

General provisions for the registration of individuals or legal entities that provide specialized services or perform specialized works



On May 24, 2021, the Agreement by which the general provisions for the registration of individuals or legal entities that provide specialized services or perform specialized works referred to in Article 15 of the Federal Labor Law was published in the DOF.

On February 3, 2023, the Ministry of Labor and Social Welfare published the agreement by which the General Provisions for the registration of individuals or legal entities that provide specialized services or perform specialized works referred to in Article 15 of the Federal Labor Law are modified. These provisions entered effect on February 4, 2023.

In Article Eleventh, it was added to Article Eleventh, the power that the Ministry of Labor and Social Welfare, hereinafter STPS, through the Decent Work Unit and its Administrative Units may request at any time additional information or documentation from the applicant, from any governmental entity **or from the companies benefiting from the services or specialized works** to corroborate and validate the information and documentation provided by the applicant company.

A new CHAPTER III BIS “REGISTRY OVERSIGHT” was added, which provides that the **STPS through the Decent Work Unit, through the General Directorate of Federal Labor Inspection will oversee and promote compliance with the labor legislation on subcontracting, in all work centers that are registered in the Registry of Specialized Services Providers or Specialized Works, as well as in the beneficiary companies of such services.**

Likewise, it is contemplated that for the execution of surveillance actions in compliance with labor regulations regarding the rendering of specialized services or execution of specialized works, the Federal Labor Inspectors may request information and documentation evidencing compliance with the general working conditions related to articles 12, 13, 14 and 15 of the Federal Labor Law regarding subcontracting.

In relation to the surveillance actions, the Labor Inspectors must verify, at least:

A) Individuals or legal entities registered as providers of services or specialized works

- I) That the information provided by the individuals or legal entities in the platform of the Registry of Providers of Specialized Services or Specialized Works during the registration application procedure coincides with the actual conditions of the work center.
- II) That the activities provided as specialized services or execution of specialized works are not part of the corporate purpose and/or the main economic activity of the beneficiary.
- III) That they have contracts for the rendering of services or specialized works.
- IV) That the work center complies with the working conditions related to the registration of the employees with the Mexican Social Security Institute and that the salary is paid in accordance with the provisions of the Federal Labor Law and other applicable regulations.

B) Individuals and legal entities that are beneficiaries of the specialized services or works

- I) That the employees who are performing the specialized services or works in the work center of the beneficiary company do not perform activities that are part of the corporate purpose and/or the preponderant economic activity of the latter.
- II) That the contractor's employees are duly identified.
- III) That they have contracts for the provision of specialized activities.

On the other hand, as a result of the implementation of the surveillance actions, the Labor Inspector must leave a record of the results obtained, the facts that prevented them and any circumstance presented in the development of the same.

In the event that the inspector identifies non-compliance with labor regulations regarding subcontracting by individuals or legal entities registered in the Registry of Providers of Specialized Services or Specialized Works or in the beneficiary companies of such services, the initiation of the corresponding administrative procedure must be requested and when applicable, the cancellation procedure must be requested.

Regarding Chapter IV, the following was added to the title "Of The Refusal, Cancellation, Renewal **And Modification Of The Registration Notice**", two new subparagraphs were added to Article Fourteen, which establishes that the STPS through the Decent Work Unit, through the General Directorate of Federal Labor Inspection, may deny registration for:

- ▶ Noticing non-compliance with the Federal Labor Law regarding subcontracting.
- ▶ Noticing employees who are not registered with the Mexican Social Security Institute, irregularities related to the salary of the employees and/or irregularities related to the contract for the rendering of specialized services.

Article Fifteen added that the STPS, through the Decent Work Unit, through the General Directorate of Federal Labor Inspection, may cancel the registration at any time when:

- ▶ **It is detected that the data or documents provided during the conduct of the visits turn out to be different or inaccurate with respect to those entered in the platform.**
- ▶ **Providing false information or apocryphal documents during the visits carried out, without prejudice to any legal actions that may be applicable.**
- ▶ **Noticing non-compliance with the Federal Labor Law regarding subcontracting.**
- ▶ Noticing employees who are not registered with the Mexican Social Security Institute, irregularities related to the salary of the employees and/or irregularities related to the contract for the rendering of specialized services.

Once the STPS notices the possible non-compliance, it will notify the individual or legal entity so that within a term of five business days it may state what it deems appropriate, and if applicable, it will decide what is appropriate.

Also, it was contemplated that **individuals and legal entities may request at any time the cancellation of their registration notice** if it is in their best interest, as long as they explain and justify to the Ministry the reason for doing so.

Likewise, **individuals and legal entities registered in the Registry of Providers of Specialized Services or Specialized Works may submit through the platform a request to modify or update the activities registered or add new activities to the Public Registry of Contractors of Specialized Services or Specialized Works, as long as the modifications or updates are part of the corporate purpose in the event that they are not part of the public registry.**

Finally, it was added that the term to resolve the registration request, provided for in Article 15 of the Federal Labor Law, will begin to run from the receipt of the request, generating an entry folio.

These changes place companies in a position of analysis in the implementation of these new rules to comply with the specialized services they receive or provide and to have the proper documentation (defense file) to face the inspections that may be carried out by the STPS on specialized services, so it is important to be informed.

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