of work they are licensed for.
- 3.2. Nonetheless, it's important to note that the law does not expressly prohibit labour suppliers from having other objectives beyond labour supply. Thus, if a labour supply company has broader objectives that permit it to provide services required by an Enterprise, it may be possible for an Enterprise to procure these services from that company.
- 3.3. Alternatively, Enterprises could seek these services from other service providers whose primary objective is to offer the required services.
- 3.4. To engage for services as described in para 3.2, Enterprises can enter into a service contract

with a service provider, whether it is a labour supplier or another company. The terms of such a contract would be governed by general contract law rather than labour law.

- 3.5. Crucially, the contract must explicitly state that it is for the provision of services (e.g., business analysis services) and not for labour supply (e.g., supplying a business analyst). Any indication in the contract that it pertains to labour supply would subject it to the restrictions mentioned in para 2.1.
- 3.6. Consequently, Enterprises can potentially obtain services not listed in the Notice through a service procurement contract model. However, the company from which such services are procured must not exclusively operate as a labour supplier; it should also be a service provider for the required services.

KEY CONTACTS

If you have any questions or would like to know how this might affect your business, get in touch with these key contacts



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