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NOTIFICATIONS BY GOVERNMENT

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**LABOUR FACTORIES BOILERS AND INSURANCE
MEDICAL SERVICES DEPARTMENT
(LAB-I)**

EASE OF DOING BUSINESS (EoDB) - CERTIFICATION/THIRD PARTY
CERTIFICATION INSTEAD OF DEPARTMENTAL INSPECTIONS UNDER
ALL THE LABOUR LAWS.

***[G.O.Ms.No.12, Labour Factories Boilers & Insurance Medical Services (Lab.I),
8th December, 2020.]***

NOTIFICATION

The Government of India, Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, New Delhi have recommended the introduction of Self Certification/Third Party Certification instead of Departmental inspections under all the Labour Laws to improve Ease of Doing Business in the State of Andhra Pradesh. Accordingly, the State Government have decided to introduce a scheme of Certification /Third Party Certification under all the Labour Laws in the State as follows:

THIRD PARTY CERTIFICATION/ AUDIT SCHEME**(1) Third Party Certification/Audit Scheme Agency****(a) Duties & Responsibilities:**

- i. To conduct certification /audit under all labour laws covered during compliances inspections by labour inspectors when approached for third party Audit by any establishment which comes under medium risk category.
- ii. To conduct the certification /audit in compliance with relevant provisions and international best practices in social audit.
- iii. To prepare a Certification /Audit Report detailing status of compliance based on checklist provided.
- iv. The Empanelled Third Party Firm should submit copy of the official receipt of the fees received for the Audit, issued by the establishment along with the Certification /Audit Report in a sealed Envelope/ Online to the concerned authorized officer within 15 days of the last day of audit visit.
- v. The categorization of Medium Risk establishment is as per orders issued by the govt. which can be viewed at the web portal of the department.

(b) Eligibility of the Firm:

- i. The Firm should be a registered body corporate in India under appropriate legal frame work, such as Companies Act or LLP Act.
- ii. The Firm should be registered with Labour Department, (under the AP Shops and Establishments Act.)
- iii. The Firm should preferably have experience of undertaking and evaluating establishments for labour regulatory compliance.
- iv. The Firm should have Labour Law Auditor (Compulsory) having suitable eligibility on company pay roll.

(c) Eligibility of Labour Law Auditor:

1. Should have a minimum of 7 years of experience under Labour Laws
OR
Should have a minimum of 7 years of experience as a legal practitioner under Labour Laws
OR
Should have served as Assistant Commissioner of Labour and above the rank in State or Central Labour Department
2. Should be medically fit to carry out inspection procedure.

(d) Security Deposit:

- i. The empanelled third party Agency shall submit the refundable Security Deposit for 2 years in Department of Labour from a scheduled/ Nationalized bank through DD drawn in favour of the Commissioner of Labour, Andhra Pradesh, Vijayawada or by any Online Transfer for an amount of Rs. 50,000 (Rupees Fifty Thousand Only).
- ii. The full security deposit shall be forfeited if any observations are found grossly false in the Certification /Audit Report.
- iii. The security deposit shall be refundable on completion of tenure of empanelment of Third Party Agency, without any observations by the Departmental Inspectors or as per the performance

evaluation by the Standing Committee formed by Labour Commissioner. The same may also be adjusted towards security deposits payable for renewal of empanelment. No interest will be payable on the security deposit.

(e) Empanelment, Performance evaluation and extension of tenure:

- i. The empanelment of the Third Party Agency shall be done by the Commissioner of Labour after referring the application empanelment to the standing committee and obtaining its report and will be valid for duration of (2) years from the date of empanelment.
- ii. Any Certification /Audit report submitted by the empanelled Third Party Agency beyond the empanelment period will not be accepted.
- iii. The subsequent extension of empanelment will be decided by Commissioner of Labour on the basis of evaluation by the Standing Committee depending on the history of performance.
- iv. The Standing Committee will evaluate the performance of the empanelled Third Party Firms in the last quarter of the second year or whenever there are any compliance issues observed or whenever the Commissioner of Labour has reason to evaluate, to be recorded in writing, due to reasons such as:
 1. Contradiction or discrepancies observed in report filed by third party agency.
 2. Firm charging more than the reasonable fees for certification/ audit; and/or
 3. Firm involved in act of bribery; and/or
 4. Firm not submitting certification/ audit report within the prescribed time-limit without assigning a satisfactory reason; and/or
 5. Firm revealing any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties;
 6. If found guilty, in case of complaint(s)
- v. For the purpose of performance evaluation, the standing committee constituted by Commissioner of Labour will analyse the reports submitted by the agency and submit its report to the Commissioner of Labour within 15 working days from the date of submission of request by the firm for extension of tenure for another term of 2 years.
- vi. After the review of Standing Committee's report, if the Empaneled Third Party is found to be non-compliant in delivering the services or misrepresenting fact(s) in the certification/audit report, the Commissioner of Labour may, on his direction, cancel the empanelment of third party agency and forfeit Deposit submitted. Further the individual Auditors involved will be blacklisted.
- vii. This procedure and penalty shall be in addition to other judicial resource available under the laws of the state/country.
- viii. If the performance evaluation by the Standing Committee is found to be satisfactory in its report to the Commissioner of

Labour, the Commissioner will grant extension of tenure for 2 years.

- ix. If the Third Party Agency wishes to discontinue from the empanelment before expiry of the empanelment period the security deposit will be refunded duly imposing a cut of 10% provided the performance evaluation by the Standing Committee is found to be satisfactory.

(2). Standing Committee:

Standing Committee shall be constituted with the following members, and it will conduct interviews for Labour Law & technical auditors & evaluate the performance of empanelled Third Party Agencies.

1. Addl. Commissioner of Labour
2. One Joint Commissioner of Labour from the field
3. Deputy Commissioner of Labour from the field

The tenure of the Committee would be three years from date of appointment by the Commissioner of Labour.

(3). Establishments:

a. Enrolment under Third Party Certification/Audit Scheme:

- i. All the Medium Risk establishments, as defined in G.O.Ms.No.27 LET&F (Labour-II) Department Dated 31.05.2016 which do not figure in the non-compliant establishments list shall be eligible for opting for this scheme.
- ii. The Scheme shall cover compliance and certification/audit GO MS/8/2020/LAE01-Labour, Employment, Training and Factories File No.LAE01-LAB0CLAB/148/2020-LAB-I requirements as applicable for all the inspections under various Labour Laws through single joint inspection as specified in G.O.Ms.No.27 LET&F (Labour-II) Department Dated 31.05.2016 amended from time to time.
- iii. Under the above Scheme, the application for inclusion under the Scheme shall be made ONLINE as per Annexure-I addressed to the authorized authority of concerned region.
- iv. On successful submission of Application, the establishment will be deemed to be enrolled under the scheme. The Third Party Agency shall be submitted within 90 days, failing which the establishment will be enrolled from the scheme. Further they will be debarred for opting for this scheme for a period of 2 years. The responsibility for submission of Third Party certification /audit report lies on the establishment. A copy of the Certification/Audit report shall be displayed prominently on the notice board of the establishment for the information of the employees.

- b. Certification/Audit report submitted by the Third Party Agencies will be treated as preliminary compliance of inspection procedure. In case of non- compliance with any Labour Law as per the Certification/Audit Report,

department will issue a notice stating to comply within 15 days time.

- c. The establishment will be a required to take corrective action and upload compliance report within 15 days. The jurisdictional Authorized Officer will scrutinize the compliance report to see if compliance is made. Immediate and follow up action on the violations irregularities shall be ensured if the employer fails to comply even after providing opportunity as at (b).
- d. It is be emphasized that this the department reserves the right to inspect an establishment whenever there are any compliance issues observed or whenever the Commissioner of Labour has reason to be informed in writing, for getting inspection conducted.
- e. If any establishment is found to be non- compliance with Labour Laws during inspection or evaluation of compliance report, such firm will be put in the non- compliance establishments list and will continues to remain so till it is found to be in full compliance after the conduct of next compliance inspection by the Department.
- f. If any scrutiny of the certification/audit report, the establishment is found to be non- compliance with Labour Laws, he will be exempted from compliance inspection by the Department for a period of 3 years from the date of enrolment provided it continues to submit the annual return on time.
- g. The establishment can opt to continue under the scheme by renewing the enrolment ONLINE before the expiry of enrolment period. The period of enrolment will start from the next day after the 3 years period of the previous enrolment and the certification/audit report will be required to be submitted within (90) days of the date of renewal of enrolment.

B. UDAYALAKSHMI,
Principal Secretary to Government.

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