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YAMAGUCHI PREFECTURAL GOVERNMENT
Labor Department

27 January 1951

SUBJECT: Re. Bloc Conference Upon Unified Basis for
Determination of Limit of Labor Supply
Enterprise.

TO: Chief,
Chugoku Civil Affairs Region.
Attn: Mr. Walter P. Domanowski,
Chief of Labor Section.

1. A bloc conference upon unified basis for the determination of the limit of labor supply enterprise was held at the office of Oita Prefectural Government Jan. 25.
2. In conformity with your request, herewith is forwarded the copy of data furnished for the attendants of the conference.

Yours respectfully,

Koji Kishimoto
 KOJI KISHIMOTO
 Director,
 Labor Department,
 Yamaguchi Pref. Govt.

FT/sn

Program of Conference

1. Opening Address

Greetings

Mr. TAKATA,
Director of Economic Dept.

Greetings

Mr. TAKAGI,
Official of Labor Ministry.

Greetings

Mr. Walter P. Domanowski,
Chief, Labor Division,
Chugoku Civil Affairs Region.

2. Agenda

a. Exchange of information upon actual activities for supervision over labor supply enterprise.

b. Explanatory comments upon Labor Ministry's policy upon supervision.

c. Questions concerning basis for determination and answers thereto.

d. Others.

3. Closing Address.

Question 1 (propounded by Yamaguchi Prefecture):

In Okayama Prefecture, rivet-driving work conducted by the employment of compressors, pneumatic tools and adequate number of workers all furnished by the sub-contractor himself, (25 workers per compressor of 50 H.P. in this case) is decided (after the approval of the Labor Ministry), even when conducted separately, not against the provision of item 4, para. 4, Art. 4 of the Law Relative to the Enforcement of Employment Security Law.

Then, in case of rivet-driving work conducted by the employment of the compressor of less than 50 H.P., can it be decided not against the provision of the said item when adequate number of workers be used?

Question 2 (as above)

In case of a separate gas-welding work conducted by the use of the stationary acetylene generator of large type, welding machine, its accessories, and necessary materials furnished by the sub-contractor himself, the use of adequate number of workers is decided not in violation of the said item 1 - if the number does not exceed 12 per welding machine.

From this, can it be interpreted that in case of gas-welding work operated by means of mobile welding machine, the employment of adequate number of workers is in conformity with the said item 1?

Question 3 (propounded by Saga Prefecture)

In the civil engineering circles, there is an age-old practice, generally known Dekidakabarai (price work system). It is a price work conducted by a group of workers. This work, the volume of which is decided at the start together with the cost to be paid in proportion to the amount of work finished, can be regarded as a verbal contract or partial contract.

Concerning the above, to what extent is the law applicable in, and what is the basis for decision about, the following items?

(1) Is this contract a collective one? Is such case can be put outside of the category of labor supply enterprise, because there is no employer in the group?

(2) Has this group a legal responsibility for the completion of the work in accordance with item 1, par. 1 Art. 4 of the Law?

Question 4 (as above)

In case of a contract for such petty transport operations as are conducted chiefly by the use of a bicycle or rearcar together with the so called messenger boy, can't it be understood to be a contract for labor supply, even if packing materials be furnished by the contractor?

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In the above case, supposing that the said messenger boy be not in the pay of the contractor and that the latter receives a rent from the said boy, can it be considered that there only exist a legal contract for lease of the bicycle between the said two?

Question 5 (as above)

When a labor union organized in accordance with the Labor Union Law submit an application for permission to conduct labor supply enterprise accompanied by a copy of the decision from the local labor relations commission pursuant to par. 1, art. 5, the Labor Union Law, it is considered that there is no need of prefectural government asking the opinion of the local labor relations commission by the form stipulated in the guide to labor supply enterprise (4343) What is your opinion?

Question 6 (propounded by Fukuoka Prefecture)

In former times when a civil engine ring contractor desired to shift day laborers from one operation field to another outside the range of their daily attendance from home, there was no difficulty in the shift because construction work used to be done under sub-contract system.

However, since the enactment of the Labor Employment Law, such cases as need the movement of laborers are liable to involve many elements in conflict with the provisions relative to labor supply enterprise. Accordingly, the actual situation is that as an expedient, the principal contractor has switched the status of sub-contractors to that of workers in his direct employment.

It is customary workers for construction work are recruited separately at each operation field and are received into employment by the discretion of Oyakata (who has power similar to that held by the former sub-contractor).

In most cases, such day workers as are referred to above are described to be employed directly by the principal contractor, but in reality they are laborers in the employment of Oyakata and working under his command.

Upon completion of a work, Oyakata dismiss temporarily the day workers on the understanding that they will be employed for another work (conducted at a distance beyond their daily attendance from home) The real situation, however, seems to be that the day laborers are taken by Oyakata wherever new work is to be conducted.

From the view point of the procedures, such cases, for most part, have a tendency to violate the provisions of the Law relating to direct recruitment, while if Oyakata be proved conducting labor supply enterprise, he is in violation of provisions for commissioning of recruitment.

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Such cases must be considered as violating the Labor Employment Law in the double field of labor supply enterprise and labor recruitment.

Question 7 (as above)

In case one person, who has a contract for construction work, makes a sub-construct with another for the whole construction work at the cost less than the gross construction cost by the sum which the former has reduced as business expenses, the act of the principal contractor has been understood to have no connection with labor supply enterprise on the ground that he has not supplied labor. However, after the promulgation of the Construction Enterprise Law, the principal contractor is regarded as violator of the provisions of item 1, par. 1 of the said Law. If so, is he not considered as violating the provisions relative to labor supply enterprise?

Question 8 (as above)

(1) What are the conditions necessary for natural objects to be recognized as materials?

Question 9 (as above)

(1) We think that members of the industrial union of small & medium enterprisers organized according to the cooperative association law, can not be looked upon as an individual Oyakata. What is your opinion?

(2) When the member of the enterprise union or its employee is dispatched for recruitment of laborers, is it right to take the same action against him with those engaging in labor supply enterprise?

(3) When an enterprise union conducts by the employment of its member of employee, a petty transport business (with bicycle rearcar & cart), is it right to prohibit the business as being labor supply enterprise, provided that materials, tools, equipment, and or planning techniques are not required for the execution?

(4) Operation of petty transport enterprise by means of such equipment as the bicycle or rearcar, is approved for the enterprise union organized according to the small & medium enterprise cooperative association law. In what relation do such union stand with the labor employment law?