

라오스 구매 및 계약 관련 법령 조사 보고서

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용어의 정의

용어	정의
EDCF	대외경제협력기금(Economic Development Cooperation Fund)
ODA	공적개발원조
ODA 관리결정	「ODA 관리절차에 관한 결정」 (2010. 10. 11. NO. 2695/MOF, decision on Financial Management for Official Development Assistance)
ODA 시행령	「공적개발원조의 관리 및 활용에 관한 시행령」 (2019. 10. 9. No.357/GOL, DECREE On the Management and Utilization of Official Development Assistance)
기획투자부	Ministry of Planning and Investment of the Lao P.D.R.
건설법	「건설에 관한 법률」 (2009. 11. 26. No. 05/NA, Law on Construction)
공공사업교통부	Ministry of Public Works and Transport
공공조달법	「공공조달에 관한 법률」 (2017. 11. 2. No. 30/NA, Law on Public Procurement)
국가재정법	「국가의 재정에 관한 법률」 (2006. 12. 26. No. 01/PO, Law on the State Budget)
이주 및 취업법	「이주 및 취업에 관한 법률」 (2018. 8. 1. No. 204/P, Law on Resettlement and Vocation)
외교부	Ministry of Foreign Affairs of the Lao P.D.R.
정부	라오스 행정부에 대한 지휘 및 감독 전권을 행사하는 총리실(Prime Minister's Office)
재무부	Ministry of Finance of the Lao P.D.R.

목 차

I. 본건 조사 용역의 목표 1

II. 라오스법 개요 2

 1. 라오스에 대한 기본적인 이해 2

 2. 정치체제 및 법체제 일반 3

 3. 본건 조사 대상 법령의 개요 4

III. ODA 관련 법령 9

 1. ODA시행령에 따른 사업 추진 흐름 9

 2. ODA시행령 11

 3. ODA 관리절차에 관한 결정(ODA 관리결정) 15

 4. 위반행위 및 벌칙 19

IV. 건설법 22

 1. EDCF 관련 건설절차 일반 22

 2. 건설법 개요 23

 3. 건설행위의 절차 25

 4. 위반행위 및 벌칙 31

 5. 분쟁해결 34

V. 구매법 35

 1. 공공조달의 절차일반 35

 2. 공공조달의 당사자 35

 3. 공공조달법 개요 37

 4. 재화 등 구매 및 컨설턴트 선정방법 및 절차 40

 5. 공공조달계약 50

 6. 공공조달에 대한 관리 및 감사 58

 7. 이의제기 및 벌칙 61

VI. 이주보상 관련 법률 63

 1. 이주 및 취업지원 절차 일반 63

 2. 이주 및 취업법의 개요 65

3.	이주 및 취업지원 프로젝트.....	65
4.	이주지원.....	68
5.	취업지원.....	72
VII.	국가재정법	75
1.	국가재정법 개요.....	75
2.	국가예산.....	77
3.	국가예산 집행.....	82
4.	국가 예산계획에 대한 결산 및 감사.....	86
5.	위반 및 벌칙.....	87
[별첨 1]	라오스 조사 대상법률(일부).....	89

I. 본건 조사 영역의 목표

본 영역은 한국수출입은행의 대외경제협력기금(Economic Development Cooperation Fund, 이하 “EDCF”) 사업 관련 대상 수원국에서의 EDCF 사업 진행 시 적용되는 주요 법령에 대한 조사를 하여 한국수출입은행의 업무 참고용 자료를 만들기 위한 목적으로 수행되었습니다. 이에 따라, 본 조사보고서는 EDCF의 주요 수원국인 라오스의 정부발주사업, 공공차관사업을 대상으로 하여 구매법 및 건설법령의 주요 내용, 사업승인, 내용변경, 계약변경, 예산사용의 절차 등을 검토하는 것을 주된 내용으로 합니다. 본 영역의 구체적인 과업내용은 다음과 같습니다.

첫째, 라오스의 ODA 시행령, 구매법, 건설법, 국가재정법 등 구매 및 계약 관련 법령의 체계를 분석합니다.

둘째, 라오스의 구매 및 계약 관련 법령 상 주요 승인, 허가사항에 대하여 검토합니다. 구체적으로, EDCF 사업단계(설계, 시공, 감리, 기자재 공급 등) 별 현지법상 주요 승인, 허가사항 및 그 절차, 허가주체 및 승인, 허가사항에 대한 변경 발생 시 변경신청 절차 등을 분석합니다.

셋째, 정부부처 또는 기관발주 공공사업의 예산집행 절차 및 사업계획 변경에 따른 기배정 예산의 변경절차 등 정부발주사업의 예산집행 절차에 관하여 검토합니다.

라오스의 경우, 정부발주사업 및 공공차관사업 관련 법률이 제정은 되어 있는데, 우리나라와 같은 차관공여국 관점에서는 라오스 법률에 미비한 사항이 많고, 현지 실정상 실무가 법률과 다르게 진행되는 경우도 빈번하게 발생한다는 점을 유의하여야 합니다.

II. 라오스법 개요

1. 라오스에 대한 기본적인 이해

가. 국가현황

라오스는 중국, 베트남, 태국, 캄보디아, 미얀마 사이에 위치한 인도차이나반도의 내륙 국가로, 정식 명칭은 라오 인민민주주의 공화국(Lao People's Democratic Republic)입니다. 19세기 말 프랑스의 식민지가 된 후 베트남, 캄보디아와 함께 프랑스령 인도차이나로 구성되어 있었으나, 2차 세계대전 이후 라오스 왕국이 부활하였습니다. 그러나 왕정 부활에 반대하는 공산당을 중심으로 무장 투쟁 및 오랜 내전의 결과, 1975년 라오스 왕국은 무너지고 공산 독재 정부인 라오 인민민주주의 공화국이 성립하였습니다.

2022년도 기준 약 7,480,000명의 인구와 236,800km²의 영토면적을 보유하고 있습니다. 입법부는 인민회의로 이루어진 단원제를 채택하고 있으며, 정치적으로는 유일정당인 라오인민혁명당과 대통령, 총리를 중심으로 한 집단지도체제가 유지되고 있습니다. 한편, 라오스는 1997년 동남아시아국가연합(Association of Southeast Asian Nations, 이하 “ASEAN”)의 회원국가가 되었고 대한민국과 ASEAN 간에 체결한 한-ASEAN 자유무역협정(Free Trade Agreement)에 따른 관세 인하 의무를 점진적으로 이행하고 있습니다. 아울러 2013년에는 세계무역기구(World Trade Organization, 이하 “WTO”)의 가입이 승인되었습니다.

2022년도 IMF 추정치 기준, 라오스의 GDP는 미화 약 153억 달러이며, 1인당 GDP는 미화 약 2047달러입니다. 경제성장률은 약 2.3%를 기록하고 있으며 총 교역액은 미화 약 183억달러입니다. 다만, 2021년 하반기부터 소비자물가가 급상승하여 물가상승률은 약 23%를 기록하고 있으며, 자국통화인 킵화의 가치급락 및 대외채무 증가 등으로 환율은 현재 미화 1달러 기준 18,815 킵을 기록하고 있습니다. 라오스 정부가 다양한 대책을 발표하고 있음에도 불구하고 글로벌 고물가, 고금리는 라오스의 경제불안을 더욱 부추겼으며, 라오스의 디폴트(default) 가능성까지 제기되고 있는 상황입니다.

나. 대한민국과의 관계

라오스는 1974. 6. 22. 대한민국과 최초로 수교하여 외교관계를 형성하였으나, 1975. 7. 24. 라오스의 공산화로 인해 단교하였습니다. 이후 소비에트 사회주의 공화국 연방이 무너지고 냉전체제가 종식되면서 1995. 10. 25. 대한민국과 재수교 하였으며, 1996. 9. 19. 상주대사관을 개설하였습니다.

2022년 외교부 발표 기준 대한민국의 대 라오스 투자금액은 미화 약 6.7억 달러(520건)이며, 라오스의 대 대한민국 투자는 미화 약 150만 달러입니다. 한편, 2022년 한국무역협회 발표 기준 대한민국-라오스의 총 교역액은 미화 약 1.5억 달러이며, 구체적으로 수출액 미화 약 64,000,000달러, 수입액 미화 약 85,000,000달러를 기록하고 있습니다.

2. 정치체제 및 법체제 일반

라오스 정치체제는 1975년 라오인민민주공화국이 수립된 이래 라오인민혁명당의 유일정당 체제가 지속되고 있습니다. 국회의 의결에 의해 선출되는 대통령이 라오인민민주공화국의 대표이자 국가원수인데, 라오스 행정부에 대한 지휘 및 감독 전권은 국회의 승인을 받아 대통령이 임명하는 총리(Prime Minister)가 행사합니다.

라오스의 법체제는 헌법을 최고법으로 하여, 크게 법률(국회법), 국회상임위원회 결의, 대통령령, 정부 칙령, 장관의 결정문 및 명령, 주지사의 지시 및 마을결의로 구성되어 있습니다.¹ 구체적인 내용은 아래와 같습니다.

[라오스의 법체제]

No.	법령체계	내용
1	헌법	- 라오스 최고법
2	법률(국회법)	- 국회에서 채택한 법
3	국회상임위원회 결의	- 국회개회기간이 아닌 경우 국회법에 대한 해석 등을 공포한 결의
4	대통령령	- 대통령이 헌법에 명시된 자신의 규제권한을 행사하고 국회에서 채택한 법을 시행하기 위하여 내각을 거쳐 공포하는 법령

¹ 2015년도 투자·비즈니스 가이드 핸드북 라오스편 참조(법무부)

No.	법령체계	내용
5	정부칙령	- 각 정부부처가 자체적인 규제권한을 행사하기 위하여 내각을 거쳐 총리가 서명하는 법령
6	장관의 결정문 및 명령	- 장관의 규제 권한 하에 개별적으로 공포하는 결정문 또는 명령
7	도지사의 지시·마을결의	- 도지사 또는 마을의 이장이 특정한 규제조치를 설명하거나 명확히 하기 위하여 공포하는 구체적인 지시 및 결의

3. 본건 조사 대상 법령의 개요

가. 본건 조사 대상 라오스 법령

본 용역은 한국수출입은행의 EDCF 사업 관련 대상 수원국에서의 EDCF 사업 진행 시 적용되는 주요 법령에 대한 조사를 하여 한국수출입은행의 업무 참고용 자료를 만들기 위한 목적으로 수행되었습니다. 이에 따라, 본 조사보고서는 라오스의 정부발주사업, 공공차관사업을 규율하는 법령, 즉 공공조달법 및 건설법령의 주요 내용, 사업승인, 내용변경, 계약변경, 예산사용의 절차 등을 검토하는 것을 주된 내용으로 합니다. 구체적으로, 본 조사보고서에 따른 조사대상이 되는 현지 법령은 아래와 같습니다.

- 1) ODA 시행령 및 ODA 관리결정
- 2) 건설법
- 3) 공공조달법 및 공공조달 시행규칙
- 4) 이주 및 취업법
- 5) 국가재정법

나. ODA 관련 법령

라오스 공적개발원조(이하 “ODA”)에 관한 주요 사항은 「공적개발원조의 관리 및 활용에 관한 시행령」(제 357/GOL 호, 2019. 10. 9.) (Decree on the Management and Utilization of Official Development Assistance, 이하 “ODA 시행령”)² 및 그 하위법령인 「ODA 관리절차에 관한 결정

² ODA 관련해서는 법률(국회법) 단계의 상위규범은 별도로 존재하지 않습니다. 다만 ODA 시행령 제정 과정에 (i) 정부조직법, (ii) 국가투자법, (iii) 국제조약 및 협정에 관한 법률, (iv) 국가재정법, (v) 국가부채관리법, (vi) 라오스 은행법 등이 참조되었습니다.

」 (2010. 10. 11. NO. 2695/MOF, Decision on Financial Management for Official Development Assistance, 이하 “ODA 관리결정”) 에서 규율하고 있습니다. ODA 시행령 및 ODA 관리결정은 ODA 에 따른 기금의 사용 및 사업의 추진절차에 대하여 규율하고 있는데, 각각의 주요 내용은 다음과 같습니다.

- 1) ODA 시행령
 - ODA 의 개념, 활용원칙
 - ODA 의 유형 및 활용
 - 주무부처의 권리의무
 - ODA 기금 사용의 관리 및 점검
 - ODA 시행령에 따른 사업추진 절차
- 2) ODA 관리결정
 - ODA 관리의 개념, 기본원칙
 - ODA 기금의 지급절차
 - 조세 및 관세
 - 모니터링, 재산관리, 지원금의 사용

다. 건설법

라오스의 건설사업에 관한 사항은 「건설에 관한 법률」 (2009. 11. 26. No. 05/NA, Law on Construction, 이하 “건설법”)에서 규율하고 있으며, 그 하위규범으로는 「건설 관리에 관한 결정」 (2019. 1. 31. No. 2241/MPWT, 이하 “건설관리결정”), 그리고 「건설시공 품질검사에 관한 결정」 (2020. 10. 8. No. 1210/MOST, “이하 시공품질검사결정”) 등이 있습니다. 건설법에서 규율하고 있는 주요 내용은 다음과 같습니다.

- 1) 건설법 개요
 - 목적 및 원칙
 - 건축물의 개념
- 2) 건설행위의 절차

- 타당성조사
 - 조사 및 설계
 - 건설허가
 - 구역지정
 - 건설프로젝트의 수행
 - 감리 및 인증, 프로젝트의 인계
 - 유지관리 및 사용
- 3) 건설법 위반행위 및 벌칙
- 4) 분쟁해결

라. 공공조달법령

라오스의 공공조달 관련 법규는 「공공조달에 관한 법률」(2017. 11. 2. No. 30/NA, Law on Public Procurement, 이하 “공공조달법”) 및 공공조달법 시행에 관한 지침(2019. 2. 13. No. 0477/MOF, Instruction on Implementation of Law on Public Procurement, 이하 “공공조달 시행지침”)에서 규정하고 있는데, 주로 공공입찰 절차 및 계약체결에 관한 사항을 규율하고 있습니다. 공공조달법의 주요 내용은 다음과 같습니다.

- 1) 공공조달의 개요
- 공공조달법의 목적, 공공조달의 원칙
 - 공공조달의 유형 및 방법
- 2) 물품 등의 조달방법 및 컨설턴트 선정 방법·절차
- 물품 등의 조달방법
 - 컨설턴트의 선정방법
 - 물품 등 조달 및 컨설턴트의 선정절차
- 3) 공공조달의 당사자

- 입찰참가자
 - 발주자
 - 입찰위원회
- 4) 공공조달계약
- 계약의 유형 및 내용
 - 공공조달에서의 보증
 - 계약당사자의 권리의무
 - 계약의 변경 및 종료
- 5) 공공조달에 대한 관리 및 감사
- 공공조달에 대한 관리
 - 공공조달에 대한 감사
- 6) 벌칙

마. 이주 및 취업법

이주보상에 관한 사항은 「이주 및 취업에 관한 법률」(2018. 8. 1. No. 204/P, Law on Resettlement and Vocation, 이하 “**이주 및 취업법**”) 및 「개발 프로젝트에 따른 이주보상에 관한 시행령」(2016. 4. 5. No.84, 이하 “**이주보상 시행령**”)에 근거하여 이루어집니다.³ 이주 및 취업법은 라오스 국민들이 지속가능한 생계 및 취업활동을 할 수 있는 거주지를 제공하기 위하여 이주 및 취업의 감독, 검사, 모니터링에 관한 원칙, 규칙 등을 규정하고 있습니다.

- 1) 이주 및 취업법의 개요
- 2) 이주지원
 - 이주의 종류

³ 라오스 이주보상에 관한 법률은 시행령이 제정된 이후에 법령이 제정되었습니다. 이주 및 취업법과 이주보상 시행령 전부 현재 유효합니다.

- 이주의 지역 및 요건
 - 이주절차
- 3) 취업지원
- 취업지원 대상자
 - 대상자의 지정절차
- 4) 이주 및 취업지원 프로젝트
- 이주 및 취업지원 프로젝트의 유형(구분)
 - 프로젝트 관련기관

바. 국가재정법

라오스의 국가예산 구조, 수립 및 사용 등에 관한 사항은 「국가의 재정에 관한 법률」(2006. 12. 26. No. 01/PO, Law on the State Budget, 이하 “국가재정법”)에서 규정하고 있습니다. 라오스 국가재정법의 주요 내용은 다음과 같습니다.

- 1) 국가재정법 개요
- 2) 국가예산
 - 국가예산의 구조
 - 국가예산의 수입 및 지출에 관한 권한 분담
- 3) 국가예산계획의 수립 및 집행
 - 예산수립 및 집행의 절차
 - 예산관리 및 감사
- 4) 국가재정법의 위반 및 벌칙

III. ODA 관련 법령

1. ODA시행령에 따른 사업 추진 흐름

가. 보조금(무상) 프로젝트의 승인 및 실행절차

라오스에서 보조금 프로젝트의 승인 및 실행절차는 크게 5 단계로 구성되며, 이에 대한 구체적인 내용은 아래와 같습니다(ODA 시행령 제 15 조 내지 제 20 조).

[보조금 프로젝트의 승인 및 실행절차]

No.	단계	주요내용
1	승인단계	<ul style="list-style-type: none"> - 정부(총리실) 승인 필요: 기획투자부가 제안한 프로젝트 등 - 기획투자부 승인 필요: 관련부처가 제안한 프로젝트 등 - 외교부 승인 필요: 외국 NGO, 협회, 재단, 기금, 기관, 개인, 법인 또는 기타 기관, 라오스 시민사회단체의 보조금 사용에 관한 것. 다만 이 경우 관련부처 및 내무부의 동의를 요함
2	실행단계	<ul style="list-style-type: none"> - 위원회 설립: 프로젝트 등 담당 주요 부처로 구성 <ul style="list-style-type: none"> · 보조금이 효과적이고 투명하게 사용하고 있는지, 관련 법령을 준수하고 있는지 여부에 대하여 관리 및 감독하여야 함 - 프로젝트 등 추진부서 설립 <ul style="list-style-type: none"> · 연간 업무계획 수립 · 연간 예산 및 지출계획 수립 · 인력배치 계획 수립 · 추진경과, 문제점 등 보고
	프로젝트 변경시 적용 절차	<ul style="list-style-type: none"> - 프로젝트 변경시 거쳐야 할 절차에 대해서는 ODA 시행령에 명문 규정이 없음. ODA 시행령 제 27.2 조 제 3 항에 따르면 ODA 프로젝트 변경사항은 정부의 심사 및 승인이 필요한데, 이는 관련부처가 프로젝트 변경안 및 변경사유를 기획투자부에 제출한 후 총리실의 승인을 득하는 절차를 의미하는 것으로 보임(ODA 시행령 제 19 조 제 4 항에 따른 프로젝트 기간 연장시 적용되는 절차를 동일하게 적용)
3	모니터링단계	<ul style="list-style-type: none"> - 기획투자부 <ul style="list-style-type: none"> · 모니터링 및 평가지침의 작성 및 배포 · 공여기관⁴과의 협력하여 검토회의를 조직하고, 추진현황 및 문제점 등을 확인, 평가 - 관련부처 <ul style="list-style-type: none"> · 모니터링 및 평가시스템 및 양식을 활용하여 정부와 공여기관이 참

⁴ ODA 시행령에서 사용되는 용어는 Development Partner인데, Development Partner란 라오스에 기술, 재정 및 물질적 지원을 제공하는 정부, 정부기관 또는 국제기구를 의미합니다(ODA 시행령 제3조 제2호).

No.	단계	주요내용
		<ul style="list-style-type: none"> 고할 수 있도록 하여야 함 공공투자 프로젝트의 평가에 관한 규정 준수
4	평가단계	<ul style="list-style-type: none"> 기획투자부에서 담당하며, 4 단계로 구성 최초평가 중간평가: 이행상황 평가 및 계획·예산 조정 최종평가: 이행결과 평가 및 성공여부에 대한 보고서 제공 사후평가: 프로젝트 등의 효과 및 지속가능성, 영향성 평가 등
5	완료단계	<ul style="list-style-type: none"> 관련부처 <ul style="list-style-type: none"> 완료 6 개월 전까지 결과보고서(요약)를 작성하여 기획투자부, 외교부 및 재무부에 보고 프로젝트 등 완료 후 재무부에 양도자산목록을 요약하여 제출, 기획투자부에 양도사실 통지 프로젝트 등을 연장하길 원하는 경우, 관련부처가 현재 달성정도 및 연장사유가 기재된 연장요청서를 기획투자부에 제출한 후, 총리실의 승인을 득하여야 함(ODA 시행령 제 19 조 제 4 항) 기획투자부, 외교부 및 재무부 <ul style="list-style-type: none"> 보고서 내용 검토를 위해 회의

나. 차관(유상) 프로젝트의 승인 및 실행절차

차관의 관리 및 활용조건, 실행절차는 다음과 같습니다(ODA 시행령 제 23 조 내지 제 26 조).

[차관의 관리 및 활용조건]

No.	단계	주요내용
1	활용조건	<ul style="list-style-type: none"> 국회가 승인한 국가 사회경제발전에 포함되어 있을 것 타당성조사를 수행할 것 <ul style="list-style-type: none"> 관련부처의 동의를 받고, 기획투자부를 통해 정부(총리실) 승인을 받아야 함 규모가 4,000 억 킵 이상인 경우 국회의 승인을 받아야 함 재무부를 통해 라오스 정부 예산계획에 포함될 것 국회에서 승인한 바에 따라 차관을 국가예산에 포함시킬 것
2	승인단계	<ul style="list-style-type: none"> 관련부처: 타당성조사의 수행 및 관련기관에 승인요청 기획투자부: 타당성조사 검토 및 투자계획 해당 프로젝트 등을 포함 재무부 <ul style="list-style-type: none"> 이해관계자⁵로 구성된 검토위원회 구성, 대출 필요성 논의 대출 출처, 공공부채의 위험성 및 잠재적 영향 평가, 대출상환능력

⁵ 이해관계자란 프로젝트의 성격에 따라 개별적으로 판단하여야 합니다. 예를 들어, 도로공사 관련 프로젝트의 경우 공공사업교통부, 자원환경부, 관할 지방자치단체 등이 포함될 수 있습니다.

No.	단계	주요내용
		확인, 정부승인 요청 시 대출 프로젝트 등을 결합
3	협상단계	<ul style="list-style-type: none"> - 정부: 대출계획 검토 및 승인 - 재무부: 관련부처 및 공여기관이 제안한 바에 따라 대출조회절차⁶ 진행 - 관련부처 <ul style="list-style-type: none"> • 기획투자부, 재무부 기타 부처와의 협력 • 차관확정 후 프로젝트 공시를 위한 TF 구성 • 최종평가에 대한 정부보고 및 승인 • 재무부가 라오스 정부를 대표하여 공여기관과의 차관계약 체결 협상
4	실행단계	<ul style="list-style-type: none"> - 프로젝트 등의 실행 관련 <ul style="list-style-type: none"> • 대출계약의 목적, 조건에 부합하여야 함 • 라오스의 법령을 준수하여야 함 • 조달절차는 계약에서 달리 정함이 없는 한 조달에 관한 법률에 의하되, 공여기관을 규율하는 법령을 함께 고려하여야 함⁷ - 프로젝트 등의 재무 관련 <ul style="list-style-type: none"> • 국가재정법, 국유재산법, 조세법 등 재무부 관련 법령을 준수해야 함 • ODA의 재정관리와 관련된 규정을 준수하여야 함 - 프로젝트 변경시 거쳐야 할 절차에 대해서는 ODA 시행령에 명문 규정이 없음. ODA 시행령 제 27.2 조 제 3 항에 따르면 ODA 프로젝트 변경사항은 정부의 심사 및 승인이 필요한데, 이는 관련부처가 프로젝트 변경안 및 변경사유를 기획투자부에 제출한 후 총리실의 승인을 득하는 절차를 의미하는 것으로 보임(ODA 시행령 제 19 조 제 4 항에 따른 프로젝트 기간 연장시 적용되는 절차를 동일하게 적용) - 프로젝트 등의 모니터링 관련 <ul style="list-style-type: none"> • 재무부, 기획투자부, 관련부처 등의 참여 하에 정기적으로 수행함 • 재무부는 프로젝트 완공 6 개월 전 조사를 실시함 - 프로젝트의 완공 <ul style="list-style-type: none"> • 재무부는 프로젝트 완공 후 그 결과물을 평가하고, 프로젝트의 효과를 검토하여 차후 프로젝트에 참고할 수 있도록 관련 기관과 검토결과를 공유함

2. ODA시행령

가. 개요

⁶ 대출조회절차의 구체적인 내용은 파악이 어렵습니다. 다만, ODA 시행령 제30.1조는 외교부로 하여금 공여기관과의 협력의무 및 프로젝트에 사용 가능한 가용자금을 확인하는 의무를 규정하고 있습니다. 따라서 여기는 대출기관과 대출승인의 가능성 및 타당성에 관한 논의가 포함되는 것으로 이해됩니다. 또한, 공공채무관리법 제56.6조에 따르면, 재무부는 자금물색, 조달, 계획 프로젝트 준비, 대출기관과의 협상참여 등 업무를 수행하고 협상결과를 보고하는 등 관련 당사자와의 협력의무가 있습니다. 그리고 정부가 승인하여야 할 계약에 대한 제안업무를 수행합니다.

⁷ 공여국법과 공공조달법이 상충하는 경우에 대해서는 별도로 규정하고 있지 않으며, 사안에 따라 개별적으로 판단해야 할 것으로 판단됩니다.

라오스 ODA 에 관한 주요 사항은 ODA 시행령에 규정되어 있습니다. ODA 시행령은 라오스 정부에 대한 공여기관의 ODA 의 관리 및 활용에 관한 원칙, 규율, 매커니즘에 관한 일반적인 사항을 규정하고 있으며, 녹색성장 전략 및 글로벌 개발 의제에 따라 국가사회경제개발계획에 따른 우선적 목표를 효과적으로 이행하는 데 기여하고, 자금을 조화롭고, 효율적이며, 투명하게 관리·활용하도록 보장하는 것을 목적으로 합니다(ODA 시행령 제 1 조).

“ODA”란 라오스의 사회 경제적 발전을 위해 공여기관이 라오스 정부에 제공하는 기술적, 재정적, 물질적 지원을 의미하는데, 이는 보조금과 차관으로 구성될 수 있습니다(ODA 시행령 제 2 조). ODA 의 관리 및 활용원칙은 아래와 같습니다(ODA 시행령 제 5 조).

- 1) 라오스의 정책, 헌법, 법률에 부합하고, 라오스의 사회경제 발전에 기여할 것;
- 2) ODA 실행 절차 간소화를 위해 기획투자부가 다른 관련부처 및 기관과 조율하여 윈스톱 서비스 기능(단일창구역할)을 수행할 것;
- 3) ODA 전략 및 공여기관의 프레임워크에 부합할 것;
- 4) ODA 프로젝트 또는 프로그램(이하 “프로젝트 등”)을 주관하는 부처, 기관 및 당국이 주인의식 및 책임감을 가질 것;
- 5) 정확하고 효과적이며, 효율적으로 ODA 를 사용할 것;
- 6) ODA 프로젝트 등에 따른 재무관리는 공여기관과 체결한 계약내용 및 라오스 법령에 부합할 것;⁸
- 7) 투명하고 공정하며, 적시의 감사를 수행할 것;
- 8) 이해관계자 간의 조율업무를 수행할 것.

나. ODA 의 유형 및 활용

앞서 살핀 바와 같이, ODA 는 보조금 및/또는 차관으로 구성될 수 있습니다(ODA 시행령 제 2 조, 제 8 조). **보조금**이란, 프로젝트 등 형태의 상환 불필요 조건의 원조, 기술지원, 재정지원, 프로젝트 등 준비를 위한 펀드마련, 차관과 결합된 형태의 보조금, 물질적 지원 기타 국제 고위 대표

⁸ 만약 “계약”과 “법률”이 상충하는 경우라면, 다른 법률에서 예외로 두고 있다는 등의 특별한 사정이 없는 한 “법률”이 우선하게 됩니다.

단이 라오스를 방문하거나 라오스 정부 고위 대표단이 외국을 방문하는 동안 제공받는 프로젝트 등 형태의 지원을 의미합니다(ODA 시행령 제 9 조). 차관이란, 시장금리보다 낮은 이자율 또는 장기의 상환기간·유예기간 등의 혜택을 조건으로 하는 자금 대여를 의미합니다(ODA 시행령 제 10 조). 차관은 직접적인 수익을 창출하거나 재정수익이 높은 분야가 아닌 인프라 개발, 사회개발, 빈곤퇴치 등의 프로젝트에 투입됩니다(ODA 시행령 제 10 조, 제 22 조).

모든 ODA 자금은 기본적으로 라오스 정부(총리실)가 종합적으로 관리합니다. 기획투자부는 주무부처로서 외교부, 재무부 및 기타 관련부처, 기관 및 지방자치단체(이하 “관련부처”)를 주도적으로 조율하는 역할을 수행합니다(ODA 시행령 제 12 조, 제 14 조).

다. 주무부처의 주요 권리의무

ODA 관련하여 각 정부기관의 주요 권리의무의 내용을 살펴보면 아래와 같습니다.

No.	단계	주요내용
1	정부	<ul style="list-style-type: none"> - ODA 관리 및 활용에 관한 가이드라인, 정책 및 전략 수립 - 아래 사항에 대한 검토, 동의, 승인 <ul style="list-style-type: none"> · 외교부가 제안한 개발원조등 관련 전략, 주요협정 또는 협력 프레임워크 · 기획투자부가 제안한 보조금·차관 프로젝트 등 관련 최종평가 결과 · 재무부가 보고한 대출 프로젝트에 대한 협상결과 · ODA 프로젝트 관련 계약의 체결, 변경 및 종료에 대한 검토·승인 · 기획투자부가 보고한 국가사회경제개발계획 및 연간 정부예산 계획에 따른 ODA 프로젝트 등의 실행에 대한 정부 기여금 제공
2	기획투자부	<ul style="list-style-type: none"> - 정기적 ODA 전략 수립 - 관련부처의 ODA 요구사항을 정기적으로 통합 및 수립 - 관련부처 등의 의사조율 - 양허, 기술지원 관련 프로젝트 계약의 체결 주체⁹ - 관련부처가 제안한 보조금 프로젝트 등에 대한 최종평가의 보고, 승인 - 분기·반기·연 단위 회의를 통해 ODA 프로젝트 등의 이행 상황 검토 - ODA 자금 지출에 관한 자료의 국회 제출 및 승인 - 외교부에 ODA 프로젝트 등의 이행에 관한 보고서 제공
3	외교부	<ul style="list-style-type: none"> - 특정 협력 프레임워크를 위한 개발 협력자와의 협의 관련하여 기획투자부, 재무부 등과의 조율 - ODA 관련 외국정부 및 국제기구와의 접촉 및 대응 - 외국 NGO, 협회, 기관, 기금, 재단, 개인 및 법인과 협력하여 전략, 계획, 프로젝트 등 수립

⁹ 계약 변경시, 변경계약의 체결 주체도 기획투자부입니다.

No.	단계	주요내용
		<ul style="list-style-type: none"> - 기획투자부 및 재무부를 조력하는 차원에서 국제 협력 전략 검토 및 프로젝트 관련 계약 협상 참여 - ODA 프로젝트 수행에 대한 모니터링
4	재무부	<ul style="list-style-type: none"> - 프로젝트 등의 수행을 위한 대출조회 - 관련부처와 차관 관련 ODA 프로젝트 등의 공시 - 국가사회경제개발계획에 따라 대출·차관 관련 ODA 프로젝트 등의 최종 평가 결과에 대해 정부보고 및 승인 - ODA 프로젝트 중 재정, 토지 등 국가재산에 관한 계약 협상 및 체결 - 대출·차관 관련 ODA 프로젝트 등 관련 자산활용 감독 - 분기별·연 단위 또는 필요에 따라 수시로 재정지출을 모니터링하고 검토하기 위하여 프로젝트 등 담당 부서와 회의 구성 - 차관받은 자금을 국영기업에게 전대해주는 계약에 대한 검토, 체결 및 모니터링
5	라오스중앙은행	<ul style="list-style-type: none"> - 외화관리 및 외화보유고 유지 - 외국 금융기관에 라오스은행과 정부를 위한 계좌개설 - 외국 정부, 기관 등에 은행계좌 개설서비스 제공
6	법무부	<ul style="list-style-type: none"> - ODA 프로젝트 관련 계약 협상 및 법률검토 - 보조금계약 검토
7	관련부처	<p>기획투자부, 외교부 및 재무부와 협력하여 ODA 를 포함한 국제협력 전략, 프레임워크 및 계획 수립(지방자치단체의 경우, 지자체 전략에 관한 정보를 위 부처들에게 제공하여 ODA 전략 및 계획 수립에 참고하도록 하여야 함)</p> <ul style="list-style-type: none"> - 공여기관에게 ODA 에 관한 사항 문의, 기획투자부에 관련 내용을 계획에 포함하거나 정부승인 요청 - ODA 프로젝트 등 공시 및 공여기관과의 협상 및 MOU 체결 등 계약체결 절차 진행 - 차관 방식의 ODA 프로젝트 등의 타당성조사 계획수립 및 수행, 기획투자부 및 재무부에 해당 결과 보고 및 승인 요청 - ODA 프로젝트 등에 대한 정부기여계획 수립, 지방자치단체와의 협력을 통한 지방기여계획 수립 - 공여기관으로부터 제공받은 ODA 자금의 지출내역을 분기별·연단위로 기획투자부 및 재무부에 보고

라. ODA 의 관리 및 점검

라오스로 유입된 모든 ODA 자금에 대한 관리의무는 라오스 정부에 있습니다. 특히 기획투자부가 주무부처의 지위에서 외교부, 재무부 및 기타 관련부처를 조율합니다(ODA 시행령 제 37 조). 한편, ODA 프로젝트에 대한 감사는 ODA 관리기관¹⁰의 감사부서가 실시하는 내부감사가 있고, 국회, 지방인민의회, 정부 및 국가감사기관 등 외부감사기관이 수행하는 외부감사가 있습니다.

¹⁰ ODA 시행령에 따른 주무부처, 즉 정부(총리실), 기획투자부, 재무부, 외교부, 관련부처, 지방자치단체를 의미합니다.

다. 감사 대상사무는 다음과 같습니다(ODA 시행령 제 38 조, 제 39 조).

- 1) ODA 관련 법령의 이행여부
- 2) ODA 프로젝트 등 관리업무를 수행하는 조직의 운영
- 3) 관련 공무원의 권리의무 및 책임 행사에 관한 사항

감사는 1년에 2회 이상 정기적으로 실시하는 것이 원칙입니다. 다만 감사기관이 필요하다고 판단하는 경우 최소 24시간 전에 사전통지 후 감사를 진행할 수 있으며, 사전통지 없는 긴급감사도 가능합니다. 다만 긴급감사를 실시하는 경우에는 관련법규를 엄격히 준수하여야 합니다(ODA 시행령 제 40 조).

3. ODA 관리절차에 관한 결정(ODA 관리결정)

가. 개요

라오스 재무부는 ODA 관리절차에 관한 사항을 규정하기 위하여 ODA 관리결정을 제정, 공포하였습니다. ODA 관리결정은 경제성장 및 빈곤퇴치를 목적으로 사용되며, 모든 부처, 이와 동등한 지위를 갖는 기관, 부서 및 지방자치단체가 효율적이고 투명하게 프로젝트를 수행할 수 있도록 하기 위한 목적으로 제정되었습니다(ODA 관리결정 제 1 조, 제 2 조).

ODA 관리결정에 따르면, 개발을 위한 공적지원기금(Official Assistance Fund)은 차관 및 보조금 지원, 기술지원, 물자지원, 인권 보조 기타 긴급지원으로 구성되며, 국고 회계시스템(National Treasury Accounting System)을 통해 국가예산 시스템으로 일원화되고, 라오스의 법령 및 공적지원 기금 공여자에게 적용되는 법령, 즉 공여국법에 따라 통일적으로 관리되어야 합니다(ODA 관리결정 제 4 조). 아울러 공적지원기금의 사용은 각 프로젝트 등의 목적 및 신의성실의 원칙에 부합하여야 하며, 각 기간동안 국가의 사회경제적 발전에 적합해야 합니다(ODA 관리결정 제 5 조).

특히 현금 또는 현물로 지급되는 공적지원기금은 국가예산 시스템을 통해 중앙정부에서 관리하는 것으로 규정하고 있습니다(ODA 관리결정 제 6 조). 구체적으로, (i) 현물 형태의 공적지원 기금은 계약금액 또는 실제 가치평가액에 따라 국가 자산계정에 기록되어야 하며, (ii) 외화 형

태의 공적지원기금은 라오스중앙은행에 개설된 정부의 예금계좌에 기록되어야 합니다.

나. 지급절차 및 방법

ODA 관리결정은 6 가지 지급방법을 규정하고 있습니다(ODA 관리결정 제 10 조).

- 1) 신용장(L/C)의 개설
- 2) 은행환어음
- 3) 송금
- 4) 지불승인
- 5) 상환승인서 발급
- 6) 상품수령 또는 서비스제공 증명서 발급

ODA 관리결정상 공적지원기금 지급형태는 아래와 같이 구분되어 있습니다(ODA 관리결정 제 9 조).

- 공여국으로부터 지원받은 재원을 라오스 재무부가 수익자에게 지급하는 방식: 라오스 재무부는 라오스 재무부 또는 라오스중앙은행에 개설된 국고 회계시스템 하의 특별계좌를 통해 지불하여야 할 국내외 건설비용, 서비스요금, 전문인력의 생활비, 세미나 조직, 훈련비용을 분리한 뒤, 이를 공적지원기금 계좌에서 지급하도록 명령합니다.
- 공적지원기금 공여자(공여국)의 계좌에서 건설업자, 물품공급업자에게 직접 지급하거나, 국내외 건설비용, 서비스요금, 전문인력의 생활비, 세미나 조직, 훈련비용을 직접 지급하는 방식

공적지원기금 제공에 관한 계약이 체결된 후 지급절차는 다음과 같습니다(ODA 관리결정 제 8 조). 아울러, 필요에 따라 재정관리인력의 채용을 준비하여야 합니다.

[ODA 지급절차]

No.	단계	주요내용
1	재무부 서류발송	- 자금인출에 관하여 서명권자의 서명 견본 및 프로젝트 등 관련 기타서류를 공여자에게 발송
2	프로젝트 책임자	- 재무회계 분야 인력 채용 및 업무수행

No.	단계	주요내용
	업무수행	- 공적지원기금 차관계약에서 규정된 바에 따라 라오스 은행 또는 시중은행에 특별계좌를 개설할 것을 요청하여야 함
3	프로젝트 담당자 서류발송	- 공적지원기금 계좌에서 특정계좌로의 인출을 위한 서류작성 및 해당 서류를 재무부에 발송
4	관리계좌 개설 (필요한 경우)	- 국고의 승인을 거쳐 공적지원기금 관련 규정에서 정한 바에 따라 시중은행에 프로젝트 등 관리계좌 개설절차를 진행할 수 있음

다. 조세 및 관세

공적지원기금을 사용한 모든 프로젝트에 대한 조세 및 관세 관련 사항은 라오스 정부와 해당 투자자 간에 체결한 계약에 따라 이루어져야 합니다(ODA 관리결정 제 13 조). 계약에 면세에 관한 사항이 없는 경우 라오스 법에 따른 모든 조세 및 관세를 납부하여야 하나, 면세에 관한 사항이 규정되어 있는 경우에는 아래의 내용에 따라 조세와 관세가 면제 또는 감면됩니다.

[공적지원기금의 사용에 따른 면세내용 상세]

No.	항목	내용
1	소비세 및 부가가치세	- 프로젝트 등 관련하여 직접 건설계약, 물품공급계약, 서비스계약을 체결하는 개인, 법인, 회사 또는 단체는 소비세 및 부가가치세 면제대상임
2	소득세	- 프로젝트 등 관련하여 직접 건설계약, 물품공급계약, 서비스계약을 체결하는 개인사업자, 법인, 회사 또는 단체는 소득세를 납부하여야 함
3	근로소득세	- 라오스 시민, 무국적자를 포함한 외국인의 경우 원칙적으로 근로소득세 납부대상임. - 다만 라오스 정부와 공여자 사이에 합의가 있는 경우, 프로젝트 등의 수행을 위해 입국한 외국인 전문가에 대하여는 세법에서 정한 바에 따라 근로소득세를 면제할 수 있음
4	수입관세	- 실제 프로젝트 등에 사용될 자재, 장비 기타 차량에 대한 면세 신청서(Master list)를 제출하여 검토 및 승인을 받은 후, 이를 재무부(외화과)에 송부하면 면세혜택을 받을 수 있음

라오스 관세법(2020. 6. 29. 시행, No.81/NA)은 세관 국경 검문소를 통과하는 운송수단 및 승객의 상품에 대한 수출입, 경유절차에 관한 사항을 규율하고 있습니다. 이에 따르면, 국가의 예산으로 구매한 상품을 포함하여 라오스로 수출 또는 수입되는 모든 카테고리의 상품 또는 비영리목적 물품은, 관세부과가 면제 또는 유예된 경우를 제외하고는, 라오스 관세율표에 정하여진 세율

에 따라 관세가 부과됩니다. 그리고 수출입, 경유되는 모든 상품 및 비영리목적 물품은 통관절차를 거쳐야 하며 이는 관세부과가 면제 또는 유예된 경우라 하여 달리 볼 것이 아닙니다.

한편, 관세법 제 97 조에 따르면, 협정 및 약정에 따라 정부에 대한 ODA 로 제공되는 물품의 수입은 관세가 면제됩니다. 아울러, 라오스 정부에 대한 해외 차관을 통해 제공되는 자재, 차량 및 기타 물품의 수입은 정부와 공여자 사이의 계약에 따라 사안별로 관세가 면제될 수 있습니다. 자연재해 및 전염병 대응에 필요한 인도적 지원, 구호물품은 정부의 승인에 따라 관세가 면제됩니다. 또한, 라오스의 투자진흥 제도에 따라 수출입이 발생하는 경우 관세혜택이 주어질 수 있습니다. 이 경우 재무부는 관련 당국이 승인한 상품 및 중장비에 대한 수입계획을 관리하고 이행하여야 합니다.

또한, 라오스 외교부의 승인 또는 허가를 받아 프로젝트에 참여하는 국제기구 또는 비정부기구, 외국전문가가 사용하기 위한 비영리목적 물품 및 차량의 수입은 관세부과가 면제 또는 유예됩니다. 라오스에서 주재하는 국제기구 직원의 개인 차량은 최대 2년 간 사용할 수 있으며, 외교부의 승인을 받아 그 기간을 연장할 수 있습니다. 라오스에서의 직무 또는 프로젝트가 완료되는 경우, 관세가 면제되는 프로젝트에 참여한 외교관, 국제기구 직원, NGO 또는 외국전문가를 위하여 수입한 비영리목적 물품 및 차량은 재수출하여야 합니다. 만약 재수출하지 않고 라오스 국내에서 계속 사용한다면 관세를 납부하여야 합니다.

라. 모니터링, 재산관리, 공식 지원금 사용

공적지원기금 제공에 관한 합의가 이루어진 후 재무부는 프로젝트 등의 성과 및 효율성을 보장하고 재무관리, 자산관리, 조세법규 등에 관한 사항을 알리기 위하여 기술회의를 조직합니다(ODA 관리결정 제 15 조). 해당 프로젝트 등을 수행하는 경우, 관련 법규¹¹에 따라 월별, 분기

¹¹ 관련법규로는 국가재정법과 회계법을 들 수 있습니다. 국가재정법의 경우 세입징수기관과 예산부서가 법에 따라 결산 및 요약할 하도록 규정하고 있는데, 구체적으로 (i) 12월 31일까지의 회계연도에 대한 실제 수입요약, (ii) 12월 31일까지의 예산지출, 출금, 미지급내역 및 3우러 31일까지의 지출 요약, (iii) 국가예산 추적계정의 수입, 지출 및 해당연도의 구체적인 사항에 관한 요약할 하여야 합니다(국가재정법 제73조). 회계법은 국가의 회계에 관한 기본적인 사항을 규정하고 있습니다. 특히 정부 회계기관은 현금흐름표에서 자신이 관리하는 정부자금 및 정부프로젝트의 회계기록을 요약하는 사무를 맡고 있습니다. 장부에 기재된 거래 및 잔액내역은 국고의 은행계좌 명세서에 따라 조정되어야 합니다. 수령한 보조금 및 대출금은 연말 현금흐름표에 별도로 공개하여야 하며, 국내외 공여자의 유형별로 나누어 금액 기타 세부사항을 국제기준에 맞추어 표시하여야 합니다. 기타 구체적인 내용은 다음과 같습니다. ① 재무부는 정해진 기한까지 부채를 기록, 관리하고 이를 지불할 책임이 있습니다. 만기일에 지급되지 않은 부채는 미지급금으로 기록됩니다. 또한 공공기관(공기업)의 대출을 관리하고, 부채를 상환하지 않는 경우 필요한 제재를 가하여야 합니다. ② 정부회계기관은 월별로 재무제표를 작성하여 월 결산일 이후 상급 예산담당기관에 송부하고, 이를 통합하여 지방단위 국고에 제출하며, 이를 도 단위 국고에 제출합니다. 그리고 이를 모두 통합하여 중앙 국고에 제출합니다. 연간 재무제표는 동일한 절차에 따라 결산일 이후 작성 및 제출합니다. ③ 또한 정부회계기관은 예산집행, 재무 및 현금운영을 일, 월, 분기, 연도별로 정확하고 일정하게 보고하여야 하며, 예산명칭 및 지침을

별, 반기별, 연간 공적 지원금 사용 보고서 및 요약 재무제표를 보관하여야 하며, 15 개월 이하의 기간을 정하여 매회 재무부에 요약 재무제표 및 재무상태표를 제공하여야 합니다(ODA 관리결정 제 16 조). 그리고 프로젝트 종료시 해당 프로젝트를 관리·이행하는 위원회가 3 개월 이내에 최종 정산서를 작성해야 합니다(ODA 관리결정 제 20 조).

4. 위반행위 및 벌칙

가. 위반행위

ODA 시행령은 개인, 법인 및 단체에 대하여 아래의 행위를 금지하고 있습니다(ODA 시행령 제 35 조).

- 1) ODA 자금의 유용 및 관련부처의 동의 없이 ODA 자금을 재분배(할당)하는 행위
- 2) ODA 를 통한 개인의 이익을 위해 권리, 의무, 권한 등을 남용하여 손해를 입히는 행위
- 3) ODA 프로젝트 등의 관리에 관한 검사, 위반해결 규정의 집행을 방해하는 행위
- 4) ODA 프로젝트 등의 수행 및 문제해결에 관한 보고 시 불완전, 부정확한 정보를 제공하는 행위
- 5) 기타 법령위반 행위

한편, ODA 시행령은 관련 공무원에 대하여 아래의 행위를 금지하고 있습니다(ODA 시행령 제 36 조).

- 1) 자신의 배우자 또는 친척을 ODA 프로젝트 등의 재정·재무담당자로 임명하는 행위
- 2) 정부기밀, ODA 프로젝트의 예산과 관련된 개인, 법인의 재정기밀을 공개하는 행위
- 3) ODA 프로젝트에 관한 각종 검사, 검토절차를 준수하지 않는 행위
- 4) 고의로 절차를 지연하거나, 문서를 위조하는 행위, 자신의 책무를 해태하는 행위
- 5) 관련부처 및 재무부의 승인 없이 ODA 프로젝트 등의 사업추진부서를 위하여 계좌를 개설하는 행위
- 6) 부적절한 자금지출, 위법한 계산, 자금유용행위
- 7) 입찰절차, ODA 조달절차 등을 위반하는 행위

준수하여야 합니다(회계법 제47조).

나. 벌칙

ODA 시행령은 단순히 동 시행령을 위반한 개인, 법인 또는 단체는 위반의 정도에 따라 문책, 징계, 벌금, 손해배상청구 또는 형사처벌을 받는다고 규정하고 있을 뿐, 구체적인 처벌내용에 대해서는 규정하고 있지 않습니다(ODA 시행령 제 42 조).

그러나 ODA 자금을 부적절하게 이용한 자 및 그 책임자에 대하여는 다음과 같은 법률이 적용될 수 있습니다.

- 1) 국가재정법
- 2) 부패방지법
- 3) 형법
- 4) 정부공직자법
- 5) 공무원윤리강령

No.	벌칙	사유
1	재교육	<ul style="list-style-type: none"> - 국가재정 관련 법규를 위반한 개인, 법인, 단체로써, 위반사항이 경미한 경우에는 재교육을 실시함(국가재정법 제 87 조) - 재교육 사유는 다음과 같음 <ul style="list-style-type: none"> · 예산계획서 또는 결산보고서 내용이 부정확하거나 그 제출이 지연되는 경우 · 개인 또는 사업자와 공모하여 예산관련 의무이행을 지연하거나 이행하지 않는 경우 · 과실로 연간 예산계획서에 명시된 지출의 목표 또는 성격과 일치하지 않거나 예산 분류법과 일치하지 않는 내용으로 지시하는 경우, 또는 지출 규정에 부합하지 않도록 계산하는 행위 · 재무상태를 투명하게 신고하지 않는 경우, 예산수립, 집행 및 보고가 지연되는 경우 · 송금 또는 지급명령의 이행을 방해하거나 그 이행을 위하여 보상을 요구하는 경우 · 예산의 지출을 불공정하게 집행하는 행위 · 설명 등을 제공하지 않거나 무례한 언동을 하는 등 고객과의 관계를 어렵게 하거나 고객에게 부적절한 행위를 한 경우 · 소속 직원에 대한 불공정 징계(제재) 또는 징계(제재)를 해태한 경우
2	징계	<ul style="list-style-type: none"> - 공무원 윤리강령에 따르면, 공무원 또는 관계 공무원이 ODA 관련 법규를 위반하였으나 그 내용이 형사범죄를 구성하지 않고 중대한 손해가 발생하지 않은 경우로서, 해당 공무원이 위반행위를 자진신고 하지 않거나 면피한 경

No.	별칙	사유
		우에는 승진대상에서 제외하거나 면직하는 등의 징계조치를 취하여야 함 - 부패방지법에 따르면, 5,000,000 라오스 킵 이하의 부패범죄에 대해 성실하게 신고하지 않거나 조사(수사)에 불응할 경우 해당 공무원은 (i) 견책, 인사불이익, 전출, 강등 등의 징계조치 및 (ii) 취득한 재산의 몰수 등의 불이익을 받게 됨
3	과태료	- 개인, 또는 단체가 다음의 행위를 한 경우에는 과태료가 부과됨(국가재정법 제 88 조) • 제 87 조에 따른 재교육대상이 되는 행위를 지속적으로 수행하는 경우 • 납세자 정보를 제공하지 않거나, 부당징수를 하는 경우, 징수의무에 관한 정보를 제공하지 않거나 사업단위의 민원을 해결하지 않는 경우 • 납세자 정보를 제공하지 않거나, 부당징수를 하는 경우, 징수의무에 관한 정보를 제공하지 않거나 사업단위의 민원을 해결하지 않는 경우 • 사업단위로부터 불완전 징수를 하거나, 법령을 위반하는 징수를 하여 송금명령에 따른 채권액이 감소하는 경우 • 회계문서 미작성, 재무담당자 미임명, 출납원 미임명, 업무표준에 따른 지원장비 미제공, 업무내역 미신고, 재무부 또는 관련부처에 대한 정기보고서 미제출 등 법령에서 규정한 기준이나 조건을 이행하지 않는 경우
4	민사상 조치	- 개인, 법인 또는 단체가 공공조달법을 위반하여 정부, 단체 또는 제 3 자의 이익에 영향을 미친 경우, 그로 인해 발생한 손해를 배상하여야 함(공공조달법 제 87 조)
5	형사처벌	- ODA 관련 법규를 위반한 사실이 범죄를 구성하는 경우, 개인 또는 법인은 그 위반의 경중에 따라 형법에서 정하는 바에 따라 처벌을 받게 됨

IV. 건설법

1. EDCF 관련 건설절차 일반

EDCF 관련하여 건설절차의 일반적인 개요를 살펴보면 아래와 같습니다.

No.	단계	주요내용
1	프로젝트 특정	<ul style="list-style-type: none"> - 정부의 투자 또는 참여를 수반하는 프로젝트의 경우, 해당 프로젝트가 국가 사회경제개발계획에 반영되어 있어야 함. - PPP 관련 법령에 따른 프로젝트의 경우, 프로젝트 발주처가 프로젝트 제안서를 라오스 기획투자부에 제출하여야 함.
2	타당성조사	<ul style="list-style-type: none"> - 타당성조사의 내용은 구체적인 프로젝트의 내용에 따라 달라질 수 있음. - 건설 프로젝트에 대한 타당성조사 보고서는 아래와 같이 해당 사업에 따라 관련 정부부처에서 채택함: <ul style="list-style-type: none"> • 국토교통부: 건축물, 도로, 교통 관련 프로젝트 • 농업산림부: 농업 관련 프로젝트 • 에너지광업부: 수력발전 프로젝트 등 에너지 관련 프로젝트
3	프로젝트의 승인 등	<ul style="list-style-type: none"> - 프로젝트의 조사 및 설계의 검토결과, 사회 경제적 효용성이 인정되고 자연 및 사회환경에 대한 영향을 충분히 해결할 수 있는 것으로 판단될 경우 프로젝트의 승인을 받게 됨 - 프로젝트의 승인권자는 해당 건설 프로젝트의 유형, 규모 및 수준에 따라 달라질 수 있음
4	구역지정	<ul style="list-style-type: none"> - 건설행위를 위한 토지할당을 하는 경우, 건설법에 따른 할당요건을 충족하여야 함. - 아울러 할당지역이 임야인 경우 토지용도변경절차를 거쳐야 하며, 승인권자는 임야의 성질 및 규모에 따라 라오스 국회, 정부, 주민회의로 구분됨.
5	민간투자승인	<ul style="list-style-type: none"> - 민간부문의 프로젝트 발주자가 수행하는 프로젝트의 경우, 투자촉진법 등 관련법규에서 정하는 바에 따라 라오스 정부와 계약을 체결한 뒤 승인 <ul style="list-style-type: none"> • 면허를 발급하는 절차를 거치게 됨 - 구체적으로, ① 계약체결 후 라오스 산업통상부로부터 기업등록증을 발급받고, ② 프로젝트 발주자에게 투자면허가 발급됨 - 라오스 현행 법에 따른 납세의무 면제 또는 감면 혜택 외에 추가적인 세제혜택은 라오스 국회의 승인이 필요함.
6	시공사 선정	<ul style="list-style-type: none"> - 라오스에서 건설업을 영위하고자 하는 회사는 원칙적으로 라오스 건설업 인허가를 소지한 회사로 등록되어 있어야 함. - 다만 라오스 정부가 기획투자부 등을 통해 양허권을 부여한 프로젝트의 경우, 예외적으로 외국회사가 라오스 건설업 인허가 없이도 건설업을 영위할 수 있음.
7	건설허가	<ul style="list-style-type: none"> - 건축물을 건설하려는 자는 관련 기관(EDCF의 경우 공공사업교통부)에 허가신청서를 제출하여야 함

No.	단계	주요내용
8	건설완료	<ul style="list-style-type: none"> - 공사가 완료되면 건설허가를 받은 자는 그 사실을 주·구역 계획 관리기관에 통보하고, 해당 기관 공무원의 입회 하에 최종 검사를 받아야 함. 최종 검사를 완료한 경우, 15일 내에 건축물 진위증명서를 제출하여야 함. - 건설을 완료한 경우 관련 부처로부터 인증서를 발급받게 되는데, 이때 관련부처는 해당 프로젝트의 내용에 따라 달라질 수 있음. <ul style="list-style-type: none"> • 예를 들어 에너지 관련 프로젝트의 경우, 에너지광업부가 건설완료에 따른 인증서를 발급하게 됨

2. 건설법 개요

가. 개요

라오스의 건설사업에 관한 사항은 건설법에 규정되어 있습니다. 건설법은 (i) 건축물이 품질, 안전, 경제성, 편리성을 갖추고 (ii) 도시계획, 사회경제개발계획과 일치하며, (iii) 법규를 준수하며 현대기술의 사용을 통해 건설의 발전을 촉진하며, (iv) 국제표준에 상응하여 국산 및 외국산 건설자재의 사용을 조정하고, (v) 국가의 독립성 및 도시의 경관을 보호하며, (vi) 국제사회의 발전에 기여하기 위한 목적으로, 건설행위의 관리, 허가, 감독, 모니터링, 검사에 관한 원칙, 규칙 및 조치에 관한 사항을 규정하고 있습니다(건설법 제 1 조).

건설법에 따르면, 건설이란 타당성조사, 측량, 시공설계, 시공 및 설치를 포함하여 공사가 완료될 때까지 모든 공사의 활동, 시공 및 보수를 수행하는 절차를 의미합니다(건설법 제 2 조). 건설행위는 아래의 원칙에 따라 수행합니다(건설법 제 5 조).

- 1) 국가사회경제개발계획, 각 부문별 기본계획, 도시계획, 건설프로젝트계획, 기술규범, 기술표준 및 단가의 적합성을 보장할 것
- 2) 품질 및 안전을 보장하고, 인구, 인프라, 자연경관, 생활환경에 대하여 표준에 비해 과한 부작용을 발생시키지 않으며, 건설현장 근처의 주민들에게 과도한 불편을 초래하지 않을 것
- 3) 건설행위 시 국가 고유의 정체성, 문화, 역사 및 자연유산을 함께 보호할 것
- 4) 장애인, 노약자를 위한 시설을 갖추고, 경제, 사회에 대한 지속가능성을 보장할 것
- 5) 외국인투자자의 중요 건설행위에 있어서는 국내 건축가 및 엔지니어가 참여할 것

6) 국민의 건강 등 사회 및 자연환경에 미치는 영향에 대한 평가를 진행할 것

나. 건축물

1) 건축물의 구분

건축물은 크게 용도별, 유형별, 규모별로 구분할 수 있습니다. 건축물의 용도별 구분은 다시 (i) 공공사업 및 운송용도, (ii) 농업 및 임업용도, (iii) 에너지 및 광업용도로 구분되는데, 그 구체적인 내용은 다음과 같습니다(건설법 제 9 조 내지 제 11 조).

No.	구분	내용
1	용도별 구분 (건설법 제 9 조)	[공공사업 및 운송] - 교통체계: 교량, 도로, 철도, 항구, 터널, 선박의 항로 및 공항 등 - 주거체계: 주택, 건물, 병원, 학교, 사원, 공장, 연료저장소, 연료송출관, 가스, 주유소, 운동장, 공원, 터미널 등 - 수도 및 위생체계: 양수장, 상수도 공장, 송배수관, 하수로, 파이프 및 터널 등 - 통신체계: 위성방송국, 무선주파수 송수신국 등 - 제방 및 홍수방지 시스템 [농업 및 임업] - 관개체계: 관개, 도랑, 운하, 댐, 저수지 [에너지 및 광업] - 수력발전용 댐, 발전소, 송·변전소, 송전선로
2	유형별 구분 (건설법 제 10 조)	- 건축, 설립, 설치 - 수리 - 확장 - 복원 및 기타
3	규모별 구분 (건설법 제 11 조)	- 대규모 건축물 - 중간규모 건축물 - 소규모 건축물

2) 기술규범, 기술표준 및 단가

건설 프로젝트에 대한 예산계획을 수립하고, 프로젝트를 모니터링 및 평가할 때에는 일반적으로 라오스 정부가 채택해 놓은 건설 관련 기술규범, 기술표준, 단가 및 지표를 참조해야 합니다. 이러한 기술표준 등에 대한 안은 공공사업교통부가 타 부처와 협력하여 만든 후, 정부

가 검토하여 채택하게 됩니다(건설법 제 12 조).

3. 건설행위의 절차

가. 개요

건설법에 따르면, 건설행위의 절차는 크게 다음과 같이 7 단계로 구분할 수 있습니다. 이하에서는 각 절차 별 구체적인 내용에 대해 살펴보겠습니다.

- 1) 건설 프로젝트의 타당성조사
- 2) 건설 프로젝트의 조사, 설계 및 사용자재의 결정
- 3) 건축허가
- 4) 건설 프로젝트 토지 할당
- 5) 건설프로젝트의 실행
- 6) 공사의 감리
- 7) 건축물의 유지관리 및 사용

나. 타당성조사

- 1) 타당성조사의 수행

건설 프로젝트의 타당성조사란, 건축물의 용도, 유형, 규모에 따라 투자의 효용성을 판단하기 위한 조사로, 사회경제성 조사, 기술조사, 재무조사, 노동, 환경영향평가, 사회문화영향조사 등이 수반되어야 합니다(건설법 제 14 조). 특히, 대규모 자금이 투입되고 복잡한 기술을 사용하는 모든 중대형 건설 프로젝트는 초기(예비) 타당성조사를 통해 다양한 방안을 사전에 고려한 후 세부조사에 착수하는 방식의 단계별 타당성조사가 요구됩니다.

- 2) 타당성 조사보고서의 작성

타당성조사를 완료한 후에는 타당성 조사보고서를 작성하여야 합니다. 타당성 조사보고서란

건설 프로젝트를 경제적, 기술적으로 평가하는 것으로, 효율성, 자연 및 사회환경에 미치는 영향 등을 포함하여 건설과 관련된 기술을 평가하는 것을 의미합니다(건설법 제 15 조).

타당성 조사 대상은 아래와 같습니다(건설법 제 16 조).

- ① 건설프로젝트의 추진으로 인하여 가장 큰 이익을 얻게 될 이해관계자
- ② 건설프로젝트의 가치, 사용기간
- ③ 경제·기술, 자연·사회환경에 대한 효율성
- ④ 자연·사회환경에 대한 여타 부정적 영향을 저감하기 위한 조치
- ⑤ 건설프로젝트의 이행계획 및 방법

한편, 타당성 조사보고서에는 아래의 연구내용이 포함되어야 합니다(건설법 제 17 조).

[타당성 조사보고서의 연구내용]

No.	항목	내용
1	정책	- 건설프로젝트와 관련된 법규 및 국가사회경제개발계획에 대한 연구
2	재무 및 투자	- 프로젝트의 가치, 효율성 평가
3	기술	- 기술규모와 프로젝트의 관리, 운영 보호 등 지속가능성에 대한 연구
4	인력	- 자재, 장비에 관한 연구 - 인력, 교육에 관한 연구
5	조직 및 관리	- 프로젝트 관리를 위한 특별위원회의 설립에 관한 연구
6	사회문화	- 주민의 이주, 이해관계자, 수익의 분배, 이주에 미치는 영향 등에 관한 연구 - 고용창출, 거주지 건설, 전통 및 관습의 보존에 관한 연구 - 민족의 유산 및 문화에 관한 연구
7	환경	- 생물의 다양성, 수자원, 날씨 등 자연 및 사회환경, 주민의 건강에 미치는 영향에 관한 연구 - 건설행위로 인해 발생하는 부정적인 영향으로부터 이를 보호하기 위한 조치에 관한 연구

3) 타당성 조사보고서의 승인

라오스 건설법 제 18 조에 따르면 타당성조사보고서에 대한 심사 및 채택여부는 해당 프로젝트의 분야에 따른 관련부처에서 담당합니다(예를 들어, 건물 시공, 도로 관련 프로젝트는 공공사

업교통부, 농업 관련 프로젝트는 농림부, 에너지 및 수력발전 프로젝트는 에너지광물자원부가 담당합니다). 한편, 타당성조사보고서와는 별개로 사회환경영향평가보고서에 대한 심사 및 채택여부는 프로젝트 분야를 불문하고 환경부에서 일괄 담당합니다(건설법 제 18 조).

다. 건설프로젝트의 설문조사 및 설계

“건설 프로젝트의 설문조사”란 설계를 준비하기 위해 사회·경제적 관련 사항 및 자연·사회 환경에 대한 영향에 대한 효율성 평가를 위해 필요한 세부자료를 수집하는 것을 의미합니다. 한편, “건설 프로젝트의 설계”란 설문조사를 통해 취득한 데이터 분석을 기반으로 기술 표준에 부합하는 세부계획을 수립하는 것을 의미하며, (i) 건축 엔지니어링계획 및 (ii) 기술, 기술표준 및 가치평가, (iii) 공사기간의 확정으로 구분될 수 있습니다(건설법 제 19 조).

건설 프로젝트의 설문조사 및 설계절차는 다음과 같습니다(건설법 제 20 조).

- 1) 데이터 조사, 수집 및 분석
- 2) 초안설계, 일반적 가치평가
- 3) 기본 디자인
- 4) 상세 설계, 건설프로젝트의 가치평가
- 5) 건설 프로젝트에 대한 입찰서류 준비

설문조사 및 설계절차를 완료한 건설 프로젝트가 사회경제적 영역에서 효율성이 있으나 자연·사회환경에 미치는 영향이 있는 것으로 판단될 경우 환경부의 승인을 받아야 합니다(건설법 제 22 조).

라. 건설허가

건축, 설립, 설치, 수리, 증축, 복구, 개조, 철거 등 건설공사를 수행하고자 하는 개인 또는 단체는 허가신청서를 작성하여 공공사업교통부에 제출하여야 합니다(건설법 제 24 조). 관련부서가 개인 또는 단체로부터 허가신청서를 접수한 경우, 관련 규정에 따라 이를 검토하여야 합니다. 만약 해당 신청이 허가요건을 만족하는 경우, 해당 부서는 법령에서 정한 기한 내에 요청서의 내

용대로 건설허가를 발급하여야 합니다 (건설법 제 25 조).

이때 건설허가조건은 다음과 같습니다(건설법 제 26 조).

- 1) 허가신청서 및 관련서류를 명확히 작성할 것
- 2) 공사대상 토지에 대하여 토지법 및 기타 관련법령에 부합하는 토지의 사용권한을 증명하는 서류를 구비할 것
- 3) 규정된 바에 따라 국가의 관련부처로부터 프로젝트 조사, 설계에 관한 승인을 받을 것
- 4) 공사를 수행할 장소에 대한 토지형질변경허가를 받을 것

건설법은 프로젝트 발주자로 하여금 경제적-기술적 이유 및 건설 프로젝트의 합리적인 가치에 비추어 필요성이 인정되는 경우 건설계획을 수정할 수 있도록 권한을 부여하고 있으나(건설법 제 38 조 제 3 항), 공공사업교통부의 허가 없이 건설계획을 수정하는 행위를 금지하고 있습니다(건설법 제 59 조 제 1 항). 여기에는 프로젝트의 변경 및 기존에 허가받은 건설계획의 변경이 포함되는 것으로 해석되는 바, 프로젝트 발주자는 허가받은 내용을 변경하는 경우 관련부처, 즉 공공사업교통부의 변경허가를 받아야 하는 것으로 이해됩니다.

마. 건설 프로젝트 구역지정

건설 프로젝트 수행을 위해서는 구역지정을 받아야 하는데, 이를 위해서는 다음과 같은 조건이 충족되어야 합니다(제 28 조).

- 1) 공사 착수 전 구역지정과 관련하여 증거 및 자료에 기반하여 정확한 손실보상 계획을 작성할 것
- 2) 손실보상을 완료하고 및 편의시설, 장애물 등을 이전할 것
- 3) 할당이 결정된 토지의 면적이 국가, 지역, 주, 구역별 할당계획, 건설 프로젝트의 기본 계획 및 승인된 투자 프로젝트의 내용과 일치할 것
- 4) 건설 프로젝트를 위한 구역지정 기간은 승인된 투자 프로젝트의 이행기간 또는 국가의 관련부처의 결정과 일치할 것

이외에도, 건설 프로젝트 구역의 사용은 (i) 국가사회경제개발계획, 도시계획 및 관련부처의 기본계획과 일치하여야 하며, (ii) 개인 또는 단체의 일반적인 이익, 권리를 우선적으로 보장하고, (iii) 안전, 환경, 문화, 역사 및 자연유산을 보호하여야 합니다(건설법 제 30 조).

만약 건설 프로젝트 구역을 다른 장소로 변경하려는 경우에는, 건설 프로젝트를 허가한 공공사업교통부로부터 변경에 대한 승인을 받아야 합니다. 이 경우, (i) 해당 공사의 내용이 승인된 계획에 적합하고, (ii) 주변 환경에 부합하여야 하며, (iii) 건설이 예정된 건축물의 형상, 특징 및 품질이 주민의 공평한 이익을 보장하여야 하고, (iv) 안전 및 환경에 부정적인 영향을 미치지 않아야 합니다(건설법제 32 조).

건설 프로젝트 구역 변경의 주된 사유는 다음과 같습니다.

- ① 공공복리를 위하여 필요한 경우
- ② 제반조건이 건설 프로젝트에 적합하지 않은 경우
- ③ 건설 프로젝트 도중 문화재 등 유물, 고가치 광물이 발견된 경우

바. 건설 프로젝트의 수행

1) 건설 프로젝트의 수행요건

프로젝트 발주자와 시공사는 건설 프로젝트를 수행하기 전에 다음의 요건을 갖추어야 합니다(건설법 제 31 조).

- ① 건축허가를 취득할 것
- ② 입찰을 통해 공사감리계약을 체결하고 등록할 것
- ③ 각 계약조건 별로 건설 프로젝트에 대한 세부계획을 수립할 것
- ④ 공사기간 동안 안전 및 환경을 보전하기 위한 대책을 마련할 것
- ⑤ 프로젝트 명, 발주자, 투자자, 설계자, 건설허가번호, 시공자, 건설감독자, 금액, 착공일, 완공일 등 건설 프로젝트의 정보를 포함하고 있는 간판을 설치할 것
- ⑥ 공사기간 중 문화 및 역사유물이 발견된 경우, 즉시 관련부처에 통보할 것

2) 예방조치의 마련

일반적인 경우, 시공사 등은 경고신호, 건설현장 주변의 울타리 설치, 근로자를 위한 보호장비(안전모, 신발, 장갑, 안경)등 관련부처의 법규에 따라 안전을 위한 예방조치를 하여야 합니다. 만약 건설 프로젝트 실행 중 홍수, 폭풍, 화재, 지진, 토사붕괴, 기타 프로젝트 수행에 영향을 미칠 수 있는 재해 등 불가항력적 사유가 발생한 경우, 계약의 상대방인 시공사는 아래와 같은 예방책 및 해결책을 마련하여야 합니다(건설법 제 34 조).

- ① 건설현장에 대한 경고신호를 보낼 것
- ② 공사의 일시중단 후 근로자의 안전 및 건설 자산을 보호하기 위하여 적시에 합리적인 조치를 취할 것
- ③ 적시에 문제를 해결할 수 있도록 프로젝트 발주자, 관련 책임자, 지방 행정기관에 긴급 사건보고를 수행할 것

사. 공사의 감리 및 인증, 프로젝트의 인계

모든 건설 프로젝트는 완공 후 관리기관의 검사(감리)를 통과하여야 합니다. 공사의 감리는 **첫째**, 계획, 기술표준, 기술규범 및 승인된 건축자재에 적합한 시공이 이루어지도록 감독하여야 합니다. **둘째**, 건설 프로젝트의 운영 중 하자가 발견된 경우 해당 공사의 감독자는 그 사실 및 하자를 적기에 해결할 수 있는 방법 및 조치에 관한 사항을 프로젝트 발주자에게 통지하여야 합니다. **셋째**, 감독결과에 대한 것으로서, 정확성이 확보된 문서 및 관련 정보를 포함하고 있는 보고서를 작성하여야 합니다(건설법 제 35 조).

만약 해당 공사가 건설계약에 규정된 설계, 기술표준, 기술규범, 건설자재 및 기타 관련 문서에 따라 정확하게 시공된 것으로 판명될 경우, 이를 증명하는 서류를 프로젝트 발주자에게 발급합니다(건설법 제 36 조). 건설 프로젝트가 완공되어 건축물 인증서를 발급받은 경우, 시공사와 프로젝트 발주자는 해당 건설 프로젝트의 인수인계에 관한 문서를 작성하여야 하며, 3 개월을 초과하지 않는 기간 내에서 프로젝트 인수위원회를 조직하여야 합니다(건설법 제 37 조).

아. 건축물의 유지관리 및 사용

건축물의 소유자는 건축물이 지속적이고 안전하며 청결하게 오랜 기간 사용될 수 있도록 해당 건축물을 유지, 관리, 복원, 수리하여야 합니다(건설법 제 42 조). 또한 건축물의 소유자는 해당 건축물을 용도에 맞게 사용하여야 하며, 국민의 건강, 생명, 재산을 보호하고 환경에 영향을 미치지 않도록 조치를 취하여야 합니다. 만약 용도변경이 필요한 경우, 공공사업교통부에 사전승인을 요청하여야 할 의무가 있습니다(건설법 제 43 조).

4. 위반행위 및 벌칙

가. 위반행위

건설법의 위반행위는 크게 (i) 개인 및 단체의 위반행위, (ii) 공무원 및 관계공무원의 위반행위, (iii) 프로젝트 발주자의 위반행위, (iv) 시공자의 위반행위, (v) 컨설팅사, 건축사, 건설사, 엔지니어의 위반행위로 구분할 수 있으며, 그 구체적인 내용을 살펴보면 다음과 같습니다.

1) 개인 및 단체의 위반행위(건설법 제 59 조)

- ① 관련 인허가나 면허 없이 건설사업을 영위하는 경우
- ② 군사작전지역, 유적지, 사적지, 문화재, 산림자원보호구역, 공공도로, 철도, 연못, 습지, 하천, 논, 관개시설, 수력발전용 댐, 공항, 항공비행지역 제방보호구역 등 법령에서 허용하지 않는 지역에서 건설 프로젝트를 수행하는 경우
- ③ 주정부 및 민간 건설 프로젝트의 측량, 설계, 시공, 감리 및 통제업무를 동일인이 수행하는 경우
- ④ 사회경제개발계획, 인프라 및 도시계획과 일치하지 않고, 승인 없이 건설, 수리, 확장, 변경계획을 수립하는 경우
- ⑤ 관련부처의 허가 없이 토지형질변경 행위를 하는 경우
- ⑥ 관련부처의 허가 없이 수목을 베고 목재 지지대를 설치하는 경우
- ⑦ 관련부처의 허가를 받지 않고 도로, 공공장소 또는 사유지에 흙, 자갈, 돌, 샌드플랜트를 운송하는 경우

- ⑧ 정당한 사유 없이 공사를 방해하거나, 이에 협조하지 않는 경우
- ⑨ 뇌물을 수수하거나 이에 협조하는 경우
- ⑩ 기타 법규를 위반하는 경우

2) 공무원 및 관계공무원의 위반행위(건설법 제 60 조)

- ① 그들의 직무와 관련된 사업을 운영하거나 건설 프로젝트 회사 등의 컨설턴트 또는 기술자가 되는 경우
- ② 입찰 관련 정보를 공개한 경우
- ③ 자신 또는 지인을 위하여 공사 관련 뇌물을 수수하는 경우
- ④ 시공자의 책임, 지연, 서류미비, 설치, 위법행위에 대하여 방치하는 경우
- ⑤ 파고다, 병원, 학교 근처에 호텔이나 레스토랑 바, 놀이공간을 건설할 수 있는 허가를 발급하는 경우
- ⑥ 기타 법규를 위반하는 경우

3) 프로젝트 발주자의 위반행위(건설법 제 61 조)

- ① 공무원, 관련 공무원 또는 시공자, 컨설팅회사, 건축가 또는 엔지니어와 공모하여 기준을 충족하지 않는 건축물에 대한 인증 및 승인을 받는 경우
- ② 시공자로부터 공사 관련 뇌물을 수수하는 경우
- ③ 별도의 합의 없이 시공이 완료된 건축물에 대한 대금지급을 지연하는 경우
- ④ 공사 시 발생한 문제를 해결하기 위한 방법 및 조치에 관한 사항을 시공자에게 통지하지 않거나 지연하여 통지한 경우
- ⑤ 모니터링을 무시하고 시공자의 시공행위를 조종하는 경우
- ⑥ 기타 법규를 위반하는 경우

4) 시공자의 위반행위(건설법 제 62 조)

- ① 허가받은 내용을 벗어난 사항을 시공하는 경우
- ② 계획, 기술규범 및 기술표준에 적합하지 않도록 시공한 경우

- ③ 자연·사회환경의 안전 및 보존을 위한 조치없이 시공한 경우
- ④ 프로젝트 발주자의 승인 없이 타인에게 건설 프로젝트를 판매하거나 양도하는 경우
- ⑤ 관련부처의 허가없이 규정된 사항 이외의 사항에 대한 토지형질변경행위를 하는 경우
- ⑥ 프로젝트 발주자와 계약을 체결하였음에도 시공을 거부하는 경우
- ⑦ 허가업이 수목을 베어 목재 지지대를 설치한 경우
- ⑧ 기타 법규를 위반하는 경우

5) 컨설팅사, 건축사, 건설사, 엔지니어의 위반행위(건설법 제 63 조)

- ① 사익을 추구하기 위해 타인의 건축 및 공학 계획을 도용하는 경우
- ② 경매가 개시된 건설 프로젝트의 중간가격 정보를 공개하는 경우
- ③ 건설 프로젝트의 발주자 또는 시공자와 공모하여 사익을 추구하는 경우
- ④ 직업윤리에 위배되는 행위를 하는 경우
- ⑤ 기타 법규를 위반하는 경우

나. 벌칙

건설법을 위반한 개인, 법인 또는 단체는 위반의 정도에 따라 교육, 징계, 과태료, 민사상 손해배상 또는 법에서 정한 바에 따른 조치를 받게 됩니다(건설법 제 79 조).

[벌칙 및 사유]

No.	벌칙	사유
1	교육	- 건설 관련 법규를 위반한 개인 법인 단체로써, 그 위반내용이 경미한 경우 교육조치를 취하여야 함(건설법 제 80 조)
2	징계	- 공무원 또는 관계 공무원이 건설 관련 법규를 위반하였으나 그 내용이 형사범죄를 구성하지 않고 중대한 손해가 발생하지 않은 경우로서, 해당 공무원이 위반행위를 자진신고 하지 않거나 면피한 경우에는 승진대상에서 제외하거나 면직하는 등의 징계조치를 취하여야 함(건설법 제 81 조)
3	과태료	- 개인, 법인, 또는 단체가 아래와 같이 건설법을 위반하였으나, 그 위반이 형사범죄를 구성하지 않는 경우에는 과태료가 부과됨(건설법 제 86 조) <ul style="list-style-type: none"> · 면허 없이 관련 사업을 수행하는 경우 · 허가 없이 건설장비 등을 설치한 경우

No.	별칭	사유
		<ul style="list-style-type: none"> 기술 및 안전기준을 준수하지 않는 경우 환경에 대한 부정적 영향을 끼치는 건축, 수리행위에 대한 보전조치를 취하지 않은 경우
4	민사상 조치	- 개인, 법인 또는 단체가 건설법을 위반하여 정부, 단체 또는 제 3자의 이익에 영향을 미친 경우, 그로 인해 발생한 손해를 배상하여야 함(건설법 제 87 조)
5	형사처벌	- 건설법을 위반사실이 범죄를 구성하는 경우, 개인 또는 법인은 그 위반의 경중에 따라 형법에서 정하는 바에 따라 처벌을 받게 됨(건설법제 88 조)

5. 분쟁해결

건설 프로젝트 수행 과정에서 분쟁이 발생한 경우, 건설법은 이를 해결하기 위한 4 가지 방법(중재 또는 화해, 행정조정, 경제중재위원회 판정, 법원 판결)을 제시하고 있습니다(건설법 제 64 조).

[분쟁해결 방법]

No.	별칭	사유
1	중재 또는 화해	- 공사 관련하여 당사자들 간에 분쟁이 발생한 경우, 당사자는 중재 또는 화해를 통해 분쟁의 해결을 시도할 수 있음(건설법 제 65 조)
2	행정조정 또는 경제 중재위원회 판정	- 중재 또는 화해절차에 의하여 분쟁이 해결되지 않은 경우, 일방 당사자는 해당 감독당국에 합의를 주선하여 줄 것을 요청하거나, 경제중재위원회에 판정을 요청할 수 있음(건설법 제 66 조 내지 제 67 조)
3	법원 판결	- 건설 관련 분쟁을 조정 또는 화해, 행정조정, 경제중재위원회의 판정으로 해결할 수 없는 경우, 당사자 일방은 법원에 소를 제기하여 판결을 받을 수 있음(건설법 제 68 조)

V. 구매법

1. 공공조달의 절차일반

라오스의 공공조달절차에 대한 일반적인 개요는 다음과 같습니다.

No.	단계	주요내용
1	조달방법 채택	- 공공조달법에서 정한 기준에 따라 조달방법 채택 - 조달금액 및 조달대상의 성질에 따라 ① 공개입찰, ② 제한입찰, ③ 견적 요청, ④ 수의계약으로 구분할 수 있음.
2	공공조달계획	- 프로젝트 발주자 또는 조달기관에서 준비함 - 연간조달계획 및 세부공공조달계획 수립
3	제안요청서 준비	- 해당 서류 또는 요청서에는 입찰참가자가 적절하고 완전하게 입찰서 또는 제안서를 작성하는 데 필요한 정보가 기재되어 있어야 함
4	입찰공고	- 프로젝트 발주자 또는 조달기관은 법령에서 정한 내용을 포함하는 입찰 공고를 대중매체, 웹사이트 또는 전자매체를 통하여 공고하여야 함
5	입찰서 등 제출	- 입찰참가자 등은 제안요청서 상에 기재된 바에 따라 입찰서 등을 제출하여야 하며, 프로젝트 발주자 또는 조달기관으로 하여금 제출마감일 이전에 수령할 수 있도록 하여야 함
6	입찰서 등 평가	- 입찰위원회는 제출받은 입찰서 등을 평가함 - 심사내용에 따라 ① 형식성을 심사하는 예비심사 및 ② 구체적인 내용을 심사하는 세부심사로 구분할 수 있음.
7	평가보고서 승인	- 입찰위원회가 보고한 입찰서 및 제안서 평가가 공공조달법 기타 관계법령에 적합한 것으로 인정되는 경우, 장관, 시·도지사, 시장, 군수, 구역장 또는 그 위임을 받은 자가 이를 승인함
8	계약체결	- 계약의 체결은 계약체결 통지를 받은 날로부터 14일 이내에 이루어져야 함
9	계약관리 및 이행완료	- 프로젝트 발주자 및 조달기관은 계약의 관리를 위하여 계약관리위원회를 둘 수 있음 - 계약의 이행은 양 당사자가 계약상 모든 의무를 이행하고 이행기간 및 보증기간이 만료된 경우 완료됨

2. 공공조달의 당사자

가. 입찰참가자

입찰참가자란 (i)계약상대방, 공급업체 및/또는 서비스제공업체, (ii)컨설턴트를 의미합니다(공공

조달법 제 35 조). 공공조달법은 입찰에 참가하기 위해 입찰참가자로 하여금 일정한 자격을 갖추 것을 요구하고 있는데, 그 구체적인 내용을 살펴보면 아래와 같습니다(공공조달법 제 36 조).

- 1) 현지 및 외국 개인, 납세자 식별번호 또는 사업자 등록증 소지 및 적용받는 법률에 따라 납세 및 기타 의무를 이행하는 법인일 것
- 2) 공사도급, 상품공급 및 서비스제공, 컨설팅 서비스와 관련하여, 성과, 경험, 기술역량, 인력 및 품질을 증명하는 서류를 구비할 것
- 3) 현지 및/또는 외국 금융 기관의 최근 3년 간 재무상태표 및/또는 연간 재무 감사보고서를 구비할 것
- 4) 과업과 관련하여 유능하고 경험이 풍부한 인력을 충분히 확보할 것
- 5) 이해상충이 없을 것
- 6) 작업용 생산기계, 도구 및 장비, 상품 및/또는 서비스의 표준 및 수량에 관한 인증서를 보유할 것
- 7) 행위능력을 보유하고 있으며 사업운영으로 인해 법원에서 징역형을 선고받지 않았을 것

한편, 입찰참가자의 주요 권리의무는 다음과 같습니다(공공조달법 제 37 조).

- ① 입찰에 참여할 것
- ② 공공입찰 규정에 따라 업무를 수행할 것
- ③ 협력확대, 정보제공 및 입찰위원회 지원
- ④ 기밀유지
- ⑤ 입찰이 동법 및 기타 관련 법률에서 요구하는 투명성과 공정성이 결여된 것으로 판단되는 경우 관련당국에 이의를 제기할 수 있음

나. 발주자

공공조달법상 발주자란, 프로젝트 발주자, 조달기관 기타 이해관계자를 포함하는 개념입니다(공공조달법 제 38 조). 발주자의 주요 권리의무는 다음과 같습니다(공공조달법 제 39 조).

- 1) 프로젝트의 관리자 및 입찰위원회 지정

- 2) 입찰에 관한 사항 모니터링, 검사 및 평가
- 3) 계획서, 입찰서, 제안요청서, 입찰평가보고서 채택
- 4) 공공조달의 중단 및 거절, 기간연장, 재입찰 결정

다. 입찰위원회

공공조달법은 공공조달의 관리 및 수행업무를 지원하기 위해 입찰위원회를 두는 것으로 규정하고 있습니다. 구체적으로는 입찰참가자 선정업무를 수행하기 위하여 구성되며, 발주자 또는 조달기관의 기술팀 및 관련 분야의 경력자 등 3~7 인으로 구성됩니다(공공조달법 제 40 조, 공공조달 시행지침 제 11 조).

입찰위원회의 권리의무는 아래와 같습니다(공공조달법 제 41 조).

- 1) 입찰자격 및 요건 설정, 입찰서류 및 제안요청서 승인
- 2) 조달, 공개입찰 또는 제안업무 수행
- 3) 입찰서 또는 제안서 평가
- 4) 입찰서 또는 제안서 승인, 중단, 취소 제안
- 5) 프로젝트 발주자 또는 조달기관에 입찰 또는 제안서 평가 보고

3. 공공조달법 개요

가. 개요

라오스의 공공조달 관련 사항은 공공조달법 및 공공조달 시행지침에 규정되어 있습니다. 공공조달법은 국가 및 사회의 경제발전에 사용되는 정부 자금의 효과적, 효율적, 경제적 사용 및 투명성, 책임성, 공정성을 확보하기 위해 공공조달의 관리 및 이행에 관한 원칙, 규정 및 조치를 정하여 이러한 활동이 전국적으로 적절하고 통일된 방식으로 수행되기 위한 목적으로 제정되었습니다(공공조달법 제 1 조). 이에 따라, 공공조달법은 공정한 조달과 법률에 따른 컨설턴트

¹² 선정을 통해 정부 프로젝트 등을 지원하기 위한 공사, 물품, 서비스 및 컨설팅 서비스에 사용되는 정부 자금을 대해 적용됩니다(공공조달법 제 2 조).

이에 따라, 공공조달법은 아래와 같이 공공조달에 관한 원칙을 규정하고 있습니다(공공조달법 제 5 조).

- 1) 법률, 국가사회경제개발계획 및 정부 예산계획에 부합할 것
- 2) 전국적으로 중앙집권적, 통합적인 관리가 보장될 것
- 3) 경제성, 평등성, 개방성, 공정성, 투명성, 책임성
- 4) 정부, 국내외 개인, 법인 및 단체의 권리와 이익을 보장할 것

나. 공공조달의 유형 및 방법 등

- 1) 공공조달의 유형

공공조달법은 공공조달의 유형으로 (i) 건설도급, (ii) 재화 공급 및 서비스 제공, (iii) 컨설팅 서비스 3 가지 유형을 규정하고 있습니다(공공조달법 제 8 조).

건설도급이란, 교량, 도로, 철도, 수로, 공항, 제방, 건물, 학교, 병원, 관개시설, 저수지, 뚝, 발전소, 송전선로, 공장 기타 제반 인프라의 건설 및 유지보수 과정을 의미합니다. 이외에도 건설 및 유지보수와 관련된 기타 서비스 또한 건설도급에 포함되나, 이러한 서비스 공급비용이 건설도급비용을 초과하지 않아야 합니다(공공조달법 제 9 조).

재화 공급이란, 원자재, 완제품 및 반제품, 상품, 장비, 차량, 사무용품, 의약품, 의료장비, 교육 및 기타장비를 계약에 따라 기관에 공급하는 것을 의미합니다. 재화 공급에는 운송서비스, 보험, 임대, 광고, 설치, 운영교육, 유지보수 기타 서비스가 포함되나, 이러한 서비스의 공급비용이 재화공급비용을 초과하지 않아야 합니다. 서비스 제공이란, 일상적인 유지보수, 보안 서비스, 청소 기타 서비스활동을 의미하며, 건설도급, 상품공급 및 컨설팅 서비스와 관계없는 서비스를 의미합니다(공공조달법 제 10 조).

¹² 프로젝트의 발주자가 계약에 따라 컨설팅 서비스를 제공받기 위한 목적으로 고용한 개인, 법인을 의미합니다(제 3조 제6호).

마지막으로 컨설팅 서비스란, 타당성 조사, 연구분석, 설계, 조사, 정부 프로젝트 관리, 재무 및 회계관리 등 기술서비스를 의미합니다(공공조달법 제 11 조).

2) 공공조달의 방법

공공조달법상 공공조달은 재화 및 용역의 구매와 컨설턴트의 선정으로 구분됩니다(공공조달법 제 12 조).

“구매”란 경쟁입찰, 제한적 입찰, 직접 계약 등으로 재화 및 용역을 조달하기 위한 비용/품질경쟁을 의미합니다(공공조달법 제 13 조). 여기서 구매의 대상이 되는 용역에는 컨설팅서비스를 제외한 일상적인 유지보수, 보안 서비스, 청소 기타 서비스를 의미합니다(공공조달법 제 10 조).

한편, “컨설턴트 선정”이란 컨설턴트의 자격, 컨설팅서비스의 가격 기타 요건을 경쟁력 있게 선정하는 것을 의미합니다(공공조달법 제 14 조). 여기서 컨설팅서비스란 타당성조사, 연구분석, 설계, 조사, 정부 프로젝트 관리, 재무 및 회계 관리 등 기술적 서비스를 의미합니다(공공조달법 제 11 조).

3) 언어, 통화, 추정가치

공공조달절차를 진행함에 있어서는 라오어를 사용하여야 하는 것이 원칙입니다. 다만, 국제 공개입찰의 경우 필요에 따라 라오어와 외국어를 모두 사용할 수 있습니다(공공조달법 제 15 조). 이때 통화는 라오스 킵화 또는 외화를 적용할 수 있습니다. 필요 시 여러 개의 통화를 사용하는 것도 허용되나, 3 개 이하의 통화를 이용하여야 합니다(공공조달법 제 16 조).

한편, 공공조달법은 수의계약의 체결 시 승인을 받아야 하는 대상을 정하기 위하여 각 조달유형 및 조달방법에 따른 추정가치를 설정하고 있는데, 그 구체적인 내용은 공공조달 시행지침 제 3 조 이하에서 규정하고 있습니다(공공조달법 제 17 조, 공공조달 시행지침 제 3 조). 이에 따르면, 각 조달유형 및 방법 별 추정가치는 다음과 같습니다.

[각 조달유형 및 방법 별 추정가치]

No.	물품 등의 조달방법	추정가치(라오스 킵)
I 공사도급 및/또는 유지보수 서비스		
1	공개입찰	5억 이상
2	제한입찰	공공조달 시행지침 제 4.2.2 참조
3	견적요청	5억 미만
4	수의계약	공공조달 시행지침 제 4.2.4 참조
II 상품 및/또는 서비스 공급		
1	공개입찰	2억 이상
2	제한입찰	공공조달 시행지침 제 4.2.2 참조
3	견적요청	2억 미만
4	수의계약	공공조달 시행지침 제 4.2.4 참조 1
III 컨설팅 서비스		
1	품질 및 비용기반 선정	10억 이상
2	품질기반 선정	10억 미만

4. 재화 등 구매 및 컨설턴트 선정방법 및 절차

가. 재화 등의 구매 방법

재화 등의 구매방법은 크게 (i) 공개입찰, (ii) 제한입찰, (iii) 견적요청, (iv) 수의계약 4 가지로 구분됩니다(공공조달법 제 18 조).

“**공개입찰**”이란, 참가자의 제한 없이 대중 매체나 전자시스템을 통해 공식적으로 공고되는 입찰을 의미합니다(공공조달법 제 19 조). 공개입찰은 프로젝트의 내용 및 규모에 따라 (i) 1 단계 1 투찰, (ii) 1 단계 2 투찰, (iii) 사전적격평가, (iv) 2 단계 입찰, (v) 기본계약, (vi) PPP(민관협력계약)으로 구분하여 진행됩니다 (공공조달 시행지침 제 4.2.1 조).

“**제한입찰**”이란, 제한된 업체만이 제공할 수 있는 고도의 전문성이나 특정 기술을 요구하는 입찰을 프로젝트 발주자 또는 조달기관이 해당 업체에 직접 공고하여 가격경쟁을 유도하는 형태를 의미합니다(공공조달법 제 20 조). 제한입찰의 경우에도 기본적으로는 공개입찰에 관한 절

차를 동일하되, 대중매체를 통한 공고의무는 없으며 입찰자를 직접 초청할 수 있습니다.

“**견적요청**”이란, 정해진 예산 내에서 소규모 작업, 정기 유지보수, 사무기기 소모품 및 기타 서비스의 조달을 위해 이용되며, 3인 이상의 참가자들에게 직접 요청하거나 또는 전자시스템을 통해 공고하는 형태입니다(공공조달법 제 21 조). 프로젝트의 발주자 또는 조달기관이 초기에 선정한 잠재적 입찰참가자에게 견적요청을 발송하되, 기본적인 절차는 공개입찰절차에 따라 진행합니다.

“**수의계약**”이란, 프로젝트의 발주자와 입찰참가자 간에 경쟁절차 없이 계약을 체결하는 것을 의미합니다(공공조달법 제 22 조). 공공조달법은 수의계약 체결이 가능한 경우를 제한하고 있는데, 그 사유는 다음과 같습니다.

- 1) 저작권 보호, 산업재산권 및 지식재산권과 관련하여 제품의 단일 제공자인 경우
- 2) 유지보수 또는 교체를 위한 것으로서 업체의 특정 장비 및 물품을 조달하는 경우
- 3) 기존의 상품, 서비스, 컨설팅서비스의 연장선 상에 있는 유사한 성격의 추가용역으로, 그 가치가 원 계약금액의 20%를 초과하지 않는 경우
- 4) 접근 인프라가 열악하거나, 관심을 갖는 입찰참가자가 매우 제한적인 고립지역에서 정부 프로젝트 및 활동을 진행하는 경우
- 5) 불가항력적 사유 또는 긴급한 경우

수의계약의 경우 아래와 같이 추정가치 및 발주기관에 따라 각각의 승인주체로부터 승인을 받아야 하며, 각 사안별로 입찰위원회 또는 임시위원회가 구성됩니다.

[수의계약 체결에 따른 승인주체]

추정가치 (라오스 킵)	부처 또는 기관	주 또는 구역단위	해외 대사관 정부기관	대출 및 보조금 프로젝트
5,000,000 이상 500,000,000 미만	<ul style="list-style-type: none"> - 장관 또는 장관실 비서실장 (부처 또는 기관예산) - 국장 (부서 예산) - 3~7 인으로 구성된 임시위원회를 구성할 	<ul style="list-style-type: none"> - 주정부 행정청장 (주정부 예산) - 시장, 군수, 구역장 (관련지구 예산) - 3~7 인으로 구성된 임시위원회를 구성할 권한이 	<ul style="list-style-type: none"> - 대사 또는 본부장 - 3~7 인으로 구성된 임시위원회를 구성할 권한이 있는 자 	<ul style="list-style-type: none"> - 계약에 따라 대주 또는 지원자의 승인을 받아야 함

추정가치 (라오스 킵)	부처 또는 기관	주 또는 구역단위	해외 대사관 정부기관	대출 및 보조금 프로젝트
	권한이 있는 자	있는 자		
500,000,000 이상 10,000,000,000 미만	- 장관 또는 기관장 - 3~7 인으로 구성된 임시위원회를 구성할 권한이 있는 자	- 주지사, 수도의 장 - 3~7 인으로 구성된 임시위원회를 구성할 권한이 있는 자	- 대사 또는 본부장 3~7 인으로 구성된 임시위원회를 구성할 권한이 있는 자	- 계약에 따라 대주 또는 지원자의 의 승인을 받아야함
10,000,000,000 이상	임시위원회를 구성할 권한이 있는 정부 또는 관련기관			

나. 컨설턴트 선정 방법

공공조달법에 따르면, 컨설턴트의 선정은 직접 서류제출을 통하여 또는 전자 시스템을 통해 이루어질 수 있으며, 구매와 조달방식을 달리 규정하고 있습니다. 컨설턴트의 선정방법은 다음과 같습니다(공공조달법 제 23 조).

- 1) 품질 및 비용기반 선정
- 2) 품질기반 선정
- 3) 예산범위 내 선정
- 4) 최저비용 선정
- 5) 컨설턴트 자격기준 선정
- 6) 단일 제공자 선정

“품질 및 비용기반 선정”이란, 참가자의 기술 및 재무제안서를 평가하여 가장 높은 점수를 받은 컨설턴트를 선정하는 방식입니다. 핵심 인력의 수, 핵심 인력의 투입정도, 기타 컨설턴트 선정과 관련된 이익 등을 고려합니다(공공조달법 제 24 조). 품질 및 비용기반 선정방법에 따른 컨설턴트 선정의 구체적인 절차는 다음과 같습니다(공공조달 시행지침 제 5.2.1 조).

프로젝트 발주자는 컨설턴트에게 제안요청서를 작성하여 경력, 업무성과, 직원조직도 및 기타 정보가 포함된 제안서를 제출할 것을 요청합니다. 이후 3~6 인의 컨설턴트로 이루어진 최종 후보자를 선정하는데, 기술제안서 및 재무제안서를 제출할 것을 요청하고 아래와 같은 가중치 및

배점시스템을 통해 평가합니다. 기술제안서 대비 재무제안서를 배점비율은 9:1, 8:2 또는 7:3 으로 하고, 각 제안서에서 획득한 평가점수를 모두 합산하여 최고점수를 결정합니다. 그리고 최고 점수가 가장 높은 컨설턴트와의 계약체결을 추천합니다.

“**품질기반 선정**”이란, 참가자의 자격을 평가하여 가장 높은 점수를 받은 컨설턴트를 선정하는 방식. 양질의 서비스 제공이 중요한 다분야 작업의 경우에 적용됩니다(공공조달법 제 25 조). 이 경우 기술제안서와 재무제안서의 배점비율은 정하지 않고, 기술평가를 위주로 수행합니다. 가장 높은 기술점수를 획득한 컨설턴트를 계약협상에 참여하게 됩니다(공공조달 시행지침 제 5.2.2 조).

“**예산범위 내 선정**”이란, 기본적으로 공공조달법 제 24 조(품질 및 비용 기반 선정방법)에 따라 가장 높은 점수를 받은 컨설턴트를 선정하되, 배정된 예산을 사전에 통지하는 방법입니다(공공조달법 제 26 조). 기술제안서와 재무제안서의 배점비율을 정하지는 않으나, 기술평가에 중점을 두고 실시합니다. 통과에 필요한 최소 점수를 획득한 컨설턴트에 대하여는 재무제안서 제출을 요청하며, 배정된 예산 범위 내에서 가장 우수한 컨설턴트가 계약 협상에 참여하게 됩니다(공공조달 시행지침 제 5.2.3 조).

“**최저비용 선정**”이란, 주로 단기적, 일상적, 지속적 작업, 즉 유지보수 및 정기점검을 위한 컨설턴트 선정 시 적용되는 방법입니다(공공조달법 제 27 조). 공공조달법 제 24 조(품질 및 비용 기반 선정방법)에 따라 개략적인 점수를 부여하되 제안서 평가는 실시하지 않으며, 기술평가를 위주로 진행합니다. 통과에 필요한 최소 점수를 획득한 컨설턴트를 대상으로 재무제안서를 공개하고, 최저 가격을 제안한 컨설턴트를 대상으로 계약 협상을 진행합니다(공공조달 시행지침 제 5.2.4 조).

“**컨설턴트 자격기준(CQS) 선정**”이란, 참가자의 역량과 경험을 평가하여 컨설턴트를 선정하는 방식으로, 필요 업무에 대해 유능하고 경험이 풍부한 컨설턴트를 선정하기 위해 적용됩니다(공공조달법 제 28 조). 기본적으로 품질 및 비용기반 선정절차에 따르되, 3인의 컨설턴트 중 가장 자격이 높은 컨설턴트를 최종 후보로 선정합니다. 그리고 그 최종 후보에 대하여만 기술 및 재무제안서를 제출하도록 요청하여 검토 및 계약협상을 진행합니다(공공조달 시행지침 제 5.2.5 조)

“**단일 제공자 선정**”이란, 동일한 회사가 이전에 수행한 작업의 연속에 해당하는 작업, 프로젝트

발주자가 긴급한 상황으로 인정한 경우, 또는 해당 업무에 대한 조건과 경험을 갖춘 컨설턴트가 유일한 경우에 경쟁 없이 선정하는 방식입니다(공공조달법 제 29 조).

다. 재화 등 구매 및 컨설턴트의 선정절차

재화 등의 구매 및 컨설턴트 선정절차에 관한 구체적인 사항은 공공조달 시행지침 제 4 조 이하에서 정하고 있습니다. 재화 등의 구매 절차와 컨설턴트 선정 절차가 기본적으로는 서로 동일한데, 선정방법(입찰의 방법) 내지 평가기준에서 차이가 있습니다. 공공조달 시행지침 제 4 조에 따르면, 재화 등의 구매 및 컨설턴트의 선정절차의 개략적인 진행순서는 다음과 같습니다.

[재화 등의 구매 및 컨설턴트 선정절차]

No.	절차	근거
1	공공조달계획의 수립	공공조달 시행지침 제 4.1.1 조
2	제안요청서 준비	공공조달 시행지침 제 4.1.2 조
3	재화 등 구매 및 컨설턴트의 선정에 관한 입찰공고	공공조달 시행지침 제 4.1.3 조
4	입찰서류 또는 제안요청서의 제공 및 판매	공공조달 시행지침 제 4.1.4 조
5	입찰 전 회의 또는 사전 회의	공공조달 시행지침 제 4.1.5 조
6	입찰서 또는 제안서 제출	공공조달 시행지침 제 4.1.6 조
7	입찰서 또는 제안서 개찰	공공조달 시행지침 제 4.1.8 조
8	입찰서 또는 제안서 평가	공공조달 시행지침 제 4.1.9 조
9	입찰서 및 제안서 평가보고서 승인	공공조달 시행지침 제 4.1.12 조
10	공공조달계약의 체결	공공조달 시행지침 제 4.1.13 조
11	계약관리 및 이행완료	공공조달 시행지침 제 4.1.14 조

1) 준비 및 공고단계

공공조달계획: 연간조달계획과 세부공공조달계획이 포함됩니다(공공조달 시행지침 제 4.1.1 조). 구체적으로, 발주자 또는 조달기관은 연간 예산계획에 첨부되어 있는 구체적 조달계획을 통해 연간공공조달계획을 작성하여야 합니다. 이때 조달계획서에는 조달대상 품목의 목록이 포함되어야 합니다. 아울러, 발주자 또는 조달기관은 매년 국가예산에 대하여 국회의 승인을 받아 세부공공조달계획을 마련하여야 하며, 여기에는 (i) 세부 조달항목, (ii) 조달방법, 선정방법 및

예산일정, (iii) 예상비용 등이 포함됩니다.

제안요청서 준비: 제안요청서에는 입찰참가자가 적절하고 완전하게 입찰서 또는 제안서를 작성하는 데 필요한 정보가 명확하게 기재되어 있어야 합니다(공공조달 시행지침 제 4.1.2 조).

물품 등 조달 및 컨설턴트의 선정에 관한 입찰공고: 프로젝트 발주자 또는 조달기관은 아래의 내용이 포함된 물품 등 조달 및 컨설턴트 선정에 관한 입찰공고를 대중매체, 웹사이트 또는 전자매체를 통해 공고하여야 합니다(공공조달 시행지침 제 4.1.3 조).

[입찰공고 시 포함되어야 할 내용]

물품 등 조달	컨설턴트 선정
<ul style="list-style-type: none"> - 입찰참가자 지침 - 평가기준 - 계약 - 양식 - 품목, 가격, 일정 - 기술사양 - 배송 또는 완료일정 - 일반 및 특별계약조건 	<ul style="list-style-type: none"> - 제안요청서 - 컨설턴트 지침 - 계약 - 참조 약관 - 일반 및 특별계약 조건 - 기타

아울러, 아래와 같이 통지에 필요한 기간을 준수하여야 합니다.

[통지기간]

No.	물품 등의 조달방법	기간(일)
I	공사도급 및/또는 유지보수 서비스	
1	공개입찰	최소 35 일
2	제한입찰	최소 30 일
3	견적요청	최소 15 일
4	수의계약	-
II	상품 및/또는 서비스 공급	
1	공개입찰	최소 35 일
2	제한입찰	최소 30 일
3	견적요청	최소 15 일
4	수의계약	-

No.	물품 등의 조달방법		기간(일)
III	건설링 서비스		
1	품질 및 비용기반 선정	최종후보 선정	최소 15 일
		제안서 준비	최소 30 일
2	품질 기준 선정	최종후보 선정	최소 20 일
		제안서 준비	최소 30 일
3	단일 컨설턴트 선정		-

입찰서류 또는 제안요청서의 제공 및 판매: 프로젝트 발주자 또는 조달기관은 각 단계별로 공표된 서식에 따라 입찰서류 또는 제안요청서를 마련하여야 합니다. 이때 프로젝트 발주자 또는 조달기관은 작성한 입찰서류 또는 제안요청서를 조달절차에 따르는 사무비용에 충당하기 위한 목적으로 판매할 수 있습니다(공공조달 시행지침 제 4.1.4 조).

프로젝트 발주자 또는 조달기관은 입찰참가자의 요청에 따라 필요한 경우, **입찰 전 회의 또는 사전 회의**를 개최하는 방안을 고려할 수 있습니다(공공조달 시행지침 제 4.1.5 조). 입찰 전 회의 또는 사전회의는 프로젝트 발주자 또는 조달기관이 입찰참가자 및 컨설턴트의 참석에 용이한 날짜를 고려하여 정하되, 입찰서 또는 제안서 제출 마감일로부터 10일 전후로 이루어져야 합니다.

2) 입찰서 및 제안서 제출, 평가 및 승인단계

입찰서 또는 제안서 제출: 입찰참가자는 입찰서류 또는 제안요청서 상의 지침에 명시된 바에 따라, 입찰서 또는 제안서를 프로젝트 발주자 또는 조달기관이 제출 마감일 이전에 수령할 수 있도록 하여야 합니다. 입찰서 또는 제안서는 직접방문 또는 우편을 통하여 전달하여야 합니다(공공조달 시행지침 제 4.1.6 조).

입찰서 또는 제안서의 제출장소는 입찰서 또는 제안요청서 상에 명시된 장소와 동일하여야 합니다. 만약 제출장소나 주소가 변경된 경우, 발주자 또는 조달기관은 입찰서 또는 제안서 제출 마감일 전까지 그 사실을 입찰참가자에게 직접 통지하고, 대중매체를 통하여 변경사실을 공고하여야 합니다. 아울러, 프로젝트 발주자 또는 조달기관은 입찰서 또는 제안서를 수령(접수)하기 위하여 담당직원을 지정하여야 합니다(공공조달 시행지침 제 4.1.7 조).

입찰서 또는 제안서 개찰: 공공조달 시행지침에 따르면, 모든 입찰서 및 제안서는 입찰서류 및 제안요청서에 명시된 날짜, 시간 및 장소에서 입찰위원회와 입찰참가자, 컨설턴트 또는 권한 있는 자의 입회 하에 마감일까지 공개적으로 개찰하여야 합니다(공공조달 시행지침 4.1.8 조).

입찰서 또는 제안서 평가: 공공조달 시행지침 제 12 조 제 13 조에서 정한 바에 따라 입찰서 또는 제안서의 예비심사 및 세부심사를 통해 진행됩니다. 입찰서의 예비심사란, 입찰 또는 제안을 위한 서류의 형식, 절차의 준수여부를 판단하는 절차를 의미하며, 구체적으로 다음의 사항에 대한 확인이 포함됩니다(공공조달법 제 43 조, 공공조달 시행지침 제 12 조).

- ① 입찰서 또는 제안서의 형식적 완결성, 임명장 또는 위임장을 포함하여 권한 있는 자가 정식으로 서명한 서류
- ② 허용되는 형식의 입찰보증증권인지 여부 및 금액 및 유효기간 요건을 만족하는지
- ③ 할인제안
- ④ 입찰서 또는 제안서의 봉인여부, 원본 및 사본 부수 등
- ⑤ 입찰참가자의 자격심사
- ⑥ 기타 서류의 형식적 완결성 검토

만약 예비심사단계에서 하자가 발견된 경우, 프로젝트 발주자 또는 조달기관은 해당 입찰서 또는 제안서의 접수를 거절할 수 있습니다.

세부심사란, 재무제표, 기술사양, 자격, 품질 등 구체적인 내용을 검토하는 것을 의미하며, 입찰 서류 또는 제안요청서에 명시된 기준에 따라 진행하여야 합니다. 구체적인 내용은 다음과 같습니다(공공조달법 제 44 조, 공공조달 시행지침 제 13.1 조).

- ① 자격 및 기술규격 심사: 입찰서류에 명시된 입찰자의 자격, 공사 및/또는 유지관리 계획서, 기술규격, 관련 서비스내용 등을 상세히 심사하는 것을 의미합니다.
- ② 가격평가: 필요한 모든 항목에 대하여 산술적 오류가 있는 경우 정정, 입찰 시 복수 통화를 기재하는 것이 허용된 경우 하나의 통화로 환산하는 절차 등이 포함됩니다.
- ③ 일정평가: 공사 또는 용역의 완료일정, 물품 등의 납품일정, 유지보수 서비스의 주기 등을 심사합니다.

- ④ 입찰서 또는 제안서에 대한 설명: 입찰참가자가 평가 과정에서 불명확한 정보를 제공한 경우, 이에 대해 프로젝트 발주자 또는 조달기관에 해명하는 것을 의미합니다.
- ⑤ 비정상적 저가입찰: 입찰가격이 부당하게 낮은 것으로 보아 입찰참가자가 해당 가격으로 계약내용을 이행할 수 있는 능력이 있는지 여부를 신뢰할 수 없는 경우를 의미합니다. 이 경우 입찰참가자에게 업무범위, 업무방법, 일정, 입찰가격의 위험 및 책임분담 등과 관련하여 입찰 가격에 대한 상세한 가격분석을 포함한 서면해명을 요구하여야 합니다.
- ⑥ 예산초과 입찰: 제안된 입찰가격이 배정된 예산을 초과하는 경우, (i) 입찰서류 또는 제안요청서에 명시된 기준, 기술 및 요구사항을 검토하여 적절히 수정하거나, (ii) 불필요한 항목, 수량, 작업내용 제거하는 방안, (iii) 모든 입찰을 거절하고 조달을 취소한 뒤 새로운 입찰을 실시하는 방안을 고려할 수 있습니다.
- ⑦ 조달취소: 조달취소란 프로젝트 발주자 또는 조달기관에 제출된 모든 입찰서 또는 제안서를 거절하는 것을 의미합니다. 프로젝트 발주자 또는 조달기관은 (i) 최저 입찰가격이 배정된 예산을 초과한 경우, (ii) 모든 입찰서 및 제안서 내용이 명시된 요구사항을 충족하지 않는 경우, (iii) 프로젝트 발주자 또는 조달기관이 입찰담합 사실을 발견한 경우 공공조달을 취소할 수 있습니다.

상술한 사항 이외에도, 컨설턴트 선정을 위한 세부심사에는 **컨설턴트의 서비스 평가**가 추가로 포함됩니다(공공조달 시행지침 제 13.2 조). 컨설턴트 서비스 평가는 100 점 만점을 기준으로 평가하되, 기술제안서 및 재무제안서에 부여하는 배점은 컨설턴트 선정방법에 따라 달라질 수 있습니다. 다만, 기술제안서의 경우 70% 이상, 재무제안서의 경우 30% 이하의 범위에서 배점을 결정합니다.

한편, 입찰위원회는 입찰자 또는 컨설턴트에 대한 계약체결요청 승인 및 계약체결이 이루어질 때까지 입찰참가자에 대한 심사, 평가, 추천에 관하여 비밀을 유지하여야 합니다(공공조달 시행지침 제 4.1.10 조). 입찰서 또는 제안서 개찰 이후에는 입찰참가자와의 협상이 이루어지지 않으며, 입찰참가자 선정에 관한 사항을 요청할 권리가 없습니다. 다만, 입찰위원회는 관련 입찰참가자에게 입찰서 또는 제안서의 내용에 대하여 설명하여 줄 것을 서면으로 요청할 수 있습니다(공공조달 시행지침 제 4.1.11 조).

만약 입찰 과정에서 불공정, 불투명 등이 발생한 경우로서 이를 원인으로 피해를 받은 입찰참가자는 15일 이내에 프로젝트 발주자 또는 조달기관에 **서면으로 이의**를 제기하여 문제해결을 요구할 수 있습니다(공공조달법 제 46 조). 구체적으로, 입찰참가자는 법규위반 또는 공무원의 업무수행으로 인해 손해가 발생한 사실을 알게 된 경우, 프로젝트 발주자 또는 조달기관, 입찰위원회에 서면으로 이의를 제기할 수 있습니다. 이때 이의신청은 계약체결일로부터 14일 전까지 제출하여야 합니다(공공조달 시행지침 제 15.1 조).

프로젝트 발주자 또는 조달기관은 입찰참가자의 이의제기 접수일로부터 15일 내에 해당 사항에 대하여 검토하여야 합니다. 만약 해당 기간 내에 결정이 없거나 부당한 결정을 한 경우, 또는 입찰참가자가 만족하지 못한 경우, 해당일로부터 다시 15일 이내에 재무부서가 해당 사항을 심의하거나 재무부서 자체적으로 임시위원회를 구성하고 그 구성원에게 임명장을 발급한 날로부터 15일 이내에 이의사항에 대한 해결방안을 제안할 수 있습니다(공공조달 시행지침 제 15.2 조). 만약 프로젝트 발주자 또는 조달기관의 문제해결 내용에 이의가 있는 경우 관련 정부부처에 이의를 제기할 수 있습니다.

입찰서 및 제안서 평가보고서 승인: 입찰위원회가 보고한 입찰서 및 제안서 평가가 공공조달법 및 관련법령에 적합하다고 인정한 경우, 장관, 시·도지사, 시장, 군수, 구역장 또는 그 위임을 받은 자가 해당 입찰서 및 제안서 평가를 승인하는 절차를 의미합니다(공공조달법 제 47 조, 공공조달 시행지침 제 16 조).

프로젝트 발주자 또는 조달기관은 입찰서 또는 제안서의 유효기간 내에 협상을 위하여 계약체결 일정이 포함된 계약서 초안을 송부한 후 그 사실을 통지하여야 합니다. 해당 입찰참가자의 선정에 이의가 없을 경우, 계약 체결을 위한 계약서 초안을 선정된 입찰참가자에게 교부합니다(공공조달 시행지침 제 16.1 조).

공개입찰의 경우 계약체결의 통지는 낙찰자의 성명, 주소, 계약금액 및 기타 입찰에 참가한 입찰자의 목록을 포함하여 모든 입찰자에게 통지하여야 합니다. 계약은 계약체결 통지를 받은 날로부터 14일 이내에 체결하여야 합니다(공공조달 시행지침 제 16.2 조). 아울러 프로젝트 발주자 또는 조달기관은 탈락한 입찰참가자에게 해당 입찰서 또는 제안서의 거부사유를 포함하여 탈락사실을 통지하여야 합니다.

3) 계약의 체결 및 이행단계

공공조달계약의 체결: 계약은 계약체결 통지를 받은 날로부터 14일 이내에 체결하여야 합니다(공공조달 시행지침 제 4.1.13 조). 계약은 프로젝트 발주자, 조달기관 또는 권한있는 자가 낙찰자 또는 권한있는 자와 서명을 함으로써 체결됩니다(공공조달 시행지침 제 17.1 조).

계약관리 및 이행완료: 서명된 계약서는 관련 규정에 따라 계약을 체결한 입찰참가자가 등록하여야 하며, 등록수수료를 부담합니다. 프로젝트 발주자 또는 조달기관은 계약관리에 관한 절차를 마련하고 계약의 이행을 효율적, 효과적으로 관리하기 위하여 계약관리위원회를 둘 수 있습니다(공공조달법 제 53 조). 기존에 임명된 입찰위원회 또는 검수위원회가 계약관리위원회를 구성할 수도 있습니다(공공조달 시행지침 제 4.1.14 조, 제 18.1 조).

계약의 이행은 양 당사자가 모든 계약상 조건을 이행하고 이행기간 및 보증기간이 만료된 경우 완료됩니다. 서명된 계약서, 문서 및 관련정보는 최소 10년 이상 보관하여야 합니다(공공조달 시행지침 제 18.3 조).

5. 공공조달계약

가. 공공조달계약의 유형

공공조달계약은 공공조달의 유형에 따라 ① 공사도급계약, ② 재화 및/또는 용역계약 ③ 컨설팅 계약으로 구분할 수 있습니다(공공조달법 제 48 조).

“**공사도급계약**”이란, (i) 입찰참가자는 프로젝트 발주자가 제공 또는 참가자 스스로가 준비한 자재와 장비로 프로젝트 발주자의 목적에 따라 구조물을 건설 및/또는 유지보수 하고, (ii) 프로젝트 발주자는 공사의 완성을 공동으로 검사한 뒤 이를 수락하고 대금을 지급하는 것을 내용으로 하는 계약입니다(공공조달법 제 50 조).

“**재화 및/또는 용역계약**”이란, (i) 입찰참가자가 조달기관 또는 조달기관이 지정하는 자에게 상

품 및/또는 용역을 제공하고, (ii) 조달기관이 상호 합의된 가격으로 대금을 지급하는 것을 내용으로 하는 계약을 의미합니다(공공조달법 제 51 조).

“**컨설팅 계약**”이란, 컨설턴트는 프로젝트 발주자가 요청한 작업을 수행하고, 프로젝트 발주자는 계약에서 합의한 바에 따라 그 비용을 지급하는 것을 내용으로 하는 계약을 의미합니다(공공조달법 제 52 조).

나. 공공조달계약의 내용

공공조달계약의 주요내용은 다음과 같습니다(공공조달법 제 49 조).

- 1) 계약 당사자의 성명 및 주소
- 2) 계약의 목적, 가격, 계약기간, 대금지급 및 제공 방법
- 3) 계약에 따른 의무의 범위, 수량 및 품질
- 4) 계약당사자의 권리, 의무
- 5) 프로젝트 장소 및 계약에 따른 통지
- 6) 채무불이행에 따른 효과
- 7) 분쟁해결을 위한 권한 및 조치
- 8) 계약의 변경 및 해지
- 9) 조세, 관세 및 기타 수수료의 납부

다. 공공조달계약에 따른 보증

공공조달계약에 따른 보증은 4 가지로 구분할 수 있습니다(공공조달법 제 30 조).

- 1) 입찰보증
- 2) 이행보증
- 3) 선급금보증
- 4) 하자보증

“**입찰보증**”이란, 입찰참가자가 입찰 시 예치금, 은행 증권 기타 형태로 제공하는 보증을 의미합니다(공공조달법 제 31 조). 보증금액은 추정 계약금액의 2% 이상 또는 입찰서류에 명시된 금액 이상이어야 합니다. 현물보증 또는 증권제출이 적용되지 않는 경우 입찰보증금 확보신고서를 제출하여야 하며, 이는 입찰자가 자신의 명의로 발행합니다. 입찰보증증권의 유효기간은 입찰의 유효기간일로부터 30일 동안이며, 입찰보증증권의 통화는 라오스 킵으로 합니다. 외국의 통화를 적용하는 경우 개찰일 당일 은행의 환율(매입환율)을 적용합니다. 낙찰 및 계약체결이 이루어진 경우 입찰위원회는 계약체결일로부터 7일 이내에 낙찰자에게 입찰보증증권을 반환하여야 합니다. 프로젝트 발주자 또는 조달기관은 계약체결 후 낙찰자에게 입찰보증금을 반환하여야 합니다. 낙찰자가 계약을 체결하지 않고 이행보증금을 납부하지 않을 경우, 발주자 또는 조달기관은 차순위 입찰참가자와 협상을 진행할 수 있습니다(공공조달 시행지침 제 6 조).

“**이행보증**”이란, 입찰참가자가 프로젝트 발주자 또는 조달기관에 대해 합의된 계약에 따라 이행을 보증하는 것을 의미합니다(공공조달법 제 32 조). 이행보증금은 계약이행 전 금액 또는 비율로 명시할 수 있으며, 다만 계약금액의 10% 이상으로 하여야 합니다. 프로젝트 발주자 또는 조달기관은 계약불이행의 예상위험에 따라 계약불이행의 범위를 지정하여 이행보증금액을 설정하거나 이행보증금을 요구하지 않을 수도 있습니다. 다만 이 경우에도 발주자 또는 조달기관은 일시적 대금지급정지 등 다른 방안을 마련하여야 합니다. 프로젝트 발주자 또는 조달기관은 모든 계약이 이행되었거나 계약상대방의 귀책사유 없이 계약이 종료된 경우 이행보증금을 반환하여야 합니다(공공조달 시행지침 제 7 조).

“**선급금보증**”이란, 입찰참가자가 프로젝트 발주자 또는 조달기관에 대해 합의된 계약에 따라 선급금 지급을 보증하는 것을 의미합니다(공공조달법 제 33 조). 선급금 지급보증금은 계약금액의 30%를 초과하지 않아야 하고, 선급금과 동일한 금액이어야 합니다. 컨설턴트의 경우 과제를 수행하기 위하여 컨설턴트가 직접 참여한다는 전제 하에 선급금 보증금은 필요하지 않습니다(공공조달 시행지침 제 8 조).

“**하자보증**”이란, 입찰참가자가 프로젝트 발주자 또는 조달기관에 대해 합의된 계약 및 기타 보증서에 따라 제작 기술, 표준, 품질 및 서비스에 대해 보증하는 것을 의미합니다(공공조달법 제 34 조). 공사 및/또는 유지보수에 대한 하자보증의 경우 계약금액의 10% 이상, 보증기간은 12 개

월 이상이어야 합니다. 입찰참가자는 하자보증기간이 만료될 때까지 (i) 하자보수보증금, 또는 (ii) 은행 또는 금융기관이 발행한 보증서를 제공하여야 하며, 이때 보증금액은 계약금액의 10% 이상으로 하여야 합니다(공공조달 시행지침 제 9.1 조). 재화 및 서비스 공급에 대한 하자보증의 경우 계약금액의 2% ~ 10% 이상, 보증기간은 12 개월 이상이어야 합니다. 입찰참가자는 하자보증기간이 만료될 때까지 (i) 하자보수보증금, 또는 (ii) 은행 또는 금융기관이 발행한 보증서를 제공하여야 하며, 이때 보증금액은 계약금액의 2%~10% 이상으로 하여야 합니다(공공조달 시행지침 제 9.2 조). 컨설턴트가 제공하는 하자보증의 경우 계약금액의 10% 이상, 보증기간은 12 개월 이상이어야 합니다. (i) 과제 수행기간 동안의 타당성조사, 설계 등의 모든 위험을 보장하기 위해 보험에 가입하거나, (ii) 은행 또는 금융기관이 발행한 보증서를 제공하여야 하며, 이때 보증금액은 계약금액의 10% 이상으로 하여야 합니다(공공조달 시행지침 제 9.3 조).

라. 계약당사자의 권리의무

1) 입찰참가자의 권리의무

공공조달법상 각 입찰참가자의 주요 권리의무를 살펴보면 다음과 같습니다(공공조달법 제 56 조 내지 제 58 조).

① 수급인의 권리의무(공공조달법 제 56 조)

㉠ 수급인의 권리

- 대금지급 요구
- 계약조건의 수정 요구
- 상대방의 채무불이행에 따른 계약해지 요구

㉡ 수급인의 의무

- 관련 법령의 준수
- 프로젝트 발주자, 관리자 및/또는 컨설턴트의 지침을 준수하는 것을 원칙으로 할 것
- 계약에 따른 기술사양 및 일정에 따라 프로젝트를 완료할 것

- 이행보증을 제공할 것
- 프로젝트 발주자가 제공한 차량, 장비 및 건설자재를 보존할 것
- 하자보증기간동안 하자가 발생한 경우 자신의 비용으로 이를 치유할 것

② 제품 및 서비스 공급업체의 권리의무

㉠ 제품 및 서비스 공급업체의 권리

- 대금지급 요구
- 계약조건의 수정 요구
- 상대방의 채무불이행에 따른 계약해지 요구

㉡ 제품 및 서비스 공급업체의 의무

- 계약에 따른 기술사양 및 일정에 따라 재화 및/또는 서비스를 제공할 것
- 이행보증을 제공할 것
- 하자보증기간동안 하자가 발생한 경우 자신의 비용으로 이를 치유할 것

③ 컨설턴트의 권리의무

㉠ 제품 및 서비스 공급업체의 권리

- 대금지급 요구
- 계약조건의 수정 요구
- 상대방의 채무불이행에 따른 계약해지 요구

㉡ 제품 및 서비스 공급업체의 의무

- 계약에 따른 컨설팅 서비스를 제공할 것
- 적절한 이행보증 또는 전문직 책임보증보험을 제공할 것

2) 프로젝트 발주자 및 조달기관의 권리의무

① 프로젝트 발주자의 권리의무

㉠ 프로젝트 발주자의 권리

- 조달계획, 입찰서류 또는 제안요청서, 입찰 또는 제안서 평가 보고서 채택
- 계약조건의 수정 요구
- 상대방의 채무불이행에 따른 계약해지 요구

㉡ 프로젝트 발주자의 의무

- 대금지급

② 조달기관의 권리의무

㉠ 조달기관의 권리

- 조달계획, 입찰서류 또는 제안요청서, 입찰 또는 제안서 평가 보고서 채택
- 조달절차에 대한 모니터링, 검사 및 평가
- 공공조달의 연기 또는 중단
- 계약조건의 수정 요구
- 상대방의 채무불이행에 따른 계약해지 요구

㉡ 조달기관의 의무

- 대금지급

마. 계약의 변경 및 종료

1) 계약의 변경

공공조달법 상 공공조달계약의 변경은 당사자들의 합의가 필요한데, (i) 비용 및 품질에 영향을 미치지 않는 경우, (ii) 기술적 수정, 불가항력적 사유 또는 예견치 못한 상황의 발생으로 인해 기존 계약에 따른 작업량이 증가하거나 감소하는 경우, (iii) 이행기간이 1년을 초과하는 계약인 경우로서 물가지수가 상승 또는 하락한 경우에 한하여 가능합니다(공공조달법 제 54 조).

만약 공공조달계약의 계약금액에 대하여 변경이 있는 경우, 해당 계약에서 정한 조건 및 국가 투자 프로젝트에 관한 사항을 규율하고 있는 공공투자법을 준수하여야 합니다. 공공 투자 프로젝트의 가치변경은 프로젝트의 수행에 영향을 미치는 사유가 발생한 경우로서 프로젝트의 구조, 계획, 기술, 작업량 및 단가를 변경하여 프로젝트의 가치를 증가 또는 감소시킬 필요가 있는 경우 가능하며, 그 구체적인 사유는 다음과 같습니다.

- ① 건축자재의 시장가격이 계약체결일 가격 기준 15%이상 증가한 경우
 - 건축자재의 계산은 산업통상부의 상품가격 관리부분의 인증내용에 근거
- ② 계약체결 후 정부정책에 따라 임금상승이 발생한 경우
 - 정부의 인건비 조정에 따른 가격책정
- ③ 업무증가, 구조변경, 기술계획 변경, 천재지변, 기타 불가항력적 사고가 발생한 경우
 - 각 당사자가 서명한 가격표에 따른 단가를 기준으로 산정
- ④ 프로젝트의 효과에 직접적인 영향을 미치는 정책, 마스터플랜의 변경 또는 변경 필요성이 발생한 경우
 - 각 당사자가 서명한 가격표에 따른 단가를 기준으로 산정
 - 가치변동은 계약금액의 20%를 초과하지 않고, 공사계획의 경우 계약에서 정한 작업량의 10%를 초과하지 않아야 함
 - 추가공사로 계약금액의 10%를 초과하여 증액하는 경우 입찰을 실시함

프로젝트의 가치변경에 관한 승인권자의 판단은 아래와 같습니다.

변경된 가치(라오 킵)	승인권자
50,000,000,000 킵 이상	정부의 제안에 따라 국회에서 결정
10,000,000,000 킵 초과 50,000,000,000 킵 미만	기획투자부의 제안에 따라 정부에서 결정

변경된 가치(라오 킵)	승인권자
10,000,000,000 킵 이하	프로젝트 관련 부처의 장관 또는 기관장의 제안에 따라 기획투자부에서 결정
5,000,000,000 킵 초과 10,000,000,000 킵 미만	지방자치단체의 장 등의 제안에 따라 기획투자부에서 결정
5,000,000,000 킵 미만	지방자치단체의 장 등

뿐만 아니라, 공공조달법에 따른 공공조달계약의 변경이 (i) 프로젝트의 작업량, 기술표준, 가치에 영향을 미치지 않고, (ii) 해당 프로젝트의 목표에 영향을 미치지 않는 선에서 프로젝트의 구조, 계획, 기술을 수정하여야 하는 경우, 제안서를 프로젝트 관리부서(기술관리 부문)에 제출하고 인증을 받은 뒤 프로젝트 발주자에게 이를 제출하여 동의를 받아야 합니다. 그리고 그 사실을 투자 및 계획 부문에 알려야 합니다(공공투자법의 이행에 관한 지침 제 14.2 조).

2) 계약변경의 절차

계약변경의 절차에 관하여는 재무부 공공조달 및 가격감독과에서 발간한 「2022년도 공공조달 매뉴얼」에서 구체적으로 규정하고 있습니다. 이에 따르면, 계약의 변경이 필요한 모든 사항은 1 영업일 이내에 공공조달 계약관리자에게 제출하여야 합니다. 운영위원회 및 계약관리자는 계약의 변경이 계약의 이행에 미치는 영향에 대해 평가하여야 합니다.

운영위원회 및 계약관리자는 다음과 같이 계약변경에 관한 내부승인 절차를 진행합니다.

- ① 계약당사자와 계약의 변경내용에 대하여 승인
- ② 변경계약서 초안을 작성한 후 조달 및 채용담당자의 승인 취득
- ③ 변경계약의 금액이 기존 계약금액을 초과하는 경우 추가승인 취득
- ④ 변경사항 기록
- ⑤ 특정 계약의 경우 발주자 또는 조달기관으로 하여금 계약변경을 위해 필요한 절차 준수 지시
- ⑥ 공급업체 등으로부터 계약 이행을 위해 필요한 추가 이행보증 및 선금보증에 관한 통지 수령
- ⑦ 변경계약서 2부 준비 및 서명, 사본 배포

공공투자법의 이행에 관한 지침 제 12.3.2.조에 따르면, 프로젝트의 계약기간은 해당 프로젝트의 지연을 원인으로 연장될 수 있으며, 이 경우 프로젝트 발주자는 아래의 사유에 따라 대금의 지급기간 연장과 함께 계약기간 연장을 제안합니다.

- ① 승인권자에 의한 프로젝트 가치의 변경이 있는 경우
- ② 프로젝트를 수행할 수 없는 불가항력 적 사유가 발생한 경우
- ③ 프로젝트가 일시적으로 중단된 경우
- ④ 프로젝트 발주자가 의무를 이행할 수 없어 이행이 지연되는 경우

프로젝트의 계약기간 연장은 각 프로젝트의 유형에 따라 기획투자부, 프로젝트 관리기관 및 지방자치단체의 장 등에게 신청한 뒤 이들의 승인을 받아야 합니다.

3) 계약의 종료

공공조달법에 따른 계약의 종료 사유는 아래와 같으며, 만약 계약당사자 일방이 손해를 입은 경우 상대방에게 비용변제 및 손해배상을 청구할 수 있습니다(공공조달법 제 55 조).

- ① 계약의 완전이행
- ② 당사자 합의
- ③ 당사자 일방의 중대한 계약위반으로 인해 상당한 손해가 발생한 경우
- ④ 당사자 일방의 해산 또는 파산

계약의 완전한 이행은 양 당사자가 계약상의 모든 조건을 이행하고 이행기간 및 보증기간이 만료된 경우를 의미하며, 서명된 계약서, 문서 및 관련정보는 최소 10년 이상 보관하여야 합니다(공공조달 시행지침 제 18.3 조).

6. 공공조달에 대한 관리 및 감사

가. 공공조달에 대한 관리

공공조달법은 라오스 재무부를 공공조달업무의 총괄기관으로 지정하고 있으며(공공조달법 제 73 조), 재무부 이외의 공공조달 관리기관으로는 ① 주, 수도의 재무부서, ② 지구, 마을, 시의 재무사무소가 있습니다.

재무부의 주요 권리의무는 다음과 같습니다(공공조달법 제 74 조).

- 공공조달에 관한 정책, 전략계획, 법률 및 관련 프로젝트 등의 연구, 관련 자료의 정부제출
- 공공조달에 관한 정책, 전략계획, 법률 및 관련 프로젝트 등의 설명, 업무조직
- 공공조달에 관한 정책 가이드라인, 법, 규정, 조약 및 국제협약의 공표·공고, 교육 실시
- 공공조달에 관한 지침, 결정, 규정, 공지 등을 공표·공고
- 공공조달법령에 위반되는 타 기관의 결정, 지침, 규정, 공고 등의 중단, 취소
- 공공조달 관련 프로젝트 등을 시행하는 경우 정부예산의 관리 및 사용안내
- 공공조달행위의 관리 및 감독
- 공공조달업무 관련 공무원의 역량 구축, 교육, 역량제고 및 이들에 대한 관리, 고용지원 등
- 관련부처 및 지방자치단체의 요청에 따라 공공조달계획 요약
- 공공조달 관련 분쟁에 대한 행정적 차원에서의 해결
- 공공조달 관련 당사자와의 협력
- 역내, 역외, 국제적 차원에서 공공조달 관련 협력 유지
- 공공조달 관련 활동의 대정부 보고
- 기타 법률에서 규정하고 있는 의무 수행

주, 수도 재무부서의 주요 권리의무는 다음과 같습니다(공공조달법 제 75 조).

- 공공조달에 관한 정책, 전략계획, 법률 및 관련 프로젝트 등의 실행
- 공공조달에 관한 정책 가이드라인, 전략 계획, 법 규정, 조약 및 국제협약의 공표·공고, 교육 실시
- 공공조달 관련 프로젝트 등을 시행하는 경우 정부예산의 관리 및 사용안내

- 공공조달행위의 관리 및 감독
- 공공조달업무 관련 공무원 교육, 역량제고 및 이들에 대한 관리, 고용제안 등
- 관련부서의 요청에 따라 공공조달계획 요약
- 권한범위 내에서 공공조달 관련 분쟁에 대한 행정적 차원에서의 해결
- 공공조달 관련 당사자와의 협력
- 양자간, 지역간 및 국제적 차원에서 공공조달 관련 협력 유지
- 재무부, 주지사, 수도 시장에 대한 공공조달 관련 활동 정기보고
- 기타 법률에서 규정하고 있는 의무 수행

구역, 마을, 시 재무사무소의 주요 권리의무는 다음과 같습니다(공공조달법 제 76 조).

- 공공조달에 관한 정책, 전략계획, 법률 및 관련 프로젝트 등의 실행
- 공공조달에 관한 정책 가이드라인, 전략 계획, 법 규정, 조약 및 국제협약의 공표 · 공고, 교육 실시
- 공공조달 관련 프로젝트 등을 시행하는 경우 정부예산의 관리
- 공공조달행위의 관리 및 감독
- 공공조달업무 관련 공무원 교육, 역량제고 및 이들에 대한 관리, 고용제안 등
- 관련기관의 요청에 따라 공공조달계획 요약
- 권한범위 내에서 공공조달 관련 분쟁에 대한 행정적 차원에서의 해결
- 공공조달 관련 당사자와의 협력
- 주, 수도 재무부서, 주지사, 지방자치단체장에 대한 공공조달 관련 활동 정기보고
- 기타 법률에서 규정하고 있는 의무 수행

나. 공공조달에 대한 감사

공공조달에 대한 감사기관으로는 크게 내부감사기관과 외부감사기관으로 구분됩니다(공공조달법 제 78 조). 이때 ① 내부감사기관으로는 관리기관(재무부, 주·수도 재무부서, 지역·마을·시 재무사무소) 소속 감독부서가 있으며, ② 외부감사기관으로는 국가, 지방인민위원회, 국가감독기관, 국가감사기구, 라오스 국가건설 전선, 대중단체가 있습니다. 공공조달법상 공공조달

에 대한 감사는 ① 공공조달 관련 법령준수, ② 공공조달 관련 관리기관의 조직 및 활동 ③ 권리 행사, 의무이행 및 위반행위에 대한 법적조치를 목표로 합니다(공공조달법 제 79 조).

감사의 종류는 그 수행시기 및 방법에 따라 정기감사, 수시감사, 긴급감사로 구분됩니다(공공조달법 제 80 조). **정기감사**는 사전에 정하여진 일시 및 계획에 따라 정기적으로 실시하는 감사를 의미하며, **수시감사**는 필요하다고 판단되는 경우 감사진행에 관하여 통지한 후 임의로 진행되는 감사를 의미합니다. **긴급감사**는 사전 통지 없이 불시에 진행되는 감사를 의미합니다.

7. 이의제기 및 별척

가. 이의제기 절차

공공조달과 관련하여 분쟁이 발생한 경우, 해당 분쟁의 당사자는 공공조달법에서 규정하고 있는 아래의 방법에 따라 이를 해결할 수 있습니다(공공조달법 제 67 조).

- 1) 조정, 화해 등으로 상호 합의하는 방법
- 2) 행정기관의 조치 또는 결정에 이견이 있는 경우, 민원을 제기하는 방법
- 3) 경제중재위원회의 판정을 신청하는 방법
- 4) 법원에 소를 제기하는 방법
- 5) 국제분쟁해결절차를 이용하는 방법

나. 위반행위에 대한 별척

공공조달법을 위반한 개인, 법인 또는 단체는 위반의 정도에 따라 교육, 징계, 과태료, 민사상 손해배상 또는 형사처벌을 받을 수 있습니다(공공조달법 제 83 조).

[별척 및 사유]

No.	별척	사유
1	교육	- 공공조달 관련 법규를 위반한 개인 법인 단체로써, 경미한 사항에 대하여 최초로 해당 법규를 위반한 경우에는 경고 또는 교육을 실시함(공공조달법 제 84 조)

No.	벌칙	사유
2	징계	- 공무원 또는 관계공무원이 법규를 위반하여 경고 또는 교육을 받았으나 재차 동법을 위반한 경우로서, 그 위반이 형사범죄를 구성하지 않는 경우에는 징계 대상에 해당함(공공조달법 제 85 조)
3	과태료	- 개인, 법인, 또는 단체가 아래와 같이 공공조달법을 위반하였으나, 그 위반이 형사범죄를 구성하지 않는 경우에는 과태료가 부과됨(공공조달법 제 86 조) <ul style="list-style-type: none"> • 낙찰자로 지정되었으나 유효기간 내에 입찰을 철회 또는 변경하거나 계약 체결 또는 이행보증금 납부를 지체한 경우, 낙찰자는 제안가격의 2%에 해당하는 금액을 납부하여야 함(공공조달 시행지침 제 19.1 조) • 낙찰자로 지정된 입찰참가자가 계약체결 후 해당 프로젝트를 타인에게 매각, 양도하는 경우, 계약금액의 10%에 해당하는 금액을 납부하여야 합니다. 이 경우 이행보증금은 반환받을 수 없음(공공조달 시행지침 제 19.2 조) • 품질, 기술사양 등 요구사항을 만족하지 않는 공사 및/또는 유지보수의 수행, 상품 및/또는 서비스의 제공, 컨설팅 서비스의 제공의 경우에는 손실 또는 손상된 가치평가액의 두배에 해당하는 금액을 납부하여야 함(공공조달 시행지침 제 19.3 조)
4	민사상 조치	- 개인, 법인 또는 단체가 공공조달법을 위반하여 정부, 단체 또는 제 3 자의 이익에 영향을 미친 경우, 그로 인해 발생한 손해를 배상하여야 함(공공조달법 제 87 조)
5	형사처벌	- 공공조달법을 위반사실이 범죄를 구성하는 경우, 개인 또는 법인은 그 위반의 경중에 따라 형법에서 정하는 바에 따라 처벌을 받게 됨(공공조달법 제 88 조)

VI. 이주보상 관련 법률

1. 이주 및 취업지원 절차 일반

라오스 이주 및 취업법에 따른 일반적인 지원절차는 다음과 같습니다.

[이주지원절차 일반]

No.	절차	내용
1	연구 및 계획	- 초기조사, 타당성조사 및 세부조사로 구분됨
2	손실보상	- 이주 및 취업법에 따라 주민의 이주가 발생한 경우 발생한 손실을 보상하여야 하며, 손실의 정도 및 잔여토지의 가치에 따라 기준을 구분하여 보상금을 지급함
3	인프라 구축	- 프로젝트 발주자 또는 개발자는 사전에 이주 및 취업법에 따른 인프라 구축을 완료하여야 함
4	이주시행 및 계획변경	- 프로젝트 발주자 및 개발자는 아래의 사항을 준수하여야 함 <ul style="list-style-type: none"> • 정해진 일정에 따라 이주가 이루어질 것 • 현지문화, 종교, 전통, 신념 등을 존중할 것 • 기존 마을에 미치는 영향을 줄이고 인프라 접근권한을 부여할 것 - 만약 12개월 내에 계획에 따라 이주가 이루어지지 않을 경우 아래의 절차를 거쳐야 함 <ul style="list-style-type: none"> • 프로젝트 개발자는 이에 대한 책임을 져야 함 • 이주 및 취업위원회는 새로운 프로젝트를 추진하여야 함 • 만약 기존의 프로젝트 개발자가 새로운 프로젝트를 추진할 의사가 있는 경우 재검토를 요청하여야 함 • 선정된 새로운 개발자는 계획을 개선하여 위원회에 제출하여야 함
5	정착지역 개발	- 프로젝트 발주자 또는 프로젝트 개발자는 이주 및 취업법에 따라 정착지역을 개발하여야 함
6	생활지원	- 영향을 받은 주민들의 생계를 회복하기 위하여 생활지원을 하여야 함
7	이주프로젝트 인수인계	- 프로젝트 완료 시 프로젝트 개발자는 이주 및 취업위원회에 프로젝트의 인수인계를 요청하여야 함
8	이주프로젝트 종료	- 보증기간 만료 시점에 종료

[취업지원절차 일반]

No.	절차	내용
1	자료수집 (제 33 조)	- 이주자의 취업 자료의 수집을 의미 - 이주 프로젝트의 연구와 병행하여 실시
2	대체직업 평가 (제 34 조)	- 현지 취업정보 및 기회에 대한 조사 - 이주로 인하여 피해를 입은 자에게 적합한 직업을 파악하기 위한 목적
3	직업훈련 및 개발 (제 35 조)	- 이주대상자들이 역량을 개발할 수 있도록 직업훈련을 실시하는 절차 - 프로젝트의 발주자 또는 개발자는 생산그룹의 설립 및 관리, 생산기술, 유지관리, 수확, 부가가치 창출을 위한 가공, 마케팅 및 천연자원의 보호 감독 및 지속 가능한 사용을 포함한 환경보존분야 등에서 역량을 개발할 수 있도록 지원하여야 함
4	기술, 금융, 마케팅 지원 (제 36 조)	- 프로젝트 발주자 또는 개발자는 관련 기관 또는 이해관계자와 협력하여 경작, 사육, 수공예, 무역, 서비스 등 분야에 관한 기술력 향상 계획을 수립하고 이를 실행하여야 함 - 아울러 기술력 보급을 통해 대상자들이 기본적인 생활조건 하에서 스스로 생활을 유지할 수 있을 때까지 기술, 금융, 마케팅을 지원하여야 함
5	모니터링 및 평가 (제 38 조)	- 프로젝트 발주자 또는 개발자는 프로그램의 이행을 주기적으로 모니터링하고 점검하며, 이를 평가한 뒤 해당 프로그램을 보다 효율적으로 개선하여야 함 - 이를 위하여 이주 및 취업위원회 및 현지 당국의 기타 관련 이해관계자와 협력하여야 함
6	취업지원 프로젝트의 종료 (제 39 조)	- 취업지원 프로젝트는 대상자가 안정적인 일자리, 더 높은 소득 및 더 나은 생활수준을 갖게 된 후 비로소 종료함 - 프로젝트 개발자는 취업지원 계획의 이행을 완료 후 이주 및 취업위원회의 평가를 받아야 함

라오스 이주 및 취업법 상 농림부는 다른 관련부처와 협력하여 이주전략을 수립하고, 정부에 예산이 포함된 검토 및 국회의 승인을 제안합니다(제 9 조, 제 10 조). 한편, 프로젝트 발주자 또는 개발자는 피해자에 대한 보상계획, 이주계획 및 생계지원 계획의 개발 및 이행에 대한 책임이 있습니다. 이에 따라, 이주계획을 지시, 감독, 이행하기 위해 이주보상 위원회가 구성됩니다. 이주보상위원회는 정책 및 전략을 수립하고 이를 승인하는 임시 기관으로, 관련 부처 또는 기타 이주보상에 관한 이해관계자와 의견을 조율합니다. 그리고 이러한 이주보상위원회의 권리와 의무에는 보상에 관한 문제가 포함됩니다.

2. 이주 및 취업법의 개요

이주 및 취업법은 라오스 국민들이 지속가능한 생계 및 취업활동을 할 수 있는 거주지를 제공하기 위하여 이주 및 취업의 감독, 검사, 모니터링에 관한 원칙, 규칙 등을 규정함으로써 불법 이주 문제, 빈곤 등을 해결하고, 신체적 정신적 생활 등을 개선하며, 국가 및 안보에 기여하는 것을 목적으로 합니다(이주 및 취업법 제 1 조).

또한 정부는 헌법에 따라 국민의 이주 및 직업에 대한 권리를 보장하고, 건설, 농촌개발 및 빈곤 감소에 관한 단기적·장기적인 전략을 구상함으로써 국민의 더 나은 생활을 보장합니다. 이에 따라 정부는 (i) 이주 및 직업 훈련을 위한 예산, 인력, 물자를 여건에 따라 할당하며, (ii) 국내외 개인, 법인 및 단체가 이주 및 취업활동에 참여하고 기금을 제공하도록 장려합니다(이주 및 취업법 제 4 조). 아울러 이주 및 취업법은 아래와 같이 이주 및 취업지원에 관한 원칙을 정하고 있습니다(이주 및 취업법 제 5 조).

- 1) 정부정책, 전략, 법률, 사회경제 개발계획과 일치하고, 국가안보를 보장하여야 함
- 2) 중앙집권적, 민주적 관리
- 3) 평등, 명확성, 투명성, 공정성 등으로 사익을 보호하여야 함
- 4) 빈곤 해결, 더 나은 삶의 유지를 목적으로 하여야 함
- 5) 원 거주지 내 이주를 우선으로 하되, 인원 수, 지역균형 등을 고려하여 다른 거주지로의 이주
- 6) 개인, 정부당국 및 관련 이해관계자의 신속한 조율, 협의, 참여 보장

3. 이주 및 취업지원 프로젝트

가. 이주 및 취업지원 프로젝트의 구분

이주 및 취업지원 프로젝트는 규모에 따라 (i) 중앙 이주 및 취업지원 프로젝트, (ii) 주 이주 및 취업지원 프로젝트, (iii) 구역 이주 및 취업지원 프로젝트 3 단계로 구분됩니다(이주 및 취업법 제 40 조).

우선 **중앙 이주 및 취업지원 프로젝트**란, 100 가구 이상 500 가구의 이주를 수반하는 프로젝트로서 정부승인을 필요로 하는 프로젝트를 의미합니다(이주 및 취업법 제 41 조). 만약 프로젝트가 500 가구 이상의 이주를 수반하는 경우, 정부의 추천을 받아 국회 상임위원회의 승인을 받아야 합니다. **주 이주 및 취업지원 프로젝트**란, 한 구역 내 또는 여러 구역, 군, 도시에서 같은 한 주 내의 구역, 읍, 도시로 이주를 수반하는 프로젝트로서 20 가구 이상 100 가구 이하의 규모인 경우를 의미합니다(이주 및 취업법 제 42 조). 주 이주 및 취업지원 프로젝트를 추진하기 위해서는 시·도지사의 승인을 받아야 합니다. 마지막으로 **구역 이주 및 취업지원 프로젝트**란, 한 마을 내 또는 같은 구역, 군, 도시의 마을에서 다른 마을로의 이주를 수반하는 프로젝트로서 그 규모가 20 가구 미만인 경우를 의미하며(이주 및 취업법 제 43 조), 이 경우에는 해당 구역, 군, 도시의 장의 승인을 받아야 합니다.

[이주 및 취업지원 프로젝트의 규모별 구분]

No.	구분	규모	승인대상
1	중앙 이주 및 취업지원 프로젝트	100 가구 이상 500 가구 미만	정부
		500 가구 이상	국회
2	주 이주 및 취업지원 프로젝트	20 가구 이상 100 가구 미만	시·도지사
3	구역 이주 및 취업지원 프로젝트	20 가구 미만	구역, 군, 도시의 장

나. **관련기관**

1) **이주 및 취업위원회**

이주 및 취업위원회란, 이주 및 취업지원 관련 정책 및 전략을 승인하고 이주 및 취업지원 프로그램 관련하여 관련 당국 또는 기타 이해관계자와의 조율에 관한 업무를 수행하는 한시적 기관을 의미합니다(이주 및 취업지원법 제 59 조). 이주 및 취업위원회는 그 규모 및 소관업무 별로 (i) 중앙 이주 및 취업위원회, (ii) 주 이주 및 취업위원회, (iii) 구역 이주 및 취업위원회로 구분됩니다. 이주 및 취업위원회의 주요 업무는 다음과 같습니다(이주 및 취업지원법 제 63 조).

- ① 이주 및 취업지원 계획의 지시, 감독 및 이행
- ② 프로젝트 대상자, 기존 마을주민 및 관련 당사자에 대한 교육훈련

- ③ 이주 및 취업지원계획의 승인 및 감독기관에 대한 승인요청
- ④ 정착지 개발기간, 생계지원 관련 정책 수립
- ⑤ 이주자들에 대한 관련정보 제공
- ⑥ 프로젝트 관련 이행결과 등의 모니터링

2) 감독기관

이주 및 취업에 관한 업무를 담당하는 주무관청은 **농림부**이며, 구체적인 조직구성 내용은 아래와 같습니다(이주 및 취업지원법 제 66 조).

- ① 농림부
- ② 농림 및 산림국
- ③ 농림 및 산림사무소
- ④ 마을 재경부성 중 농림 및 산림 관련 부서

아울러 농림부의 주요 임무는 다음과 같습니다(이주 및 취업지원법 제 67 조).

- ① 이주 및 취업 관련 정책, 전략, 법률규정을 연구하여 이를 정부에 제안
- ② 이주 및 취업 관련 정책, 전략, 법률규정을 집행하여 실행계획, 업무계획, 프로젝트 수립 및 이행
- ③ 정부 투자 프로젝트, 개발원조기금, 이주 및 취업활동과 관련된 외국의 양허성 차관을 연구, 통합 및 우선순위를 설정하여 정부에 제안
- ④ 중앙 이주 및 취업위원회에 활동 지시
- ⑤ 이주 및 취업활동에 대한 지시, 장려, 모니터링, 성과 평가
- ⑥ 이주 및 취업활동 관련 국제협력
- ⑦ 이주 및 취업활동 관련 이행상황을 정부에 보고

4. 이주지원

가. 이주의 종류

이주 및 취업법에 따르면, 이주는 일반이주와 특별이주로 구분됩니다(이주 및 취업법 제 11 조). “일반이주”란 오지 및 낙후지역, 고위험 생활지역 및 특정 지역에 거주하는 사람들이 머물고 생계를 유지할 수 있는 장소를 제공하는 것을 의미합니다. 만약 일반이주가 필요한 경우, 프로젝트 등 발주자는 이주 및 취업위원회에 제안하여 승인을 받아야 합니다. 한편 “특별이주”란, 개발 프로젝트로 인해 영향을 받는 사람들이 머물고 생계를 유지할 수 있는 장소를 제공하는 것을 의미합니다. 특정이주의 경우에는 프로젝트 발주자뿐 아니라 개발자¹³ 또한 이주에 관하여 승인을 받아야 합니다.

이주 및 취업법에 따른 이주지역의 구분은 다음과 같습니다(이주 및 취업법 제 12 조).

- 1) 접근이 어렵고 개발여건이 부족한 지역(이주 및 취업법 제 13 조)
 - 생산활동이 전혀 없거나 매우 적은 지역으로, 화전 등 방식으로 쌀을 생산하여 환경오염을 유발하고 생활수준의 개선이 부족한 지역
 - 개발여건이 없거나 부족한 격지로서, 산간지역, 유역지역 및 기타 공공서비스의 접근이 어려운 지역
 - 미정착 빈곤인구로 구성되어 있는 분산된 소규모 마을
- 2) 고위험 생활지역(이주 및 취업법 제 14 조)
 - 홍수지역, 침식지역 등 자연재해가 자주 발생하는 지역
 - 안전이 보장되지 않고 전염병, 환경오염 등을 초래할 수 있는 혼잡지역
- 3) 특수지역(이주 및 취업법 제 15 조)
 - 국방, 보안을 위한 전략지역, 국경지역
 - 보존림, 보호림

¹³ 프로젝트 개발자란, 해당 프로젝트에 대한 투자허가를 받은 국내외의 개인, 법인을 의미합니다(제3조 제7호)

- 유독성 또는 방사능 지역
 - 고고학적 가치가 있는 지역
- 4) 개발프로젝트의 영향을 받는 지역(이주 및 취업법 제 16 조)
- 댐 건설 프로젝트, 광산 프로젝트, 경제 특구, 인프라 건설 프로젝트 및 기타 프로젝트의 영향을 받는 지역

나. 이주지역 및 이주요건

이주 및 취업법에 따라 이주를 하는 경우, 이주지역의 선정기준은 다음과 같습니다(이주 및 취업법 제 18 조).

- 1) 생산 및 개발이 가능한 토지가 있는 곳으로서 거주지를 건설하기에 적합한 지역
- 2) 나대지 또는 거주 및 생계를 위해 건물을 짓고 수리할 수 있는 지역
- 3) 농촌지역의 큰 마을을 소도시로 구성하여 개발집중지역으로 개발 및 재개발할 수 있는 지역
- 4) 산업지역, 특별경제구역, 특정경제구역, 재배·산업작물지역 과 같이 노동력이 필요한 지역
- 5) 국경지역, 보존림, 고가치 광물지역, 고고학지역 등 국가안보, 국가자산 및 자원보호를 담당하는 가족, 마을을 위하여 특별히 지정된 지역

한편, 이주요건은 개인적 요건 및 지역적 요건으로 구분할 수 있으며, 이주 및 취업법에서 정하고 있는 각 요건 별 구체적인 내용은 다음과 같습니다.

- ① 개인적 요건(이주 및 취업법 제 17 조)
 - 라오스 시민권자, 거주자 및 무국적자로 라오스에 합법적으로 영주권을 가지고 거주하는 자일 것
 - 동법 제 12 조에 따른 이주대상 지역에 거주할 것
 - 이주에 동의할 것

② 지역적 요건(이주 및 취업법 제 19 조)

- 거주지와 일자리를 확장할 수 있는 기존 마을이 존재할 것
- 거주지를 형성하고 생계를 유지하기에 적합하며, 장기적으로 인구증가에 기여할 수 있을 것
- 인프라 개발에 적합할 것
- 생산 및 소비를 위해 적절한 수원을 확보할 수 있을 것
- 국방 및 보안활동이 용이하며, 위험생활지역 또는 환경유해지역이 아닐 것

다. 이주절차

이주 및 취업법에 따른 이주절차는 크게 아래와 같이 8 단계로 구분할 수 있습니다(이주 및 취업법 제 20 조).

- 1) 이주 프로젝트 연구 및 계획
- 2) 이주로 인한 손실보상
- 3) 이주 지원을 위한 인프라 구축
- 4) 시행 또는 계획변경
- 5) 정착지역 개발
- 6) 과도기 동안의 생활지원
- 7) 이주 프로젝트 인수인계
- 8) 이주 프로젝트 종료

이주프로젝트의 연구 및 계획은 초기조사, 타당성조사 및 세부조사로 구분됩니다(이주 및 취업법 제 21 조). 초기조사 단계에서는, 이주대상 마을의 경제, 문화, 사회, 인구, 공공서비스 체계 등 관련 정보를 조사하고 이주 지역의 지리적 특성을 파악합니다. 타당성조사 단계에서는 토지 및 자산조사, 신규 마을의 개발계획, 환경 및 사회적 영향 등 기술적 사항을 종합적으로 검토하며, 마지막으로 세부조사 단계에서는 프로젝트의 세부사항, 즉 초기 프로젝트 비용 및 프로젝트의 효과를 판단하게 됩니다.

만약 이주 및 취업법에 따라 주민의 이주가 발생한 경우, 이로 인한 **손실보상**을 하여야 합니다(이주 및 취업법 제 22 조). 이때 손실보상의 기준은 다음과 같습니다. (i) 토지의 수용에 따라 잔여지가 발생하였으나 해당 잔여지를 사용할 수 없는 경우에는 사용할 수 없는 부분을 포함한 전액을 보상하여야 합니다. 반면 (ii) 토지의 수용에 따라 발생한 잔여지를 사용할 수 있는 경우에는 상실한 토지부분에 대하여만 보상하여야 합니다. 이는 (iii) 관습상 토지사용권을 가진 자에 대하여도 동일합니다. 만약 (iv) 토지를 일시적으로 사용할 수 없게 된 경우에는 사안별로 구체적인 액수를 평가하여 보상하고, 사용한 토지나 건물은 모두 원상회복한 뒤 반환합니다. (v) 상실한 토지·건물의 가치가 제공받은 토지·건물의 가치보다 낮은 경우, 이주 및 취업위원회는 적절한 해결책을 고려하여야 하며, (vi) 타 지역으로 이주를 하는 경우에 대해서도 손실을 보상하여야 합니다. 마지막으로, (vii) 수목, 농작물, 가축 또는 기대소득에 대하여 손실이 발생한 경우에는 그 대체가치에 따라 보상을 하여야 합니다.

프로젝트 발주자 또는 개발자는 **이주지원을 위해 필요한 인프라 구축**을 사전에 완료하여야 합니다(이주 및 취업법 제 23 조). 아울러, **프로젝트 등을 수행**하는 경우, 프로젝트 발주자 및 개발자는 (i) 공식적으로 승인된 일정에 따라 이주가 이루어지도록 하여야 하고, (ii) 현지문화, 종교, 전통, 신념 등을 존중하며, (iii) 기존 마을에 미치는 영향을 줄이고, 정부 또는 프로젝트 개발자가 제공하는 인프라 접근권한을 부여하는 등의 조치를 취하여야 할 의무가 있습니다(이주 및 취업법 제 24 조 전단).

만약 프로젝트 수행에 따른 이주명단 발표 후 12개월 내에 계획에 따라 이주가 진행되지 않을 경우, 기존 프로젝트 개발자는 이에 대해 책임을 져야 하며, 이주 및 취업위원회는 프로젝트 개발자 교체여부에 대한 의사결정을 할 수 있습니다. 만약 기존 프로젝트 개발자가 이주계획을 다시 추진해볼 의사가 있는 경우 이주 및 취업위원회에 검토를 요청해야 합니다. 이주 및 취업위원회가 프로젝트 개발자를 새로 선정하기로 결정할 경우, 해당 당사자는 기존 이주계획을 개선, 보완하여 이주 및 취업위원회의 승인을 득하여야 합니다(이주 및 취업법 제 24 조 후단).

한편, 프로젝트 발주자 또는 프로젝트 개발자는 아래의 원칙에 따라 **정착 지역을 개발**하여야 합니다(이주 및 취업법 제 25 조).

- ① 공식적으로 승인된 개발계획을 이행할 것

- ② 인프라 및 시설개발이 관련 기술표준을 준수하는지 확인할 것
- ③ 농촌 마을을 개발하고 큰 마을을 소도시로 바꾸기 위해 이주지역을 종합적으로 개발할 것

아울러, 프로젝트 발주자 또는 개발자는 프로젝트의 영향을 받은 사람들의 생계를 회복하기 위하여 (i) 식료품, 소비재 등 피해자의 생활수준을 향상시키기 위한 지원을 제공하고, (ii) 생산에 필요한 장비를 제공하는 등의 활동을 수행하여야 합니다.

프로젝트 완료 시 프로젝트 개발자는 이주 및 취업위원회에 **프로젝트의 인수인계**를 요청하여야 합니다(이주 및 취업법 제 27 조). 이 경우 프로젝트 개발자는 발주자의 승인을 받아 라오스 내 은행에 이주 프로젝트 가치의 10%에 해당하는 금액을 보증금으로 지불하여야 하고, 프로젝트의 보증기간은 최소 1년으로 하여야 합니다. 이주 프로젝트는 보증기간 완료 시점에 **종료**됩니다(이주 및 취업법 제 28 조).

5. 취업지원

가. 취업지원 대상자

이주 및 취업법은 각 산업분류에 따라 아래와 같이 직업군을 분류하고 있습니다(이주 및 취업법 제 29 조).

- 1) 농림, 축산, 수산업
- 2) 식목, 산림보호
- 3) 서비스, 무역, 관광
- 4) 산업 및 수공업
- 5) 공장, 개발 프로젝트, 생산직 또는 소기업, 도구, 장비, 생산라인을 포함한 자재조립 등

이때 취업지원은 (i) 피해지역에 거주하는 개인 또는 가족일 것, 그리고 (ii) 이주 및 취업법 제 12 조 및 제 17 조에 따른 이주요건을 만족할 것을 충족한 자를 대상으로 합니다(이주 및 취업법 제 30 조). 다만 이 경우에도 아래의 요건을 만족하는 대상자에 대하여는 취업지원에 대한 우선순

위가 부여됩니다(이주 및 취업법 제 31 조).

- ① 다른 대상자에 비해 잠재적 빈곤가능성이 있는 자로, 장애인, 노약자 및 노인을 포함하는 가정
- ② 빈곤한 개인 또는 불안정한 일자리를 가진 가족
- ③ 생산, 수공업, 무역 및 서비스 분야에서 모범가족사례가 될 수 있는 개인 또는 가족

나. 대상자 지정절차

이주 및 취업법에 따른 취업지원 대상자의 지정절차 및 구체적인 내용은 다음과 같습니다(이주 및 취업법 제 32 조).

- 1) 자료수집
- 2) 대체직업 평가
- 3) 직업훈련 및 개발
- 4) 기술, 금융, 마케팅 지원
- 5) 현장개발자 및 모범가족사례 구축
- 6) 모니터링 및 평가
- 7) 취업지원 프로젝트의 종료

[대상자 지정절차 별 수행업무]

No.	절차	내용
1	자료수집 (제 33 조)	- 이주자의 취업 자료의 수집을 의미 - 이주 프로젝트의 연구와 병행하여 실시
2	대체직업 평가 (제 34 조)	- 현지 취업정보 및 기회에 대한 조사 - 이주로 인하여 피해를 입은 자에게 적합한 직업을 파악하기 위한 목적
3	직업훈련 및 개발 (제 35 조)	- 이주대상자들이 역량을 개발할 수 있도록 직업훈련을 실시하는 절차 - 프로젝트의 발주자 또는 개발자는 생산그룹의 설립 및 관리, 생산기술, 유지관리, 수확, 부가가치 창출을 위한 가공, 마케팅 및 천연자원의 보호 감독 및 지속 가능한 사용을 포함한 환경 보존분야 등에서 역량을 개발할 수 있도록 지원하여야 함

No.	절차	내용
4	기술, 금융, 마케팅 지원 (제 36 조)	<ul style="list-style-type: none"> - 프로젝트 발주자 또는 개발자는 관련 부분 또는 이해관계자와 협력하여 경작, 사육, 수공예, 무역, 서비스 등 분야에 관한 기술력 향상 계획을 수립하고 이를 실행하여야 함 - 아울러 기술력 보급을 통해 대상자들이 기본적인 생활조건 하에서 스스로 생활을 유지할 수 있을 때까지 기술, 금융, 마케팅을 지원하여야 함
5	모니터링 및 평가 (제 38 조)	<ul style="list-style-type: none"> - 프로젝트 발주자 또는 개발자는 프로그램의 이행을 주기적으로 모니터링하고 점검하며, 이를 평가한 뒤 해당 프로그램을 보다 효율적으로 개선하여야 함 - 이를 위하여 이주 및 취업위원회 및 현지 당국의 기타 관련 이해관계자와 협력하여야 함
6	취업지원 프로젝트의 종료 (제 39 조)	<ul style="list-style-type: none"> - 취업지원 프로젝트는 대상자가 안정적인 일자리, 더 높은 소득 및 더 나은 생활수준을 갖게 된 후 비로소 종료함 - 프로젝트 개발자는 취업지원 계획의 이행을 완료 이주 및 취업위원회의 평가를 받아야 함

VII. 국가재정법

1. 국가재정법 개요

가. 국가재정법의 주요 내용 및 기본원칙

라오스의 국가예산 수립, 사용 등에 관한 사항은 국가재정법에서 규정하고 있습니다. 국가재정법은 (i) 국가 예산수입의 정확하고 완전한 징수, (ii) 국가적으로 투명하고 경제적이며 효율적이고 통일된 방식으로 예산지출사무 수행, (iii) 국가기관의 책임 증대, (iv) 수입원 개발, (v) 재정자립에 대한 점진적 기여, (vi) 국제금융시스템과 통합된 안정적 국가 금융시스템 구축을 통해 국가사회경제 발전의 지속적 성장에 기여하기 위하여 국가예산의 계획, 실행, 평가 및 검사에 관한 원칙, 규칙 및 조치를 규정하는 것을 목적으로 합니다(국가재정법 제 1 조).

국가재정법에 따르면 국가예산이란 매년 국회에서 승인하는 공공수입 및 지출에 관한 예측을 의미합니다. 국가예산은 국가 재정시스템의 핵심이며, 사회경제발전을 보장하기 위한 거시경제 관리 및 조정의 수단으로 기능합니다(국가재정법 제 2 조). 국가예산의 회계연도는 10 월 1 일 부터 다음해 9 월 30 일까지 12 개월로 합니다(국가재정법 제 7 조).

한편, 국가예산의 기본원칙은 다음과 같습니다(제 6 조).

- 1) 모든 예산의 수입 및 지출은 전국적으로 통일된 법률에 근거하여, 예산시스템을 통해 완전히 중앙집권화 된 방식으로 회계처리 되어야 합니다. 예산시스템 밖에서 예산을 보유할 수 없으며, 적법한 승인이 없는 경우 어떠한 기금도 설치할 수 없습니다.
- 2) 예산 편성은 국가경제의 실제 능력을 기준점으로 하되, 거시경제적 균형과 각 기간 동안의 국가사회경제발전계획과의 일관성을 유지하여야 하며, 중앙집권화, 민주성, 개방성 및 투명성의 원칙을 준수하여야 합니다.
- 3) 예산 지출은 국회에서 승인한 연간 예산목표, 금액, 기간에 따라 집행하여야 합니다. 계획이 없거나 계획된 범위를 초과하는 지출은 허용되지 않으며, 지출은 경제성과 효율성의 원칙에 따라 작성된 재무규정에 의하여 관리되어야 합니다.
- 4) 적자예산은 중앙예산에 대하여만 허용됩니다. 지방예산에 대한 적자예산은 허용되

지 않습니다. 중앙예산은 지방예산의 수입 및 지출계획의 차액을 충당할 수 있도록 보조하여야 합니다.

- 5) 국가예산은 총 수입과 총 지출 사이의 균형을 보장하여야 합니다. 국가예산에 대한 적자가 발생하는 경우, 지출은 개발을 위한 자본지출에 대하여만 허용됩니다. 예산 적자의 수준은 국가재정의 요구사항 및 재정능력에 따라 국회에서 결정합니다. 국가 예산의 재원에는 국내외 차관 및 국가적립기금으로부터의 차입금이 포함됩니다.
- 6) 예산의 편성, 집행 및 평가에 관한 정보는 정확하고 투명하게 공개되어야 하며, 일반 대중이 접근할 수 있어야 하고 관할기관에 의하여 통제, 검사, 감사 및 인증의 대상이 되어야 합니다.
- 7) 국가예산의 수입 및 지출에 대한 국가 및 지방자치단체의 책임분담은 중앙집권적 민주주의 원칙과 법규의 통일적 적용 하에 이루어져야 합니다. 주요 수입원을 관리하는 중앙예산의 주도적 역할은 (i) 국가적으로 중요한 지출을 수행하고, (ii) 모든 국민에게 공평하고 균형 잡힌 발전을 보장하기 위해 지방 예산에 지원을 제공하는 목적으로 유지되어야 합니다.
- 8) 인사, 예산, 활동을 포함한 관세, 세금 및 국고운영은 중앙에서 수직적 구조로 관리합니다.
- 9) 관련부처 및 지방자치단체에 대한 예산분배는 정부가 제안하고 국회가 승인한 예산분배 기준에 따라 이루어져야 합니다.

나. 라오스의 예산 수립, 집행 및 결산 흐름도

라오스의 연간 예산수립부터 결산까지의 절차 흐름도는 일반적으로 다음과 같습니다.

No.	담당기관	주요내용
1	국가예산계획 수립	- 연간 수입계획과 연간 지출계획으로 구별됨 - 재정당국은 국가예산에 대한 협의를 진행하여야 하며, 재무부는 예산안을 통합하여 정부에 보고하고 국회에 제출하여 심의 및 의결을 받아야 함
2	국가예산계획 심의 및 승인	- 국가예산계획의 심의 및 승인은 6월 또는 7월 정기국회를 통해 이루어짐

No.	담당기관	주요내용
3	예산집행	<ul style="list-style-type: none"> - 국가예산의 집행은 국가재정법에 따른 지출원칙 및 절차에 따라 이루어져야 함 - 만약 국가예산계획의 집행계획이 실제와 상이한 경우 예산지출항목을 재분배할 수 있으며, 지출항목의 이전 정도에 따라 (i) 각 부처의 장, (ii) 재무부 장관, 또는 (iii) 총리가 결정함
4	결산	<ul style="list-style-type: none"> - 결산보고는 재무부 등 각 관련기관이 회계명세서를 작성·마감한 이후 진행함 <ul style="list-style-type: none"> • 국고는 해당 회계연도의 예산회계 결산일로부터 20일 이내에 채권채무내역 등을 작성하여 재무부에 보고함 • 재무부는 국고의 보고를 받은 날로부터 10일 이내에 예비보고서를 작성한 후 정부에 제출함 - 이후 최종결산 절차를 진행하게 됨 <ul style="list-style-type: none"> • 각 부처의 장은 결산보고서를 검토한 후 1월 30일까지 재무부에 제출함 • 재무부는 3월 31일까지 감사원의 감사를 거친 연간 결산보고서를 요약하여 정부에 제출 • 정부는 재무부의 연간 결산보고서를 심의한 후 국회 개회 15일 전까지 이를 제출하여야 함 • 국회는 국가 및 지방자치단체, 기타 기관의 전년도 결산보고서를 심의하고 채택함

2. 국가예산

가. 국가예산의 구조

국가재정법에 따르면, 국가예산의 구조는 (i) 예산수입, (ii) 예산지출, (iii) 균형조정 재원으로 구분됩니다(국가재정법 제 13 조). 재무부는 국가의 예산 수입 및 지출의 세부분류를 정하여 정부에 제출하고 이에 대한 심의 및 승인을 받아야 하며, 정부는 전국적으로 통일된 적용을 위해 연간 수입 및 지출의 수치를 국회에서 심의 및 승인하여 줄 것을 요청하여야 합니다(국가재정법 제 14 조).

1) 예산수입

예산수입은 국내수입과 해외수입으로 구분되며(국가재정법 제 15 조), 각 수입유형 별 항목은 다음과 같습니다.

① 국내수입(국가재정법 제 16 조)

- 관세
- 세금
- 국유자산
- 국가기금
- 행정-기술기관의 수입
- 대출이자, 대출원금의 상환
- 국유자산 및 지분매각
- 벌금, 몰수품 판매
- 모금, 기부
- 요금 및 기타 수입원

② 해외수입(국가재정법 제 17 조)

- 정부, 국제기구, 외국 개인 및 법인이 라오스 정부 및 국민에게 현금 또는 현물의 형태로 제공하는 보조금 지원

국가예산은 중앙예산과 지방예산으로 구분할 수 있습니다(국가재정법 제 34 조). **중앙예산**은 각 부처, 이에 준하는 기관, 라오스 국가건설전선 및 중앙 시민단체의 수입 및 지출을, **지방예산**은 지방행정부의 예산수입 및 지출, 라오스 국가건설전선 및 지방 시민단체의 수입 및 지출이 포함하는 개념입니다. 라오스 정부는 법령에 따라 지방행정부의 예산 수입과 지출을 결정합니다.

한편 국가예산에 대한 권한분담이란, 국가의 재정활동, 수입 및 지출에 관한 관리, 지도 및 의사 결정에 있어 중앙과 지방의 권한을 구분하는 것을 의미합니다(국가재정법 제 35 조). 중앙예산 및 지방예산의 수입 및 지출의 구분은 수입원의 구분 및 지출에 대한 책임에 따라 이루어집니다.

국가예산의 수입은 중앙예산 수입, 지방예산 수입, 중앙 및 지방예산 사이에 배분된 수입으로 구분됩니다(국가재정법 제 36 조). 우선 **“중앙예산 수입”**이란, 중앙 차원에서 관리하는 수입원을 통해 발생하는 수익을 의미합니다(국가재정법 제 37 조). 중앙예산 수입에 해당하는 항목은 다음과 같습니다.

- ① 관세
- ② 수입상품에 대한 소비세, 소득세, 부가가치세, 판매세
- ③ 국경서비스 수수료, 서류발급 수수료, 국경통과세 등 물품의 수출입에 따라 징수하는 요금
- ④ 목재, 광물 등 천연자원으로부터 발생하는 수익 및 건물임대수익, 기타 국가 자산으로부터 발생하는 수익
- ⑤ 국가자산 및 지분의 매각대금
- ⑥ 영공통과료, 로열티
- ⑦ 국가기금의 수익
- ⑧ 행정기술-기관 수익
- ⑨ 국가대출에 따른 이자수익 및 원금상환수익
- ⑩ 벌금, 몰수품 경매를 통한 수익
- ⑪ 해외 보조금
- ⑫ 개인 및 단체의 기부로 조성된 기금
- ⑬ 기타 법령에 따라 발생한 수익

“지방예산에 해당하는 수입”이란 지방 차원에서 관리하는 수입원을 통해 발생하는 수익을 의미하며, 구체적인 수입원은 아래와 같습니다(국가재정법 제 38 조).

- ① 토지사용료(토지세), 토지임대료, 토지사용권 양수도, 세무면허 발급수수료, 개인에 대한 소득세
- ② 자갈, 모래, 토양, 라테라이트 등 천연자원으로부터 발생하는 수익과 건물, 토지, 기타 자산으로부터 발생하는 국가자산의 임대수익
- ③ 국가기금 수익
- ④ 행정기술-기관 수익
- ⑤ 요금 및 서비스 수수료 징수
- ⑥ 벌금, 몰수품 경매를 통한 수익
- ⑦ 개인 및 단체의 기부로 조성된 기금
- ⑧ 해외 보조금
- ⑨ 기타 법령에 따라 발생한 수익

마지막으로 “중양 및 지방예산 사이에 배분된 수입”의 경우, 정부에서 각 수입유형별 배분 비율을 결정합니다. 특히 지방자치단체에 국회에서 승인한 연간 지출계획을 초과하는 수입이 발생한 경우, 정부는 지방자치단체에 대한 특정수입을 결정할 수 있습니다. 중양 및 지방예산 사이에 배분된 수입의 수입원은 다음과 같습니다(국가재정법 제 39 조).

- ① 국내 상품생산에 따른 판매세 또는 부가가치세
- ② 국내 상품 생산에 따른 소비세
- ③ 국내 상품 생산에 따른 소득세 및 최소세
- ④ 배당금 수익

나. 국가 예산계획의 수립 및 승인

1) 국가 예산계획의 수립

연간 예산계획은 크게 연간 수입계획과 연간 지출계획으로 구분됩니다(국가재정법 제 47 조). 연간 수입계획은 법령에서 정하는 방법론을 사용하여 생산 및 서비스 단위 별 수입원을 활용할 수 있는 역량을 기반으로 수립합니다. 한편, 연간 지출계획은 (i) 각 기간동안 정부가 승인한 지출규정에 따라 배분하여 공정성 및 평등을 보장, (ii) 적자를 적정한 수준으로 유지하고 재정적 건전성을 보장하는 것을 목표로 하여 수입징수능력을 고려하여야 합니다.

예산편성 과정에서 재무부 국가예산에 대한 협의를 진행하여야 합니다. 구체적으로 (i) 정부 및 기타 관련부처와 협의하여 수입과 지출의 수용능력을 검토하여야 하고, (ii) 예산의 전체적인 균형을 확보할 수 있는 방안을 제안하여야 하며, (iii) 만약 협의과정에서 이견이 발생한 경우 재무부는 국무총리에게, 지자체의 재정당국은 시도지사에게 해결을 요청하여야 합니다(국가재정법 제 48 조).

재무부는 국가예산 균형계획을 포함하여 국가 및 관련부처의 예산안을 통합하여 정부에 보고하고, 국회에 제출하여 심의 및 의결을 받아야 합니다(국가재정법 제 49 조). 국가예산계획의 수립절차 및 시기의 구체적인 내용은 아래와 같습니다(국가재정법 제 51 조).

- ① 정부는 매년 1월 초 사회경제개발계획 및 예산계획의 초안 작성에 대한 지침을 발표하여야 합니다. 그 후 재무부는 연간 국가예산계획 수립에 대한 지침을 발표하여야 합니다.
- ② 지자체의 관련부처는 국회의 소관 위원회에 참석하여 예산제안서를 작성하여야 하며, 주 및 시의 재정담당부서는 이를 해당 지역의 연간 예산계획으로 통합하여 2월 이내에 재무부에 제출합니다.
- ③ 중앙부처는 국회 예산결산특별위원회 위원들의 참여 하에 예산안을 수립하고, 2월 이내에 이를 재무부에 제출합니다.
- ④ 재무부는 정부 및 관련부처로부터 제출 받은 예산안을 국회 예산결산특별위원회 위원들의 참여 하에 국가 예산안으로 통합하여 4월 이내에 정부에 제출합니다.
- ⑤ 정부는 국가예산계획안을 검토하고 통합하여 국회의 개회 15일 전에 국회에 공식적으로 제출합니다.

2) 국가 예산계획의 심의 및 승인

국가 예산계획의 심의 및 승인은 6월 또는 7월의 정기국회를 통하여 이루어집니다(국가재정법 제 52조). 연간 국가예산계획의 수정은 연간 예상수입 및 지출에 영향을 미치는 정책의 변경 또는 예상치 못한 상황이 발생한 경우, 각 회계연도 별 1회에 한하여 인정될 수 있습니다. 다만 이 경우에도 국가예산계획이 시행된 날로부터 6개월 이후부터 계획을 변경할 수 있습니다(국가재정법 제 54조). 이때 연간 국가예산계획의 수정절차는 연간 예산계획의 심의 및 승인절차와 동일합니다.

3) 국가예산의 균형조정

국가 예산조정 시스템 상 국가예산은 크게 (i) 균형예산, (ii) 흑자예산, (iii) 적자예산으로 구분할 수 있는데, 국가예산의 수입과 지출 간 균형을 유지하는 것을 “국가예산의 균형조정”이라 합니다(국가재정법 제 24조, 제 25조). 만약 국가예산에 흑자가 발생한 경우 국가적립기금으로 이전하거나 기타 필요한 부문으로 지출되며, 적자가 발생한 경우에는 균형을 유지하기 위하여 지출 규모를 축소하거나 차입금으로 자금을 조달하게 됩니다.

구체적으로, 정부는 흑자예산 시 중앙예산차원에서 지출을 늘리거나 국가적립기금으로의 이전

을 통한 잉여금의 사용을 결정하며, 적자예산 시에는 국가예산의 균형을 유지하기 위하여 국내외 차입금을 조달하며, 국가사회경제발전을 위한 자본투자에 대하여만 지출을 허용합니다(국가재정법 제 26 조). 이때 (i) 국내차입은 채권, 사채 등의 매각을 통해 이루어지며, (ii) 국외차입은 외국, 국제기구, 양자 또는 다자간 협력기관 등으로부터의 차관형태로 이루어집니다.

3. 국가예산 집행

가. 국가예산의 지출 항목

국가재정법에 따른 국가예산의 지출 항목 및 그 구체적인 내용은 아래와 같습니다(국가재정법 제 18 조).

- 1) 운영비
- 2) 채무상환
- 3) 국가사회경제발전을 위한 자본투자
- 4) 기금, 행정-기술기관의 지출
- 5) 정부 예비비, 지방자치단체의 예비비
- 6) 국가적립기금으로의 이전
- 7) 기타지출

[국가예산의 예산지출 항목]

No.	항목	내용
1	운영비 (제 19 조)	- 국가, 라오스 국가건설 전선, 시민단체, 국방 및 보안 등 국가 기관의 운영을 위하여 소요되는 비용 - 공무원 급여 및 수당, 행정지출, 각 부처의 기술지출 등이 포함됨
2	채무상환 (제 20 조)	- 국내외 대출에 대한 원리금 상환, 연체료 정산, 국제기구에 대한 기부금 납부 등
3	국가사회경제발전을 위한 자본투자 (제 21 조)	- 인프라 건설, 기업 및 기업지분 매입, 장비, 기계, 차량 등의 구매에 따른 지출
4	기타 지출 (제 22 조)	- 기금, 행정-기술기관, 정부 예비비 및 지방자치단체의 예비비 지출, 국가적립기금에 대한 지출이 포함됨 - 이외에도 아래의 사항이 포함됨

No.	항목	내용
		<ul style="list-style-type: none"> • 빈곤문제 해결을 위한 지출 • 가격 또는 인플레이션 보조금 • 대출연장 • 보조금 • 비상지출

국가예산의 지출은 중앙지출과 지방지출로 구분할 수 있으며, 각 지출항목 별 구체적인 내용은 다음과 같습니다(국가재정법 제 36 조).

① 중앙지출(국가재정법 제 41 조)

- 국가기관, 라오스 국가건설 전선 및 중앙 시민단체에 대한 행정지출
- 중앙정부 소관 방위비, 국군에 대한 지출
- 국내외 차관에 대한 이자 및 국제기구에 대한 기부금
- 국가기금에 대한 지출
- 행정기술-기관 지출
- 정부예비비 지출
- 국가적립기금 지출
- 인프라 건설, 보조금 및 대출금융 프로젝트에 대한 자금, 중앙당국의 책임 하에 추진하는 합작투자사업에 대한 투자
- 정부정책에 따른 가격, 이율 보조에 소요된 지출
- 정부대출
- 보조금 지출
- 기타 법령에 따라 발생한 지출

② 지방지출(국가재정법 제 42 조)

- 국가기관, 라오스 국가건설 전선 및 지방 시민단체에 대한 행정지출
- 지방자치단체 소관 방위비 지출
- 국가기금에 대한 지출
- 지역예비비 지출
- 국가적립기금 지출

- 인프라 건설, 지방당국의 책임 하에 추진하는 보조금 및 대출금융 프로젝트에 대한 투자
- 보조금 지출
- 기타 법령에 따라 발생한 지출

나. 국가예산 집행 원칙 및 절차

예산의 집행(지출)은 아래의 지출 원칙 및 절차에 따라 이루어져야 합니다(국가재정법 제 57 조).

- 1) 연간 예산계획에 부합하여야 합니다.
- 2) 지출목표와 일치하여야 합니다.
- 3) 지출관련 규정에 따라 정확히 계산하여야 합니다.
- 4) 각 부처의 장 또는 그가 지정한 자의 승인을 받아야 합니다.

만약 국회에서 당해 연도 예산안이 아직 승인되지 아니한 경우, 정부는 만기가 도래한 급여, 수당, 관리비 및 국외차입금 상환을 위하여 전년도에 집행한 총 지출의 1/12에 상당하는 금액에 대한 승인을 요청할 수 있습니다. 예산의 지출은 연간 예산계획에 따른 지출항목과 일치하여야 하며, 예산분류표 및 국가회계절차에 따라 기록되어야 합니다. 한 해의 예산지출은 같은 해의 수입원으로 충당하여야 합니다. 계속적 지급은 허용되나, 회계연도 세입계정 마감일로부터 3월 이내에 종료하여 국고에서 매년 최종 합산을 수행할 수 있도록 하여야 합니다.

만약 국가예산계획의 집행내용이 실제와 상이한 경우, 예산지출항목을 재분배할 수 있습니다(국가재정법 제 65 조). 예산 재분배는 지출항목의 이전 정도에 따라 결정되는데, 구체적으로 (i) 같은 항목 내 재분배의 경우 각 부처의 장이, (ii) 타 예산항목 간 재분배의 경우 재무부장관이 결정하며, (iii) 부처간 예산 재분배의 경우에는 총리가 결정합니다.¹⁴

다. ODA 프로젝트 발주자의 예산사용 절차

¹⁴ 해외보조금 집행에 관해서는 국가재정법에 기초적인 수준에서만 규정되어 있습니다. 국가재정법 제69조에 따르면 해외보조금의 집행은 해당 공여기관과의 협의 및 조율을 통해 이루어져야 한다고 규정하고 있습니다.

ODA 사업의 경우, 공여기관과 체결한 계약에 따라 사업을 직접 관리하고 지방자치단체의 기관, 정부부처, 소속기관 기타 이에 준하는 기관(즉, 프로젝트 발주자)은 공동재원계획서를 작성하여야 합니다. 정부부처와 지방자치단체의 기관이 공통으로 시행하는 프로젝트는 그 통일성을 위해 프로젝트 관리자와 긴밀히 협조하여야 하며, 프로젝트 발주자는 각 프로젝트 별 담당 지방자치단체 또는 당국에 공동자금조달계획을 제출하여야 합니다.

프로젝트를 시행하는 프로젝트 발주자는 예산계획에 포함된 프로젝트에 대하여, 정부의 연간 기여 계획을 제안하는 내용의 연간 인출계획을 기획투자부 및 재무부에 제출하여야 합니다. 앞서 살펴본 바와 같이, 종합계획 및 연간계획은 그 검토를 위하여 기획투자부에 제출되고 정부의 일반예산계획에 포함되며, 재무부를 통해 국회에 제출됩니다. 국회의 승인을 받은 후 프로젝트 발주자 및 관리자는 그 다음 절차의 진행을 위하여 기획투자부에 문서를 제출합니다.

한편 ODA 관리 및 운용지침 제 6조 제 4 항에 따르면, 프로젝트 시행에 따른 정부의 분담금 관리는 라오스 법규 및 정부와 공여기관 사이에 체결된 계약에 따라야 하며, 자금 공여자가 프로젝트에 대한 구체적인 조건을 정할 수 있는 것으로 규정하고 있습니다.

만약 프로젝트 발주자가 정부의 보조금 또는 출자의 승인을 요청하고자 하는 경우, 모든 증빙서류를 작성하고 지방자치단체의 장(해당하는 경우)의 서명을 받은 후 기획투자부에 제출하여야 합니다. 이때 프로젝트는 ODA 데이터베이스 시스템 또는 www.ODA-MIS.gov.la 에 프로젝트 코드가 입력되어 있는 승인된 프로젝트여야 합니다.

한편, 국제기구의 프로젝트 이행을 위해 은행에 예금계좌를 개설하기 위해서는 재무부 및 기획투자부의 공식 승인을 받아야 합니다. 또한 프로젝트 시행자는 관련 협약에서 합의한 바에 따라 ODA 프로젝트에 사용될 수입 자재 및 차량에 대한 요청서를 외교부에 제출하고, 공여기관으로부터 수령한 ODA 자금의 실제 지출내역을 분기·연 단위로 외교부 및 기획투자부에 보고하여야 합니다. 그리고 사업을 시행하는 프로젝트 발주자는 기간별로 프로젝트의 이행상황을 평가하여 월, 분기, 반기, 연 단위로 현황보고서 및 재무보고서를 재무부에 제출하여야 합니다.

4. 국가 예산계획에 대한 결산 및 감사

가. 국가예산에 대한 결산

국가예산에 대한 결산 보고는 재무부 등 각 관련 기관이 회계명세서를 작성·마감한 이후 진행합니다(국가재정법 제 66 조, 제 67 조). 구체적으로, 국고(National Treasury)는 해당 회계연도의 예산회계 결산일로부터 20 일 이내에 수입·지출, 수지현황, 송금명령에 따른 채권내역, 지급명령에 따른 채무내역을 작성하여 재무부에 보고하며, 재무부는 국고의 보고를 받은 날로부터 10 일 이내에 예비보고서를 작성하여 정부에 제출합니다(국가재정법 제 68 조).

이후 최종결산 절차를 진행하게 되는데, 이에 따르면 각 부처의 장은 결산보고서를 검토한 후 1 월 30 일까지 해당 보고서를 재무부에 제출하고, 재무부는 3 월 31 일까지 감사원의 감사를 거친 연간 결산보고서를 요약하여 정부에 제출한 뒤 심의를 받습니다. 정부는 연간 결산보고서를 검토 및 심의하여 국회 개회 15 일 전까지 국회에 공식적으로 제출하여야 합니다 최종결산(국가재정법 제 71 조).

국회는 국가 및 지방자치단체, 기타 기관의 전년도 결산보고서를 심의하고 채택합니다(국가재정법 제 72 조). 국회는 수입 또는 지출, 자산 및 부채를 검토함에 있어 해당 집행내역이 예산계획과 일치하지 않는 것으로 확인될 경우, 정부, 재무부장관 및 각 부처의 장에게 책임을 물을 수 있습니다.

나. 예산관리 및 감사

국가예산의 관리에 대하여는 재무부 및 각 지방자치단체의 재무부서에서 관련 업무를 수행하며, 그 주된 업무로는 수입 및 지출내역 분석, 예산수립, 내부감사, 회계장부 작성업무 등이 있습니다(국가재정법 제 73 조). 아울러 국가예산에 대한 감사기관은 크게 내부감사기관과 외부감사기관으로 구분되는데(국가재정법 제 80 조), 내부감사의 경우에는 재무부 및 각 지방자치단체의 재무부서 등 예산관리업무를 수행하는 기관에서 감사업무를 수행합니다. 특히 각급 재무담당자의 예산수립, 세입징수, 예산집행, 국가자산의 이용, 공공조달, 채용 등에 관한 법규이행 및 책무 수행 여부를 주된 감사내용으로 합니다(국가재정법 제 81 조).

한편, 외부감사는 각 기관에 부여된 책임범위에 따라 국가기관 및 국가예산을 사용하는 기관의 국가재정법 이행여부 및 각급 재무담당자의 법규이행, 책무수행여부에 관하여 감사업무를 수행합니다(국가재정법 제 82 조). 외부감사를 수행하는 기관은 다음과 같습니다.

- 1) 국회
- 2) 정부
- 3) 중앙감사위원회
- 4) 감사원
- 5) 특별검사

감사의 종류는 그 수행시기 및 방법에 따라 정기감사, 수시감사, 긴급감사로 구분됩니다(국가재정법 제 84 조). **정기감사**는 사전에 정하여진 일시 및 계획에 따라 정기적으로 실시하는 감사를 의미하며, **수시감사** 필요하다고 판단되는 경우 감사진행에 관하여 통지한 후 임의로 진행하는 감사를 의미합니다. **긴급감사**는 사전 통지 없이 불시에 진행하는 감사를 의미합니다.

5. 위반 및 벌칙

국가재정법을 위반한 개인, 법인 또는 단체는 위반의 정도에 따라 교육, 과태료, 민사상 손해배상 또는 법에서 정한 바에 따라 형사책임을 질 수 있습니다(국가재정법 제 86 조).

[벌칙 및 사유]

No.	벌칙	사유
1	재교육	<ul style="list-style-type: none"> - 국가재정 관련 법규를 위반한 개인 법인 단체로써, 위반사항이 경미한 경우에는 재교육을 실시함(국가재정법 제 87 조) - 재교육 사유는 다음과 같음 <ul style="list-style-type: none"> • 예산계획서 또는 결산보고서 내용이 부정확하거나 그 제출이 지연되는 경우 • 개인 또는 사업자와 공모하여 예산관련 의무이행을 지연하거나 이행하지 않는 경우 • 과실로 연간 예산계획서에 명시된 지출의 목표 또는 성격과 일치하지 않거나 예산 분류법과 일치하지 않는 내용으로 지시하는 경우, 또는 지출규정에 부합하지 않도록 계산하는 행위 • 재무상태를 투명하게 신고하지 않는 경우, 예산수립, 집행 및 보고가 지연되는 경우

No.	별칭	사유
		<ul style="list-style-type: none"> • 송금 또는 지급명령의 이행을 방해하거나 그 이행을 위하여 보상을 요구하는 경우 • 예산의 지출을 불공정하게 집행하는 행위 • 설명 등을 제공하지 않거나 무례한 언동을 하는 등 고객과의 관계를 어렵게 하거나 고객에게 부적절한 행위를 한 경우 • 소속 직원에 대한 불공정 징계(제재) 또는 징계(제재)를 해태한 경우
2	과태료	<ul style="list-style-type: none"> - 개인, 또는 단체 다음의 행위를 한 경우에는 과태료가 부과됨(국가재정법 제 88 조) <ul style="list-style-type: none"> • 제 87 조에 따른 재교육대상이 되는 행위를 지속적으로 수행하는 경우 • 납세자 정보를 제공하지 않거나, 부당징수를 하는 경우, 징수의무에 관한 정보를 제공하지 않거나 사업단위의 민원을 해결하지 않는 경우 • 납세자 정보를 제공하지 않거나, 부당징수를 하는 경우, 징수의무에 관한 정보를 제공하지 않거나 사업단위의 민원을 해결하지 않는 경우 • 사업단위로부터 불완전 징수를 하거나, 법령을 위반하는 징수를 하여 송금명령에 따른 채권액이 감소하는 경우 • 회계문서 미작성, 재무담당자 미임명, 출납원 미임명, 업무표준에 따른 지원장비 미제공, 업무내역 미신고, 재무부 또는 관련부처에 대한 정기보고서 미제출 등 법령에서 규정한 기준이나 조건을 이행하지 않는 경우
3	민사상 조치 · 형사처벌	<ul style="list-style-type: none"> - 국가재정법령을 위반하여 심각한 손실을 초래한 개인은 그 위반의 경중에 따라 형법에서 정하는 바에 따라 처벌을 받게 되며, 손해를 배상하여야 함(공공조달법 제 89 조)

[별첨 1] 라오스 조사 대상법률(일부)

* 라오스 법률 영어본은 전부 비공식적 번역본(unofficial translation)인데, 본건 조사 대상법률 중에는 영어번역본이 존재하지 않는 법률도 많습니다. 본 보고서에는 라오스 정부 또는 공공기관이 제공하는 법률 영어번역본 중 일부를 첨부하였습니다.

1. DECREE On the Management and Utilization of Official Development Assistance

Unofficial Translation



**Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity**

Government of the Lao PDR

REF NO: 357/GOL
Vientiane Capital, 09th October 2019

**DECREE
On the Management and Utilization of Official Development Assistance**

- Pursuant to the Law on the Government of the Lao PDR, Ref No: 04/NA, dated 08/11/2016;
- Pursuant to the Law on Public Investment, Ref No:72/NA, dated 15/12/2015;
- Pursuant to the Law on International Treaties and Agreements, Ref No: 05/NA, dated 08/05/2017;
- Pursuant to the Law on State Budget, Ref No: 71/NA, dated 16/12/2015;
- Pursuant to the Law on Public Debt Management, Ref No: 46/NA, dated 18/06/2018;
- Pursuant to the Law on the Bank of the Lao PDR, Ref No: 47/NA, dated 19/06/2018;
- Pursuant to the request by the Minister of Planning an Investment, Ref No: 2007/MPI.DIC.AED.02, dated 06/09/2019.

The Government of the Lao PDR issues the Decree:

Chapter 1: General Provisions

Article 1: Objectives

This Decree outlines the principles, regulations and mechanisms pertaining to the management and utilization of Official Development Assistance by Development Partners to the Government of the Lao PDR. The objective is to ensure that funds are managed and utilized in a harmonized, efficient and transparent manner, contributing to the effective implementation of priority targets under the National Socio-Economic Development Plan, in line with the National Green Growth Strategy and the global development agenda.

*Unofficial Translation***Article 2: Official Development Assistance**

Official Development Assistance, abbreviated as “ODA”, refers to the technical, financial and material support provided by Development Partners to the Government of the Lao PDR for the socio-economic development of the Lao PDR. ODA can consist of grants and/or soft loans.

Article 3: Terminology

The terms used in this Decree shall have the following meaning:

1. **“International Cooperation Framework”** refers to the instrument outlining short-, medium- and long-term international cooperation. The International Cooperation Framework links cooperation to specific or multiple priority sectors of the Government;
2. **“Development Partner”** refers to a government, government-nominated agency or international organization, which provides technical, financial and material support to the Lao PDR;
3. **“One Stop Service”** refers to the principle according to which all forms of ODA must adhere to a centralized process with a macro-level organization in charge of management, coordination, prioritization, planning, monitoring and evaluation, as outlined in the National Socio-Economic Development Plan;
4. **“Macro-level organization”** refers to ministries and agencies at the government level tasked with macro-level management at the level of the National Socio-Economic Development Plan. These organizations include: the Ministry of Planning and Investment, the Ministry of Foreign Affairs, the Ministry of Finance and other related ministries or agencies;
5. **“International Organizations”** refers to intergovernmental organizations;
6. **“Representative Office of the Lao PDR to a foreign country”** refers to the office of a diplomatic corps, consulate and permanent representative of the Lao PDR assigned to a country;
7. **“Foreign Representative Office in the Lao PDR”** refers to the office of a diplomatic corps and consulate and permanent representative assigned to the Lao PDR;
8. **“Project/Programme Steering and Management Committee”** refers to a committee consisting of representatives from the project/programme concerned macro-level organizations and local authorities mandated with steering and managing the implementation of the project/programme; The Project/Programme Steering and Management Committee may also unanimously agree to include a representative from the development partner wherever required;
9. **“Multi Sectoral Project/Programme”** refers to a project or programme implemented across multiple sectors with one specific sector acting as the main implementing agency tasked with the overall management and coordination. The other sectors will implement activities corresponding to their respective mandates;
10. **“Government contribution”** refers to the contribution in kind or in cash made by the Government or the people of the Lao PDR for the implementation of the project/programme. Such contributions must be included in the budget proposed by the project owner and reported to the Government for consideration who in turn submits to the National Assembly for endorsement;
11. **“Project/Programme Monitoring”** refers to the regular monitoring of activities at every level, in order to gather, sort and analyze information regarding the implementation of the project/programme and to provide timely advice in establishing mitigation plans to ensure

Unofficial Translation

- that the project/programme is on track and conforms with the required standards;
12. **“Non-Governmental Organization, abbreviated as NGO”** refers to a legal entity with the purpose of providing development and/or humanitarian assistance;
 13. **“Association” and its different iterations including “Union”, “Club” and others, hereinafter commonly referred to as “Association”** refers to a social organization consisting of members (with the exception of for profit business associations);
 14. **“Foundation”** refers to a social organization which is a legal entity and possesses separate funds and assets providing benefits in the sectors of culture, education, environment, health, sport, science, charity, humanitarian activities and others, without seeking profit.

Article 4: Government Policy regarding ODA

The Government of the Lao PDR maintains its policy to manage and utilize ODA as a key source of funding for the implementation of the National Socio-Economic Development Plan;

The Government of the Lao PDR implements its policy by setting up regulations regarding ODA and by contributing staff time and financial resources to ensure the effectiveness and transparency of ODA management and utilization.

Article 5: Principles of ODA management and utilization

ODA funds shall be managed and utilized according to the following principles:

1. Alignment with the policies, constitution, laws and contribute to the Socio-Economic Development of the Lao PDR;
2. Streamlining under the One Stop Service, with the Ministry of Planning and Investment acting as coordinator for other concerned line ministries, agencies and authorities for further implementation;
3. Alignment with the ODA strategy and the development partner cooperation framework ;
4. Ownership and high responsibility of ministries, agencies and authorities acting as project/programme owner;
5. Correct, effective and efficient use of ODA;
6. The financial management of the ODA project/programme must conform to both the laws and regulations of the Lao PDR and the agreement established with development partners;
7. Timely, transparent, fair and auditable;
8. Coordination with stakeholders.

Article 6: Scope

This Decree applies to individuals, legal entities, institutions and bilateral cooperation entities involved in the implementation of ODA projects/programmes.

Article 7: International Cooperation

The Government of the Lao PDR promotes cooperation with foreign countries as well as with the regional and global community through ODA, including the exchange of lessons learned, information, and experiences related to the mobilization and the technology involved in managing and utilizing ODA.

Chapter 2: Types of ODA

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Article 8: Types of ODA

ODA can consist of:

1. Grants;
2. Soft Loans.

Article 9: Grants

A Grant refers to non-repayable aid in the form of a project or programme, the provision of technical support, financial support, funding for the preparation of a project/programme, a grant combined with a soft loan, material support and other support in the form of projects/programmes received during an international high delegation visit to the Lao PDR or during a visit of the Lao Government's high delegation to a foreign country;

Article 10: Soft Loans

A soft loan refers to a loan or financing which has below-market interest rates or other concessions such as longer repayment periods or longer grace periods. Soft loans are integrated into projects/programmes, in fields such as infrastructure development, social development, poverty eradication that do not directly generate revenue and high financial returns.

Article 11: Mobilization of ODA

The mobilization of ODA must refer to a strategy and a cooperation framework between the Government and the development partners as established by the concerned ministries, agencies, local authorities and representative offices of the Lao PDR in foreign countries, as well as the Roundtable Process according to the National Socio-Economic Development Plan.

Chapter 3: the Management and Utilization of ODA

Article 12: The Management of ODA

All ODA funds implemented in the country shall be comprehensively managed by the Government with the Ministry of Planning and Investment acting as the main agency responsible in taking the lead in coordinating with the Ministry of Foreign Affairs, the Ministry of Finance and other concerned line ministries, agencies and local authorities.

Article 13: Objective of ODA Utilization

ODA funds shall be utilized to implement projects/programmes or priority projects as identified under the National Socio-Economic Development Plan..

Article 14: Approval of the ODA strategy

The Government approves a long-term cooperation strategy of ODA encompassing multiple sectors and the national and regional levels, as proposed by the Ministry of Foreign Affairs.

Article 15: Approval of Grant projects/programmes

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The approval of ODA projects/programme shall proceed as follows:

1. The Government approves a Grant encompassing multiple sectors at national and/or regional levels, as proposed by the Ministry of Planning and Investment;
2. The Ministry of Planning and Investment approves all Grant projects/programmes as proposed by line ministries, agencies and local authorities;
3. The Ministry of Foreign Affairs approves the Grants from foreign NGOs, Associations, Foundations, Funds, Institutes, Individuals, Legal entities or other institutions as well as Grants given to Lao Civil Society organizations as agreed by line ministries, agencies and the Ministry of Home Affairs according to the Decree Nr. 013/PM, dated 08 January 2010 on Non-Governmental Organizations, the Decree Nr. 238/PM dated 11 August 2017 on Associations and the Decree Nr. 149/PM, dated 19 May 2011 on Foundations.

Article 16: Implementation of Grant projects/programmes

Ministries, agencies and local authorities acting as Grant project/programme owners shall proceed as follows:

1. Establish a Project Steering and Management Committee at ministerial, agency or local levels, which shall comprise the Departments acting as main governing and implementing body of the project/programme to ensure that the Grant is utilized in an effective, efficient, transparent and auditable manner and conforms to the laws and regulations of the Lao PDR, as well as to those of the development partner;
2. Establish a Project Implementing Unit to prepare for the implementation of the different components under the Grant project/programme:
 - Establish an annual workplan which shall include activities and tasks to be implemented under the Grant project/programme;
 - Establish an annual budget and disbursement plan of the Grant as well as a Government Contribution Plan and budget for monitoring and evaluation of the Grant project/programme. These plans shall be reported to the leadership of the concerned agency before being submitted to the Ministry of Planning and Investment and the Ministry of Finance for review and budgeting. The plans shall then be submitted to the Government and the National Assembly for approval and endorsement;
 - Prepare a detailed personnel allocation plan to ensure smooth implementation of the project/programme;
 - Report on the progress of implementation, fund disbursement, Government contribution (if applicable) as well as problems and challenges encountered during the implementation of the project/programme within the mandate of the concerned agency.

Article 17: Monitoring of Grant projects/programmes

The monitoring of Grant projects/programmes shall proceed as follows:

1. The Ministry of Planning and Investment shall take the lead in drafting Monitoring and Evaluation Guidelines to serve as a reference for effective monitoring and evaluation and the implementation of Grant projects/programme at macro level. The Monitoring and Evaluation Guidelines shall be disseminated to the concerned line ministries, agencies and local authorities as well as development partners;

Unofficial Translation

2. The line ministries, agencies and local authorities acting as Grant project/programme owners shall utilize the system and templates for monitoring and evaluation created by the Ministry of Planning and Investment which will serve as a common reference for the Government and development partners;
3. The line ministries, agencies and local authorities acting as Grant project/programme owners shall adhere to the regulations regarding the Evaluation of Public Investment Projects;
4. The Ministry of Planning and Investment shall take the lead in coordinating with development partners in organizing the review meeting of Grant projects/programme in order to monitor and evaluate the progress of implementation or any challenges encountered during implementation;
5. The line ministries, agencies and local authorities shall monitor, advise and facilitate the implementation of the Grant project/programme to ensure its effective and successful completion.

Article 18: Evaluation of Grant project/programme

The evaluation of Grant projects/programme consists of the following:

1. The Ministry of Planning and Investment shall take the lead in coordinating with development partners in informing the line ministries, agencies and local authorities acting as Grant project/programme owners on the initial evaluation of the Grant project/programme documents;
2. The Ministry of Planning and Investment shall take the lead in coordinating with development partners in informing the line ministries, agencies and local authorities acting as Grant project/programme owners on the midterm evaluation of the Grant project/programme; this shall be conducted as soon as the project reaches its midterm in order to assess the status of the implementation against the timeline of the project/programme and to make necessary adjustments to the workplan and budget;
3. The Ministry of Planning and Investment shall take the lead in coordinating with development partners in informing the line ministries, agencies and local authorities acting as Grant project/programme owners on the end-of-term project evaluation; this shall be conducted immediately after project completion to assess the results of implementation and to provide a report on the success of the project/program;
4. The Ministry of Planning and Investment shall take the lead in coordinating with development partners in informing the line ministries, agencies and local authorities acting as Grant project/programme owners on the post-project evaluation to assess the effectiveness, sustainability and impact of the project against the initial objectives of the project.

Article 19: Completion and Extension of Grant projects/programmes

The line ministries, agencies and local authorities acting as project/programme owners shall prepare a summary of the results of the project/programme six months before project completion and report to the Ministry of Planning and Investment, the Ministry of Foreign Affairs and the Ministry of Finance;

The Ministry of Planning and Investment, the Ministry of Foreign Affairs and the Ministry of Finance shall organize a meeting to consider the content of the report before organizing another meeting with the concerned line ministries and development partners;

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The line ministries, agencies and local authorities acting as Grant project/programme owners shall submit a summary and a list of assets to be transferred to the Ministry of Finance after completion of the project/programme according to the Law on State Assets, as well as inform the Ministry of Planning and Investment of such transfer. The Ministry of Finance shall allocate the assets as instructed by the Government.

In case of a project/programme extension, the line ministries, agencies or local authorities shall submit a request for extension detailing the achievements made under the project/programme as well as the reasons for the requested extension.

Article 20: Implementation Report of ODA projects/programmes

The Implementation Report of ODA projects/programmes shall consist of the following:

1. The line ministries, agencies or local authorities acting as project/programme owners along with development partners shall report on the implementation of activities, actual disbursement, disbursement plans and the contribution of the line ministries, agencies or local authorities to the Ministry of Planning and Investment in order to monitor the progress made and to include the contribution to the national budget before the 15th June of every year;
2. The Project Steering and Management Committee shall report on the implementation and progress of the project/programme on a quarterly, semi-annual and annual basis and seek advice;
3. The Implementation Unit of Grant and/or Soft Loan projects/programmes shall report on implementation progress, disbursement plan, actual disbursement and achievements of the project/programme to the Steering and Management Committee on a monthly, quarterly, semi-annual and annual basis;
4. Projects/programmes supported by NGOs, Associations and Foundation shall proceed according to the Decree 013/PM, dated 08/01/2010, Decree 238/PM, dated 11/08/2017 and the Decree 149/PM, dated 19/05/2019.

Chapter 4: Management and Utilization of Soft Loans**Article 21: Management of Soft Loans**

All soft loan financed projects implemented in the country shall be comprehensively managed by the Government with the Ministry of Finance acting as main responsible agency taking the lead in coordinating with the Ministry of Planning and Investment, the Ministry of Foreign Affairs as well as other concerned line ministries, agencies and local authorities, in accordance with the Law on Public Debt Management.

Article 22: Objective of Soft Loan utilization

Soft loans are integrated into the projects/programmes in fields such as infrastructure development, social development, poverty eradication which do not directly generate revenue and high financial returns.

In order to maintain a balanced budget, soft loans shall refer to the state budget as endorsed by the National Assembly.

Unofficial Translation

Article 23: Soft loan projects/programmes

Soft loan projects/programmes shall fulfill the following conditions:

1. Included in the National Socio-Economic Development as endorsed by the National Assembly;
2. Include a Feasibility Study which has been accepted by the concerned line ministries and approved by the Government through the Ministry of Planning and Investment, with projects/programmes with a value equal to or higher than 400 billion LAK requiring endorsement by the National Assembly;
3. Included in the Annual Loan Plan and Midterm Loan Plan consolidated by the Ministry of Finance and approved by the Government;
4. In order to maintain a balanced budget, soft loans must be included in the state budget as endorsed by the National Assembly.

Article 24: Approval of Soft Loan projects/programmes

The endorsement of a soft loan project/programme shall proceed as follows:

1. Line ministries, agencies or local authorities shall conduct a feasibility study of the project/programme and request an endorsement from the concerned authorities;
2. The Ministry of Planning and Investment shall review the feasibility study and include the project/programme in the Investment Plan;
3. The Ministry of Finance shall establish a Review Committee comprising all concerned stakeholders and discuss the necessity of the loan for the implementation of the project/programme;
4. The Ministry of Finance shall assess the sources of the loan, the potential impacts and related risks to the status of public debt, confirm the ability to service the loan, and consolidate the loan projects and programmes when requesting Government approval

Article 25: Inquiry and negotiation of Soft Loan Agreements

Inquiry and negotiation of Soft Loan Agreements shall proceed as follows:

1. The Government considers and approves the Loan Plan;
2. The Ministry of Finance initiates the process of loan inquiry as proposed by the line ministries, agencies, local authorities and development partners;
3. The line ministries, equivalent line ministries and local authorities shall coordinate with the Ministry of Planning and Investment, the Ministry of Finance and other concerned ministries and establish a taskforce to formulate the project after the loan has been confirmed by the donor, report the final evaluation of Grant projects/programmes proposed by the concerned line ministries, agencies and authorities to the Government for approval and request the nomination for the Ministry of Finance to negotiate the signing of the Loan Agreement with development partners.

Article 26: Implementation of Soft Loan projects/programmes

The implementation of Soft Loan projects/programmes shall proceed as follows:

Unofficial Translation

1. The implementation of the project/programme must be in line with the objectives, goals and terms of the Loan Agreement and must comply with the laws and regulations of the Lao PDR. The procurement process shall refer to the Law on Procurement, unless otherwise stated in the Loan Agreement of the project/programme, in which case the process shall refer to the regulations of development partners;
2. The financial implementation of the project/programme must comply with the relevant laws and regulations of the Ministry of Finance such as: the Law on State Budget, the Law on Management of State Assets, Law on Taxes and the relevant regulations related to the financial management of ODA and others.
3. The line ministries, agencies or local authorities implementing the project/programme shall submit an Annual Withdrawal Plan to the Ministry of Finance and the Ministry of Planning and Investment to be included in the budget plan which is to be reported to the National Assembly for endorsement; the implementing agencies shall also assess the implementation of the project/programme in each period and submit the resulting report as well as the financial report to the Ministry of Finance on a monthly, quarterly, semi-annual and annual basis;
4. The monitoring and evaluation of the project/programme shall be conducted on a regular basis with the participation of the Ministry of Finance, the Ministry of Planning and Investment as well as line ministries, agencies and local authorities to ensure the effective and efficient utilization of the loan in line with the objectives;
5. Six months prior to the completion date of the project, the Ministry of Finance shall coordinate with the concerned parties to evaluate the outcomes and reassess the effectiveness of the utilization of the loan project/programme to exchange lessons learned and to provide reference for the consideration of future loan projects.

Chapter 5: Rights and Duties of Government Agencies

Article 27: Rights and Duties of the Government

The Government has the following rights and duties:

1. Determine the guidelines, policy and strategy for the mobilization, negotiation and management of ODA;
2. Consider, agree to and approve:
 - Strategies, main agreements or cooperation frameworks pertaining to overall development assistance and related to macroeconomic policies, as proposed by the Ministry of Foreign Affairs following unanimous consent from the Ministry of Planning and Investment, the Ministry of Finance as well as other concerned line ministries, agencies and authorities;
 - Results of the final evaluation of Grant projects/programmes as proposed by the Ministry of Planning and Investment and loan projects/programmes as proposed by the Ministry of Finance;
 - Results of negotiations for loan projects as reported by the Ministry of Finance;
 - The signing of agreements, amendments or cancellation of ODA projects/programmes;
 - The provision of Government contributions to the implementation of ODA projects/programmes under the National Socio-Economic Development Plan and the Annual Government Budget Plan as reported by the Ministry of Planning and

Unofficial Translation

- Investment;
3. Approve and agree to the request for the Ministry of Finance or any other individual nominated by the Ministry of Finance to sign the Loan Project Agreement on behalf of the Government;

Article 28: Rights and Duties of the Ministry of Planning and Investment

The Ministry of Planning and Investment has the following Rights and Duties:

1. Take the lead in establishing periodic Official Development Assistance Strategies;
2. Consolidate and establish periodic lists of ODA requirements from concerned line ministries, agencies and authorities for the implementation of the National Socio-Economic Development Plan according to the Sustainable Development Goals and National Green Growth Policies;
3. Take the lead in coordinating with the Ministry of Foreign Affairs, the Ministry of Finance as well as other concerned line ministries, agencies and authorities regarding the implementation of Government policies and guidelines related to the mobilization of ODA;
4. Take the lead in coordinating with the Ministry of Foreign Affairs, the Ministry of Finance as well as other concerned line ministries, agencies and authorities regarding consultations with development partners for the establishment of cooperation frameworks as well as identifying new projects/programmes and their implementing agencies;
5. Sign Project Agreements encompassing multiple sectors;
6. Take the lead in coordinating concerned line ministries, agencies and authorities for the consolidation of ODA projects/programmes to be approved by the Government;
7. Take the lead in coordinating with the Ministry of Foreign Affairs, the Ministry of Finance as well as other concerned line ministries, agencies and authorities regarding the review and the endorsement of the list of ODA projects/programmes;
8. Take the lead in reporting the final evaluation of Grant projects/programmes proposed by the concerned line ministries, agencies and authorities to the Government for approval;
9. Take the lead in consolidating and identifying priority areas for ODA as proposed by development partners and inform concerned line ministries, agencies and authorities to further consult with development partners;
10. Participate in the formulation process of ODA projects/programmes with concerned line ministries, agencies and authorities;
11. Take the lead in holding meetings with development partners, line ministries, agencies and authorities to review the implementation of ODA projects/programmes on a quarterly, semi-annual and annual basis;
12. Coordinate with concerned line ministries, agencies and authorities in promulgating and promoting the implementation of ODA-related legislations and regulations;
13. Coordinate with concerned line ministries, agencies and authorities in consolidating and verifying the Government contributions for ODA projects and report to the Government for consideration and submit to the National Assembly for endorsement;
14. Take the lead in establishing a nationwide Database for ODA and coordinate with the Ministry of Finance, the Ministry of Foreign Affairs as well as concerned line ministries, agencies and authorities to provide a common report on ODA fund disbursement to the Government for consideration and submit to the National Assembly for endorsement;
15. Take the lead in summarizing ODA disbursement in the form of Grants, in coordination with the Ministry of Finance, Ministry of Foreign Affairs as well as concerned line ministries,

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- agencies and authorities in order to report to the National Assembly;
16. Participate in the process of drafting a Master List for ODA projects/programmes as proposed by concerned line ministries, agencies and authorities;
 17. Take the lead in signing the agreement regarding technical support for the preparation of the project and other work by concerned agencies supported by development partners;
 18. Coordinate with line ministries, agencies or local authorities regarding the acceptance and management of foreign experts, volunteers and interns dispatched under ODA projects/programmes;
Take the lead in establishing regulations related to the management of foreign experts, volunteers and interns dispatched under ODA projects/programmes to ensure a timely and transparent process;
 19. Take the lead in coordinating concerned line ministries, agencies and authorities for the provision of Certificates of Honor to representatives of bilateral cooperation agencies and to experts, volunteers and interns who have completed their mission under ODA;
 20. Provide a report on the implementation of ODA projects/programme to the Ministry of Foreign Affairs for information and monitoring.

Article 29: Rights and Duties of the Ministry of Foreign Affairs

The Ministry of Foreign Affairs has the following rights and duties:

1. Take the lead or coordinate with the Ministry of Planning and Investment, the Ministry of Finance and concerned line ministries as well as agencies regarding the establishment and signing of official documents with development partners for short-, medium-, and long-term cooperation frameworks encompassing multiple sectors or specific to a single priority sector of the Government;
2. Act as focal point for the coordination and liaison with foreign governments and international organizations regarding requests for ODA and emergency aid in all forms, in accordance with the mandate of the Ministry of Foreign Affairs on the comprehensive management of foreign affairs in the Lao PDR;
3. Take the lead in coordinating with the Ministry of Planning and Investment, the Ministry of Finance, the Ministry of Home Affairs and other concerned line ministries and agencies regarding the provision of guidance to representative offices in foreign countries to implement policies, directions, programmes or projects for the mobilization of ODA as well as the implementation of the Government's and the Party's policies pertaining to foreign relations
4. Take the lead in establishing strategies, plans, programmes and projects in cooperation with NGOs, Associations, Institutes, Funds, Foundations, individuals and legal entities from foreign countries and consider the requests made by line ministries, agencies and local authorities regarding the approval of the project/programme as stated in Article 15, paragraph 3 of this Decree;
5. Participate in the negotiation, inspection of the International Cooperation Strategy and project/programme agreement with the Ministry of Planning and Investment, the Ministry of Finance and other concerned line ministries and agencies;
6. Follow the diplomatic process of issuing Powers of Attorney to concerned line ministries and agencies for the signing of ODA projects/programme as approved by the Government;
7. Participate in the monitoring of ODA projects/programmes along with concerned line ministries and other stakeholders;
8. Coordinate with line ministries, agencies and local authorities regarding the organization

Unofficial Translation

- and participation in training related to the management and implementation of ODA projects/programmes;
9. Take the lead in coordinating with line ministries, agencies and local authorities regarding the provision of Certificates of Honor to officials of Representative Offices to the Lao PDR, representatives of international organizations, head of regional offices as well as heads of NGOs, Associations, Institutes, Funds, Foundations, individuals and legal entities from foreign countries who have achieved outstanding work contributing to the development of the Lao PDR;
 10. Take the lead in coordinating with line ministries, agencies and local authorities regarding the consolidation of data from ODA projects/programmes supported by development partners or cooperation projects with NGOs, Associations, Institutes, Funds, Foundations, individuals and legal entities from foreign countries to be reported to the Government and integrated into the ODA database managed by the Ministry of Planning and Investment;
 11. Take the lead in consolidating ODA data from the projects/programmes supported by development partners and international organizations through NGOs, Associations, Institutes, Funds, Foundations, individuals and legal entities from foreign countries according to Article 15 paragraph of this Decree;
 12. Participate in the monitoring of the implementation of ODA projects along with line ministries, agencies and local authorities.

Article 30: Rights and Duties of the Ministry of Finance

The Ministry of Finance has the following rights and duties:

1. Coordinate with development partners and inquire regarding possible funds for cooperation projects/programmes;
2. Coordinate and participate in the formulation process of ODA projects/programmes in the form of soft loans or related to soft loans with line ministries, agencies and local authorities;
3. Take the lead in reporting the results of the final evaluation of ODA projects or programmes in the form of loans or related to soft loans in line with the National Socio-Economic Development Plan to the Government for approval;
4. Take the lead in negotiating and signing ODA project agreements as authorized by the Government and proceed as necessary to ensure that the agreements are in effect;
5. Take the lead in coordinating with line ministries, agencies and local authorities responsible for the project/programme and organizing kickoff meetings or dissemination of regulations related to the management of finance, revenue and expenditure of the project;
6. Take the lead in managing the finances as well as the implementation of procurement, tax commitments, disbursements or contributions and in the inspection of the utilization of assets of the ODA projects/programmes in the form of loans or related to soft loans;
7. Approve the list of materials and vehicles to be utilized under the ODA project/programme as agreed in the cooperation agreement, loan agreement or related documents;
8. Take the lead in consolidating periodic plans for the utilization of ODA funds as provided by line ministries, agencies and local authorities and include the plans in the state budget as well as coordinating with the Ministry of Planning and Investment, Ministry of Foreign Affairs and concerned line ministries, agencies and local authorities regarding the report of ODA funds (loans, ODA related soft loans, grants disbursed through the Ministry of Finance) to the Government and the National Assembly;
9. Organize meetings with the concerned sector responsible for the project/programme in order to monitor and review the financial disbursement on a quarterly and annual basis or as

Unofficial Translation

- required;
10. Take the lead in coordinating with development partners and concerned stakeholders in organizing trainings pertaining to financial management, procurement and other related regulations;
 11. Take the lead in reviewing the terms of loans and signing subsidiary loan agreements with state enterprises, monitoring and inspecting the implementation of the subsidiary loan agreement, establishing revenue plans and summarizing revenues related to the subsidiary loan;
 12. Take the lead in receiving visits of Boards of Directors from international finance institutions such as directors or deputy directors, vice-presidents or higher;
 13. Coordinate with the Ministry of Planning and Investment, the Ministry of Foreign Affairs as well as concerned line ministries, agencies and development partners regarding the monitoring of the implementation of ODA projects/programmes;
 14. Take the lead in consolidating assets of the projects/programmes and report to the Government for consideration.

Article 31: Rights and Duties of the Bank of Lao PDR

The Bank of Lao PDR has the following rights and duties:

1. Manage foreign currencies in compliance with the relevant laws;
2. Maintain and manage foreign currency reserves;
3. Open bank accounts for the Bank of Lao PDR and the Government in foreign central banks, international finance organizations and international finance institutions;
4. Provide services in opening bank accounts for foreign governments, finance institutions and organizations;
5. Provide comments regarding the domestic or international loaning of foreign currencies.

Article 32: Rights and Duties of the Ministry of Justice

The Ministry of Justice has the following rights and duties:

1. Participate in the negotiation process for the content of agreements pertaining to ODA projects/programmes;
2. Take the lead in reviewing and providing comments to Grant Agreements;

Article 33: Rights and Duties of Line ministries and agencies

Line ministries and agencies have the following rights and duties:

1. Coordinate with the Ministry of Planning and Investment, the Ministry of Foreign Affairs and the Ministry of Finance to establish strategies, frameworks and plans for international cooperation, including the mobilization of ODA in the respective sector strategies, in each period;
2. Inquire regarding ODA from development partners to contribute to the respective sector strategies and inform the Ministry of Planning and Investment to include the inquiry in the mobilization plan, or request for approval from the Government;
3. Formulate the ODA projects/programme relevant to the respective sectors, initiate the process of negotiation and the signing of implementation agreements with development

Unofficial Translation

- partners as agreed by the Ministry of Planning and Investment;
4. Formulate and conduct feasibility studies for ODA projects/programmes in the form of loans, report to the Ministry of Planning and Investment and the Ministry of Finance to submit to the Government for approval;
 5. Establish government contribution plans for ODA projects/programmes under their assigned responsibilities according to the project agreement and report to the Ministry of Planning and Investment for their inclusion in the annual budget, coordinate with local authorities to establish provincial contribution plans for ODA projects/programme;
 6. Coordinate with local authorities and the concerned sectors regarding management and monitoring and submit a request to the Ministry of Home Affairs to award certificates of honor to expatriate experts or volunteers deployed under ODA projects/programmes who have made outstanding contributions to the development of the Lao PDR;
 7. Submit the request to the Ministry of Finance regarding imported materials and vehicles to be used under ODA projects/programme as agreed in the cooperation agreements, loan agreements or any correspondence signed with development partners with the authorization of the Government;
 8. Take the lead in implementing ODA projects/programmes and report the progress of implementation as well as the operation of expatriate experts and volunteers deployed under ODA projects/programmes to the Ministry of Planning and Investment;
 9. Report the actual disbursement of ODA funds received from development partners to the Ministry of Planning and Investment and the Ministry of Finance on a quarterly and annual basis.
 10. Coordinate with local authorities and the concerned sectors regarding management and monitoring and submit a request to the Ministry of Home Affairs to award certificates of honor to expatriate experts or volunteers deployed under ODA projects/programmes who have made outstanding contributions to the development of the Lao PDR;
 11. Submit the request to the Ministry of Finance regarding the import materials and vehicles to be used under ODA projects/programme as agreed in the cooperation agreements, loan agreements or any correspondence signed with development partner with the authorization of the Government;
 12. Take the lead in implementing ODA projects/programmes and report the progress of implementation as well as the operation of expatriate experts and volunteers deployed under ODA projects/programmes to the Ministry of Planning and Investment;
 13. Report the actual disbursement of ODA funds received from development partner to the Ministry of Planning and Investment and the Ministry of Finance on a quarterly and annual basis.

Article 34: Rights and Duties of Local Authorities

The Local Authorities have the following rights and duties:

1. Provide information regarding the strategy of the province to the Ministry of planning and Investment, the Ministry of Foreign Affairs and the Ministry of Finance to establish the strategy, framework and plans for cooperation with development partners as well as the mobilization of ODA;
2. Inquire regarding ODA from development partners to contribute to the respective provincial strategies and inform the Ministry of Planning and Investment to include the inquiry in the Mobilization plan or request for approval from the Government;
3. Formulate the ODA projects/programme relevant to the respective provincial strategies,

Unofficial Translation

- initiate process of negotiations and signing of implementation agreements with development partner as agreed by the Ministry of Planning and Investment;
4. Formulate and conduct feasibility studies for ODA projects/programmes in the form of loan, report to the Ministry of Planning and Investment and the Ministry of Finance to submit to the Government for approval;
 5. Participate in the formulation process of the ODA project/programme, specifically the project design and implementation plan with the line ministries, agencies and development partners;
 6. Establish government contribution plans for ODA projects/programmes under their responsibilities according to the project agreement and report to the Ministry of Planning and Investment for inclusion in the annual budget, coordinate with the corresponding line ministry to establish contribution plans for projects/programme to be implemented at provincial level;
 7. Manage and request to the Ministry of Home Affairs to award certificates of honor to expatriate experts or volunteers deployed under ODA projects/programmes of the provinces who have made outstanding contributions to the development of the Lao PDR;
 8. Submit the request to the Ministry of Finance regarding the import materials and vehicles to be used under ODA projects/programme as agreed in the cooperation agreements, loan agreements or any correspondence signed with development partner with the authorization of the Government;
 9. Take the lead in implementing ODA projects/programmes;
 10. Report the actual disbursement of ODA funds received from development partner to the Ministry of Planning and Investment and the Ministry of Finance on a quarterly and annual basis;
 11. Appoint a coordination and management unit at provincial/Vientiane Capital level to be chaired by the Vice-governor and consisting of representatives from concerned departments as well as the Department of Planning and Investment as secretariat;

Chapter 6: Prohibitions**Article 35: General prohibitions**

Individuals, legal entities or organizations shall be prohibited from the following:

1. Misappropriate ODA funds and repurpose ODA funds without the consent of the concerned ministries and agencies;
2. Exploiting rights, duties or authorities for personal benefits through ODA leading to damages;
3. Obstruct the processes of inspection, resolution in case of breach and any implementation of regulations related to ODA project/programme management;
4. Provision of late, incomplete and inaccurate information manner when reporting on implementation or resolving issues related to the implementation of ODA projects/programme;
5. Any other illegal behaviors.

Article 36: Prohibition for concerned officials and staffs

Concerned officials and staffs shall be prohibited from the following:

Unofficial Translation

1. Appoint a spouse, child or close family member as a treasurer or finance officer of the ODA project/programme;
2. Disclose confidential information of the Government, related to the Government and financial information of confidential nature of individual, legal entities pertaining to the budget of the ODA project/programme;
3. Disregard responsibilities in the different review processes before or during the implementation of the ODA project/programme;
4. Delay the process, falsify documents and disregard the assigned responsibilities;
5. Open a bank account for the implementation unit of the ODA project/programme without the authorization of the respective organization and the Ministry of Finance;
6. Wrong Disbursement of funds against the budget, illegal calculations, misappropriation of funds;
7. Conduct illegal tendering processes, procurement processes using Government funds as well as funds from ODA;
8. Any other illegal behaviors.

Chapter 7: Management and Inspection of ODA**Article 37: Organization in charge of ODA management**

All ODA funds implemented in the country shall be comprehensively managed by the Government with the Ministry of Planning and Investment acting as main responsible agency taking lead in coordinating with the Ministry of Foreign Affairs, the Ministry of Finance as well as other concerned line ministries, agencies and local authorities.

The rights and duties of the Government, the Ministry of Planning and Investment, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Justice, the Bank of Lao PDR, line ministries, agencies and local authorities have been outlined in Chapter 5: Articles 27, 28, 29 30, 31, 32, 33 and 34 of this Decree.

Article 38: Organization in charge of ODA inspection

The ODA projects/programme shall be inspected by the following organizations:

1. Internal inspection organization, namely the Department of Inspection of the organizations managing ODA;
2. External inspection organization, namely the National Assembly, Provincial People's Assembly, Government Inspection bodies and the State Audit Organization;

Article 39: Content of Inspection

The content of the inspection of ODA shall consist of the following:

1. The implementation of laws and regulation related to ODA;
2. The operation of organizations in charge of managing ODA projects/programme;
3. The exercising of rights, duties and responsibilities of concerned officials.

Article 40: Inspection modalities

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ODA inspection consists of three modalities:

1. Routine inspection, which shall be conducted at determined intervals and must be conducted at least two times per year;
2. Pre-announced inspection, which are inspections not determined prior and are conducted if deemed necessary. The inspection shall be announced at least 24 hours before being conducted;
3. Impromptu inspections, which are emergency inspections wherein the organizations to be inspected are not informed. This inspection shall comprise document inspection as well as on field inspection and must strictly comply with the laws.

Chapter 8: Incentives for outstanding achievements and measure against violations**Article 41: Incentives for outstanding achievements**

Individuals, legal entities and institutions that have displayed outstanding achievements implementing this Decree, particularly the successful, effective and efficient implementation of ODA projects/programmes shall be honored according to the relevant regulations;

Article 42: Measures against violations

Individuals, legal entities and institutions that have violated this Decree, particularly the Article related to prohibitions shall be reprimanded, disciplined, fined, claimed for damages or punished according to the gravity of the violation.

Chapter 9: Final Provisions**Article 43: Implementation of this Decree**

The Ministry of Planning and Investment shall act as the focal point for the dissemination of this decree in coordination with all concerned parties and report to the Government in each period;
The concerned line ministries, agencies and local authorities shall recognize as well as strictly and effectively implement this Decree.

Article 44: Date of Effect

This Decree shall be in effect 15 days from the date of this signing and following the issuance of the Government Notice;

This Decree shall replace the Decree Nr. 75/PM, dated 20/03/2009 on the Management and Utilization of ODA.

The Government of the Lao PDR
Prime Minister
H.E Mr. Thongloun Sisoulith
(Signature and Stamp)

2. Decision on Financial Management for Official Development Assistance

Unofficial translation

**Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity**

Ministry of finance

No: 2695/MOF

Vientiane, dated 01 Nov 2010

Decision

On the Procedures on management of the Official Development Assistance (ODA)

- Pursuant to law on state's budget No: 02/NA, dated 26 December 2006;
- Pursuant to the decree on the management and the use of the official assistance for the development No: 75/PM, dated 20 March 2005;
- Pursuant to decree to the procurement, construction, repair and services by the state's fund, No : 03/PM, dated 9 January 2004;
- Pursuant to decree on the organization and activities of the Ministry of Finance No: 80/PM, dated 28 February 2007]

The Minister of Finance issues a Decision

Part 1

Objective and scope of applicability of the rules

Article 1. Objective of the rules on the management and the use of the official assistance fund for the development to be a reference to all ministries, equivalent ministry organizations, sectors and local in the management and the used for the uniformity in the entire country, ensure to the implement of the action plan/project to be undertaken with liquidity, having a transparency be able to audit and having efficiency.

Article 2. This rule shall be used specifically in respect to the official assistance fund for the implementation of the action plan/ project with is listed in the socio-economic development of the government in each period in order to achieve the good and encourage the economic growth and poverty eradication.

Article 3. Interpretation of Terms

The words used in this rule shall have the following meanings:

- 1) The official assistance fund for the development (loan and grant aid from foreign countries).
- 2) The parties which took responsible of program/ project. (Executing Agency) is referred to ministry, sub-ministry, agency, province and capital city which are responsible of the management of the implementation of program/project and monitor the execution of the control on fund provision
- 3) The parties which implement the program/ project (implementing agency) is referred to

- ministry, sub-ministry, agency, province and capital city which took responsibility to the decision;
- 4) The liquidator is referred to the minister, the head of equivalent-ministry, the governor major of capital city that are the responsible in the implementation of the program/project in their sector and local.

Part 2

General Principles

Article 4. The official assistance funds for the development are comprised of: loan with flexible condition and grant aid for the implementation of programs/ projects or for balance of the budget; technical grant aid, the aid in materials; human rights assistance and other emergency assistance, shall centralize into the state budget system through the national treasury accounting system and shall be managed in uniformity in compliance with laws and regulations of the Lao PDR as well as the regulations of fund donor.

Article 5. The use of official assistance fund shall be in consistency with the objective and good of each program/project and shall be appropriated to the national socio-economic development in each period

Article 6. The official assistance fund in cash or in kind shall be managed in centralization through the state budget system.

- For the official assistance fund in kind shall be recorded into the account of the state's assets according to the value of the agreement or the actual evaluation of the price.
- For the official assistance fund in foreign currency shall be recorded in the deposit account of the government which is opened with the bank of the Lao PDR. In the event that the practice in accordance with the regulations on disbursement of the fund donor, the official assistance fund which use for payment in foreign countries with passing through deposit account of the treasury, all fund donors through the parties which implement the project shall be summarized the actual use then send to the Ministry of Finance(External Finance Department) and Ministry of Planning and Investment in order to completely note as revenue expenditure into the state's budget.

Part 3

Procedures and method of disbursement of the official assistance fund.

Article 7. The efficiently Manage the use of official assistance fund shall be prepared from the project by the parties which took responsibility of the program/ project and shall coordinate with the Ministry of Finance and the fund's donors to correctly determine the financial management activities of the program/projects and in compliance with the rules of management and the use of the official assistance fund.

Article 8. in the period of the final assessment of program/projects before the adoption, the management of finance activities shall be clearly determined in the contract draft on the provision of the official assistance fund in this the party who take responsibility of program/projects shall commence to prepare to recruit personnel on the management of finance to be appropriate to the need after the contract of the provision of the official assistance fund is effective and shall perform as follows:

1. The Ministry of Finance sends the specimen of the signature of the authorized person who can sign to draw the money and other documents related to the program/project to the donors of fund.

2. The parties who take responsibilities of the program/projects shall pass the personnel in the field of finance accounting to perform their duties and propose to the National Treasury to open a particular account (Implement designated Account) at the bank of the Lao PDR or state's commercial bank as provided in the contract of the provision of fund.
3. The parties who take responsibility of the program/projects shall complete documents then send to the ministry of finance for the request to draw (initial advance/deposit) from the account of the official assistance fund to a particular account.
4. In case of necessity, the parties who implement the programs/projects may undertake the procedures to open the administration account of the programs/projects (program, project account) at the commercial bank as provided in the official assistance fund provision through the approval of the National Treasury.

Concerning the official assistance fund for maintaining the balance of the budget (macro adjustment fund). The ministry of finance shall coordinate with the parties who takes in charge of responsibility to implement measures on the policy of the plan action will be responsible to undertake the process to request to withdraw the money from the account of the fund donors into the National Treasury.

The fund of contribution of the government into the implementation of programs/projects activities is belong to the parties who take in charge of the responsibility of the programs/projects to be responsible to establish the budget plan to sufficiently contribute in each year based on the plan of activities operations and the contract on the provision of fund in order to propose to the Ministry of Planning and investment to remit to the investment's budget plan in each fiscal year. For conducting the stage of the completion of documents to request for the payment shall be performed in accordance with the guideline on the contribution and the control of the documents on the expenditure of the state's budget through the National Treasury

Article 9. The payment of the official assistance fund has two forms

- 1st form: the beneficiary of the assistance (separated by the ministry of finance in the body to order to pay from the account of the official assistance fund to pay the construction cost and service charge, the living of expert, organization of seminar and training within the country and abroad by paying through the special account under the management system of the National Treasury which is opened with the bank of the Lao PDR or commercial bank (Import Designed Account).
- 2nd form, the direct payment from the account of the fund donor to the constructor or goods supplier and services in foreign countries or within the country for other expense such as: construction cost, goods procurement and services, living of expert, organization of seminars, training and other. -

Article 10. Disbursement of official assistance fund has 6 methods:

1. By opening a letter of credit or LC;
2. By a bank draft
3. By transfer;
4. By issuance of authorization to pay or A/8;
5. By issuance of reimbursement authorization ;
6. By a certification of goods receipt or services (issuance of visa)

Within that the issuance of reimbursement authorization is referred to the request to withdraw the money from the official assistance fund in order to reimburse the government of the Lao PDR. Which has used in advance the state's budget into the preparation of programs/projects or other activities of the programs or projects.

The issuance of authorization to pay is referred the procurement by the Ministry of finance to

the bank of the PDR to proceed with the representation branch of the donors in transferring the money from the account of the official assistance fund to the contractor, goods supplier/services provide based on the progress of the actual works that has a certification from the parties which an responsible of the project or the authorized person.

Article 11. Management of the special account and administration account of programs/projects.

- A. After the opening of the special account as provided in Article 8 above, based on the proposal and the completion of documents by the parties who take responsible of program/project, for example the attachment of expenditure plan for the first 6 months of program/project or the highest not exceed 10% of the value of the loan/grant aid agreement the ministry of finance sends the letter to withdraw the money in advance into such account.
- B. Based on Article 8 above after the opening of the administration account of the project, the parties who take in charge of responsibilities of the project propose to withdraw in advance from the special account into such account based on the expenditure plan for the first 3 months of the programs/projects or not exceed 20,000 united state dollars.
The relevant parties may propose to adjust the ceiling of the special account and the administration account of programs/projects based on the actual situation of works.
- C. The replenishment of money into the special account is the request to withdraw the money from the loan /grant aid account and remit into the special account to reimburse the advance money which are used into the project the proposal of replenishment, in principle it shall be made when the amount money in the special is reduced to 20% or shall be made in advance when deemed necessary in order to secure the liquidity of the programs/projects.
- D. The replenishment to reimburse into the administrative account shall be taken by programs/project to propose to replenish from the National Treasury.
- E. The liquidation of advance of the special account shall be undertaken in the last period of the programs/projects.

Article 12. Main documents for the proposal to withdraw are as follows:

1. Special account:
 - A. The advance withdrawal of money into the special account is comprised of documents as follows:
 - Proposal letter from the liquidation or the authorization person.
 - Withdrawal application form
 - Budget plan for the first 6 months or programs/project.
 - B. Payment from the special account by cheque
 - Request letter from the liquidation or the authorization person.
 - Invoice
 - Purchase order
 - Conge receipt
 - Imported goods declaration
 - Goods imported authorization
 - Goods delivery receipt if there is a companion or bid it shall be attached together with the statement of price companion/bid.
 - C. Replenishment in to the special account
 - Request letter from the liquidation or the authorized person
 - Withdraw form - Statement of expenditure
 - Special account reconciliation statement - Bank statement
 - D. The liquidation of special account the completion of documents shall be similar to the replenishment into the special account.

2. Direct payment
 - Request letter from the liquidation or the authorized person
 - Withdraw form
 - Summary sheet
 - Construction contract/goods supply and service provision which is legally registered or invoice;
 - Certification of work progress/goods receipt;
 - Tax payment order/ Tax payment certificate.
3. **Reimbursement:** the completion of documents shall be similar to the respect for direct payment.
4. **Payment by letter of credit**
 - Request letter from the liquidation or the authorized person;
 - Statement of the bid;
 - Purchase order of construction contract/goods supply and services which is legally registered.
 - Construction contract securities/goods supply and services (Performance Security, Bank Guarantee)
 - Preform invoice
 - Tax payment order /Tax payment receipt
5. **Authorization to pay or A/P**
 - Request letter from the liquidator or the authorized person
 - Exchange of Note
 - Certificate of verification from the fund assistance agency.
 - Contract of purchasing –sale or buying and services.
 - Result of the bid;
 - Insurance of A/P shall be once issued in accordance with the total value of the contract;
 - Ministry, Agency, Province, Capital city who is the owner of the project shall be responsible to establish the schedule to pay the bank’s services fees.
6. **Certification of goods receipt and /or services (visa insurance)**
 - Request letter from the liquidator or the authorized person.
 - Invoice together with the signature of recognition and through the control of the director of the project
 - Other documents that the Ministry deemed necessary

For the detail of the completion of documents to request for the payment is available in the particular manual.

Part 4

Performance of obligation in the field of custom duty and tax

Article 13. The performance of obligation or custom duty and tax of all programs/projects which used the official assistance fund shall be made in accordance with the agreement between the government and the investor as follows:

1. In the event that agreement does not mention the exemption of custom duty and tax shall perform the obligations of all types of custom duty and tax which is related to activities of the project in accordance laws and regulations.
 1. **In the event that agreement had mentioned the exemption of custom duty and tax shall perform as follows:**
 - A. Excise and value added taxes individuals, legal entities, companies or organizations which enter in the direct contract of construction of goods supply and service with the programs/project are entitle to the exemption of excise and value-added taxes.

- For individual, legal entities, companies or organizations which have made directly a subcontract with the contractor of the programs/projects for construction or goods supply and services shall pay the exercise and value-added taxes.

Before obtaining the exemption to pay other exercise and value-added taxes, the parties which are responsible of the programs/projects shall establish the plan on the deed to use materials, equipment and other vehicles in respect to the quantity and all targets which will be used to the actual project (Master list) concerning the materials and equipment for serving into the construction shall have a device through the relevant sector for consideration and adoption then sending to the Ministry of Finance (Foreign monetary department) in order to certify the fund source.

B. Profit Tax

Individuals, legal entities, companies and organizations which directly enter into the construction or goods supply and services contract with programs/projects in the use of official assistance fund shall pay profit taxes as provided by laws.

C. Income tax from Salary

- Lao citizen, aliens, foreigners including stateless
Persons who work in the project that uses the official assistance fund shall pay the income taxes from their salaries as provided by laws, the basic calculation of profit tax include.
- The amount of salary plus materials value and benefit on all receive materials according to the contract including income from foreign countries under the contract has determined otherwise.
- Foreign expert who came in to implement the project that uses the official assistance fund between the Lao Government and the fund donors which has determined the exemption of income tax shall be entitled to the exemption of income tax from salary as provided in the tax law;

D. Import duty- all programs/project that have used the official assistance fund will obtain the exemption of payment of import duty concerning materials and equipment and other vehicles according to the quantity and all targets that will be used into the actual project (master list) through the relevant sector for consideration and approval, then send to the Ministry of Finance (foreign currency department) to be a reference in the certification of the source of fund in order to exempt.

Article 14. Documents that shall be completed to request the duty exemption.

- Letter of request to the Minister of Finance from the relevant parties, signed by the competent authority.
- Agreement on the provision of official assistance fund (attached in the first time and will be kept in the foreign monetary department)
- Plan of the need (Master list) approved by competent authority,
- Goods, materials and equipment import authorization into the country from the relevant sector
- Invoice
- Detailed custom duty declaration certified by the director of the project and sealed at the provided place.

(Details concerning the duty exemption are existed in the manual)

Part V

Monitoring, control of property and the use of official assistance fund.

Article 15. after the agreement on the provision of the official assistance fund is enforced, the Ministry of Finance shall organize a technical meeting in the beginning of programs/projects in

order to disseminate rules/procedures on the financial management, the management of assets and custom and tax regulations in order to ensure the implementation of programs/projects has a smooth performance and efficiency.

Article 16. programs/projects shall hold the Accounting summarize the revenue-expenditure, including the report on the monthly, term, 6 months, yearly use of official assistance fund in accordance with relevant laws and regulations. The sending of the financial summary report and the balance sheet to the Ministry of Finance shall be undertaken by terms, the latest not exceeding the 15th of the successive month of the next term. In addition, programs/projects that have used the official assistance fund shall make an audit on the programs/projects annually and after the termination of the project as provided the fund supply agreement. Keep and maintain copies of each documents or the expenditure into the programs/projects within a period of 10 years.

Article 17. 6 months before the termination of the project, the Ministry of Finance appoints technicians of coordinating to control the conditions and evaluate property in order to assemble the total property of the project then establish the plan of decision in order to submit to the government to consider and approve the use. It is absolutely prohibited ministries, sub- ministries, organizations at the central level, all provinces and capital city take the property of programs/projects to distribute or divide, ay custom duty, make ownership of individuals, private and state's use and division management plan of the Ministry of Finance which was approved by the government.

Article 18. During the term of the implementation of programs/projects the Ministry of Finance shall be the local point to coordinate with relevant parties to monitor, encourage, give instruction and facilitation in the area of financial management aiming to ensure the use of official assistance fund is appropriate in accordance with the targets and having a high efficiency.

Article 19. 3 months before the termination of the term of implementation of programs/projects, the committee which takes in charge of responsibility of the management and implementation of the programs/project shall finish liquidating the special account and proposing to close such account.

Article 20. When the project is terminated, the programs/project responsible committee shall accomplish the final statement of accounting within 3 months (the details of the termination of the project is in manual book)

Part VI

Method of implementation of regulations

Article 21. It is assigned to the foreign monetary department to create a manual book of the financial management of programs/projects which have used the official assistance fund and is the body to organize to disseminate

Article 22. All relevant parties have the duties to strictly implement this regulation

Article 23. This decision supersedes the regulation on the management and the use of loan and foreign assistance No 1369/MOF, dated 20/12/1995, additional instruction No 0866/MOF, dated 31/01/1996, notification of the Minister of Finance No 0863/MOF, dated 24/04/2007 and all contents of the Notification of the Ministry of Finance which contradict this rules are hereby repealed.

Article 24. this decision on the rules of management of money concerning the official assistance fund shall enter into force from the date of its signing.

The Ministry of Finance

(Seal and Signature)

Somdy Douangdy

3. Law on Construction

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LAO PEOPLE'S DEMOCRATIC REPUBLIC
Peace Independence Democracy Unity Prosperity

National Assembly

№ 197/NA

RESOLUTION

Of the
National Assembly

Of the
LAO PEOPLE'S DEMOCRATIC REPUBLIC
On the Adoption of the Law on Construction

- Pursuant to Article 53, clause 2 of the constitution and Article 3, clause 2 of the Law on National Assembly of the Lao People's Democratic Republic, related to the rights and duties of the National Assembly.
- Following the wide and in depth discussion by the 8th session of the National Assembly (VIth legislature) regarding the contents of the Law on Construction in the morning session on 26 November 2009.

The Session decides that:

Article 1. The Law on Construction is adopted at qualified vote.

Article 2. This resolution shall enter into force on the date of its signing.

Vientiane Capital, 26 November 2009

President of the National Assembly,

(Seal and Signature)

Thongsing THAMMAVONG

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LAO PEOPLE'S DEMOCRATIC REPUBLIC
Peace Independence Democracy Unity Prosperity

President of the State

№ 159/PO
Vientiane Capital, dated 16 December 2009

DECREE

Of the
PRESIDENT
Of the
LAO PEOPLE'S DEMOCRATIC REPUBLIC
On the Promulgation of the Law on Construction

- Pursuant to chapter VI, Article 67, Point 1 of the constitution of the Lao People's Democratic Republic which provides for the promulgation of the constitution and of the Laws adopted by the National Assembly;
- Pursuant to Resolution N.197/NA, date 26 November 2009 of the National Assembly of the Lao People's Democratic Republic regarding the adoption of the Law on construction;
- Pursuant to the Proposal N.084/NASC, dated 10 December 2009.

The President
Of the Lao People's Democratic Republic decrees that:

- Article 1. The Law on Construction is hereby promulgated.
- Article 2. This Decree shall enter into force on the date of its signature.

The President of the Lao PDR

(Seal and Signature)

Choummaly SAYASONE

LAO PEOPLE'S DEMOCRATIC REPUBLIC
Peace Independence Democracy Unity Prosperity

National Assembly

№ 05/NA

Vientiane Capital, date 26 November 2009

LAW ON CONSTRUCTION

PART I General Provisions

Article 1. Objective

The Law on Construction determines principles, rules and measures on the management, authorization, control, monitoring, inspection of construction's activities in order to ensure the constructed items will have good quality, safety, economical, convenience, transparency and be consistent with urban plan, socio-economic development plan, proper to laws and regulations aiming to promote the construction's development by using modern technique-technology, equally to the international standard, coordinate between the use of intelligence, domestic and foreign materials of construction, to preserve the national independence, protect the scenery, the beauty of the urban and contribute to the national socio-economic development.

Article 2. Construction

A construction is the process for the implementation of all construction's activities, the construction and repair by commencing from the feasibility study, survey, construction design, building and installation until the completion of the constructed items.

Article 3. Term interpretation

Different terms which are used in this law have the following meanings:

1. Construction's activities operation is referred to the determination of the implementation of construction works and the determination of the mass plan such as survey, design, construction, repair, restoration, renovation, extension, modification, widening, demolition, management, control and construction supervision;
2. Construction's project is referred to activities to implement various types of construction by having an area limitation, targets and specific conditions, determination of responsibilities, labor or construction company, budget, working plan, limitation of the commencement and the termination of the project;
3. Constructed items are referred to products produce by human laborer, materials, machineries and construction equipment together with accessories and other installations that are connected with land, on the surface of land, underground, under water and on the water's surface which are constructed according to the design and are used for benefits of individuals, and are technical and social infrastructure system.

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4. Technical infrastructure system is referred to irrigation, transportation, traffic, systems, telecommunication network, energy supply, electricity, public's lights, water supply, dirty water, waste water, treat water drainage in the town, storage system and garbage disposal and others;
5. Social infrastructure system is referred to the infrastructure system on public health, culture, education, sport, commerce, habitat, services to public and public parks;
6. Special construction's activities are referred to activities which are not Implemented through the regular stages such as particular activities for the national security, construction activities according to the urgent order of the government;
7. Construction standard is referred to provisions or technical regulations related to the structure and other components of construction activities determined by relevant sectors;
8. Project's owner is referred to the capital's owner or the authorized persons who use the capital into the construction's activities operation;
9. Construction's company is referred to legal entity which has signed the contract with the project's owner to construct or repair;
10. Bidding competitions are referred to legal entities both domestic and foreign which have proper qualifications to conditions for the selection and bid competition under any form as determined by the project's owner;
11. Preliminary design is referred to the collection of data, explanation and sketch map which indicates to see the direction to design that has been provided sufficient basic requirements for the preparation, the total level of investment and shall be the basis for the further design's steps;
12. Basic design is referred to the design which consists of the location plan of the project, mass plan that indicates the characteristic and details of the constructed items in the area of the construction project;
13. Detailed design is referred to a complete construction design which consist of architectural plan, engineering plan and developed picture that need the accurate detail including construction materials use plan and other installation of equipment;
14. Architectural plan is referred to drawing sheet that show to see the characteristic, form size, proportion, material, level of the structure, area and the use of other parts of the construction project;
15. Engineering plan is referred to the drawing sheet that show to see the size, number and volume on technical structure of the construction project including the necessary developed picture;
16. Supervision of the construction is referred to the monitoring, inspection in the field of professional in the process of a regular construction of an architect or an engineer aiming

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to strictly ensure constructed items having a quality, accurate to the design, technical standard, duration and budget of each tasks including to monitor, control the safety, protection of the environment;

17. Monitoring, supervision of the construction is referred to the control of the progress of the construction project of each period from the day of the commencement until the day of the completion of the project;
18. The certification of the correctness of the construction is referred to the certification of the project which has been appropriately constructed according to the plan, the norm of techno-economic of the construction material and construction technique standard;
19. Area of the construction project is referred to whole limit area of the construction project including the area to be offered according to the investment project which have been already approved;
20. Unit price in the construction is referred to the expenses for some tasks of work or the value of other construction activities that have been calculated upon the measurement unit such as in square meters, in cubic meters long meters, kilometers and others;
21. Construction, erection and installation is referred to a new construction including the supply of other equipments such as transmission line, machineries that are related to the construction;
22. Repair is referred to the improvement, modification, reparation of deteriorated parts of constructed items;
23. Extension is referred to the expansion of area and volume of the constructed item;
24. Renovation is referred to the re-construction in order to make materials or cultural, historical, scenery, natural constructed items become to initial condition and be an unique;

Article 4. Policies on Construction's Activities

The state promotes all economic sectors both domestic and foreign to invest into the construction, repair, protection and constructed items according to laws and regulations.

The State encourages all types of construction shall be undertaken in accordance with laws and regulations conformed to technical norm, technical standard, the unit price of the construction, quality assurance, efficiency, thrift, safety, splendor, national unique preservation and protection of the environment and also to urge on the use of domestic construction's materials products.

The State encourages and promotes to domestic construction business operator has access to the capital source, create the strength, develop labor skill and can make competition with foreign labor to ensure to make the construction business receiving a development and extension contributing to the socio-economic development.

Article 5. Principles on Construction's Activities

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The operation on construction's activities shall be performed in accordance with principles as follows:

1. To ensure the conformity with the national socio-economic development plan, master development plan of each sector, urban plan, construction project plan, technical norms, technical standard and the unit price of the construction;
2. To ensure the quality, safety and not create excess adverse effects to the defined standard towards the living conditions of the population, infrastructure, natural panorama, environment and create an excess , inconvenience to the persons living near to the construction site;
3. Promotes the development jointly with the safeguard of cultural, historical and natural heritage including the preservation of national unique;
4. Ensure the sustainment and the highest advantage to the economy and social and also having facilities to disabled and elderly people for example:
5. Shall have a participation of domestic architects and engineers in the important construction's activities of foreign investors;
6. Shall have an assessment of impacts to social and natural environment such as Health of the population.

Article 6. Obligations of Citizens related to Construction's Activities

A Lao citizen, aliens, foreigners and stateless persons who reside in the Lao PDR have the obligations to respect and implement in accordance with laws and regulations relating to construction, provide opinions to construction's activities and contribute to protect other constructed items that are fundamental system of social and technical infrastructure including cultural, historical and natural heritage.

Article 7. Scope of Applicability of the Law

This law applies to all activities for the construction of infrastructure, construction's activities, repair with a high value that are belong to individuals, organizations and private in the urban, rural area and special economic zone in the entire country such as: transportation system, irrigation system, embankment system, Telecommunication system, habitat system, electricity grid, construction system on mining and other construction's activities.

Article 8. International Cooperation

The State opens up and promotes international relations and cooperation in the sub-regional, regional, foreign counties in the area of construction through the exchange of technical lessons, data information, science, technique and technology, build, train, upgrade professional technique to personnel, seek for assistance, investment cooperation and participate into the performance of agreements, treaties which the Lao PDR is a party.

PART II

Construction's Activities

Chapter 1

Type, Characteristic and Size of the Construction

Article 9. Type of the Construction

The types of construction are divided in sector as follows:

1. Public works and Transportation Sector
 - Transport system such as: bridges, roads, railroads, harbors, tunnels, boat's navigation lines and airports;
 - Habitation system such as: Houses, buildings, hospitals, schools, temples, plants, factories, fuel storage, fuel's sending tube, gas, fuel station, sport stadium, public park, transportation terminus;
 - Water supply and sanitation system such as: water pumping station, water supply production plant, transmission and distribution pipe, channel, pipe and tunnel to drain sewerage and dirty water;
 - Telecommunication system such as: satellite station, radio frequency transmission receiver station;
 - Embankment and protection of floods system.
2. Agriculture and Forestry sector:

Irrigation system such as: irrigation, ditch, canal, dam, reservoir.
3. Energy and Mines Sector:
 - Electricity system such as: Hydropower Dam, Electricity Plant, reception and transmission power station, transmission lines;
 - Construction system on mines exploitation.

Article 10. Characteristics of the construction

The characteristics of the construction are as follows:

1. Construction, Erection and installation;
2. Repair;
3. Extension;
4. Restoration and others.

Article 11. Sizes of the Construction

The construction of each type is divided in three sizes as follows:

- Large size;
- Medium size;
- Small size.

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The relevant sector is the body to determine the size of the construction of each type of construction that one's has managed based on the value, location, level of importance and technique of the project. For the construction project invested by the State shall be determined in accordance the Law on the State's Investment.

Article 12. Technical Norm, Technical Standard and the Unit's Price on the Construction

The technical norm, technical standard and the unit's price on the construction is a norm, comparative standard and indicator related to the construction for using as a reference to establish the budget plan, monitor, control and assess the construction project.

The Ministry of Public Works and Transportation coordinates with other relevant sectors to undertake the study on the norm, general technical standard and the unit's price on the construction in order to submit to the government to consider for adoption. In addition, the relevant sectors shall be also the researchers and the body to determine the technical norm, specific technical standard and the unit's price of their constructions.

Article 13. Construction's Activities

The construction's activities are as follows:

1. The feasibility study of the construction project;
2. The survey, design of the construction project and the determination on the use of construction materials;
3. Construction permission;
4. Allotment of construction project area;
5. Implementation of the construction project;
6. Supervision of the construction;
7. Protection and the use of constructed items.

**Chapter 2
Feasibility Study of the Construction Project**

Article 14. Feasibility Study of the Construction Project

The feasibility study of the construction project is the socio-economic study, technical-technology, finance, technicians or construction's labor, environmental impact assessment, socio-cultural matter that indicate to see the efficiency of the investment based on the type, characteristic and size of the construction.

Every large and medium size of the construction project which have a complex technique, using a considerable sum of investment shall have a prior initial feasibility study by submitting many alternative, thereafter shall undertake the detailed study.

For the small scale of construction activities which have no complex technique and not high value, the relevant sector is the body to determine a specific regulation for the management.

Article 15. Report on the Feasibility Study of the Construction Project

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The report on the feasibility of a construction project is the economic technical feasibility of the project for example: the assessment of the construction project which has an efficacy and efficiency, the study on technique-technology related to the construction including impacts to natural and social environment.

Article 16. Object of the Report on the Feasibility Study of the Construction Project

The study on the feasibility of a construction project shall indicate to see the following objects:

1. Highest benefit and the person who will obtain the interest from the construction of the project;
2. Value, term of usage of the construction project;
3. Efficiency on economic-technique, natural and social environment;
4. Measures on the reduction of other adverse effects towards the natural and social environment;
5. Action plan and methods of implementation of the construction project.

Article 17. Contents of the Report on the Feasibility Study of the Construction Project

The report on the feasibility of a construction project consists of the following contents:

1. In the area of policies in the study relating to directives and the national socio-economic development plan which is related to the construction project;
2. In the area of finance and the benefit of the investment is the assessment of global value of the construction project, the need of capital in each period, fund sources and efficiency which will obtain from the investment including the people who will receive a direct and indirect interest from the construction project;
3. In the area of technique is the study on the size of the construction project technique-technology which is appropriate to the actual geographical, socio-economic situation of the local in the future and for a long term including the management, the operation and protection in order to make the construction project to be sustainable;
4. In the area of personnel is the study on the need of materials, equipment, labor, training of personnel and others;
5. In the area of organization and management of the construction project is the study which is recently existed, the necessity and efficiency in the establishment of a specific committee for the management of the project to coordinate in the implementation of the construction project;
6. In the area of socio-cultural affairs is the study related to the resettlement of the population, target groups which will obtain interests from the construction project especially the dispersion of the revenue, creation of employment to the population including the study on impacts towards the resettlement, the new installation of habitation, the preservation of tradition and custom, culture which is the valuable heritage of the ethnic population;
7. In the area of environment is the study on the impacts against the natural and social environment, the health of population such as: biodiversity, natural water source, weather and others, including possessing appropriate measures to protect impacts against such environment.

Article 18. Approval of the Report on the Feasibility study of the Construction Project.

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The report on the feasibility study of a construction project is adopted by state's relevant sectors after the examination and assessment according to the contents as provided in Article 16 of this law.

For the natural and social environment impacts assessment shall be adopted through the water Resource and Environment Sector.

Chapter 3
Survey, Design of Construction Project and
Determination on the use of Construction Materials

Article 19. Survey, Design of the Construction Project

The survey of the construction project is the collection of other necessary detailed data in order to establish the economic-technique feasibility study by having an assessment of the efficiency on socio-economic matters and impacts to natural and social environment for the preparation to make a design.

The design of the construction project is the creation of detailed plan which is accurate to the technical standard based on the analysis of data which are acquired from the survey that are consisted of the establishment of architectural, engineering plan and complete set of technique, technical norm and estimation of value and fixation of construction's duration.

Every construction project shall have a survey, design and estimation construction value, except the small size of construction which has no complex technique and not high value of which the relevant sector is the body to define a specific regulation.

Article 20. Procedures on the Survey, Design of the Construction Project

The survey, design of the construction project shall be performed according to the following procedures:

1. Survey, collection and analysis of data;
2. Initial design, estimation of value in general;
3. Basic design;
4. Detailed design, estimation of the construction project value;
5. Preparation of tendering documents of the construction project.

Article 21. Expectation of the Survey, Design of the Construction Project

The survey, design of the construction project shall show to see the following expectations:

1. Be consistent with the objective to the construction project, if it is a construction project of buildings it may have a unique on national architecture mixed with the best of the era, environment and natural scenery.
2. Be correct to the technical norm and technical standard of the construction of each type of construction project including the promotion on the use of domestic construction materials;
3. Ensure the efficiency in the area of economy, socio-culture and benefits of the people;

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4. Ensure the conservation, protection of natural and social environment, public property, life and property safety of individuals.

Article 22. Approval of documents on the Survey, Design of the construction Project

The documents of the survey, design of construction project are consisted of architectural plan, complete set of engineering and technique plan, technical norm and construction materials, estimation of value and the construction operation plan.

The construction project that has passed through the survey, design, if it is found that it has an efficiency in the area of socio-economic result and there is any impact to the natural and social environment such will be approved from the State's relevant sector based on the type, size and level of such construction project.

Article 23. Determination on the use of Construction Materials

The Ministry of Public Works and transportation undertake the survey, manage the construction materials source for example: laterite deposit site, black soil, red soil, sand, gravel, basalt, limestone, soil and other type of stones for construction at the place there is a survey and has obtained the authorization from the government including the determination on the use of such construction materials and include bricks, tiles, timbers, reinforced iron bars, prepare iron and other construction materials.

The science and technology Agency will consider approving the standard of the construction materials of which the Ministry of Public Works and relevant sectors have submitted.

The Ministry of Industry and Commerce controls the production and distribution of construction materials to meet the standard issued by the science and technology agency.

**Chapter 4
Construction's Authorization**

Article 24. Application for Construction Authorization

Individuals or organizations which have the intention to undertake a construction in different characteristics such as: build, erect, install, repair, extend, restore, modify or destroy shall complete documents to request for authorization and submitted to the State's relevant sector.

Article 25. Construction's Authorization

After the receipt of documents requesting for authorization from individual or organization the State's relevant sector shall consider according to regulations. If the request for construction authorization is met the conditions, such sector shall issue a construction permit according to the nature of the construction as requested within the duration as provided by laws and regulations.

Article 26. Conditions for the Person who Request for Construction Authorization

Individuals or organizations which request the authorization for construction shall have complete conditions as follows:

Unofficial Translation – Rely on Lao version for authoritative purposes Page

1. Correctly complete documents to request the authorization for construction;
2. Have a certified documents on the right to use land or certified documents to use land where will be the place to operate the construction in consistency with the Land Law and other relevant laws and regulations.
3. Have documents on the survey, design correctly approved by the State relevant sector as provided for in paragraph 3 of Article 19 of this law;
4. Have an authorization to dig earth or fill earth of the place which will be authorized to undertake the construction.

Article 27. Responsibilities of the Project's Owner

The project's owner has the responsibilities as follows:

1. Notify the day to commence the actual construction and shall inform the sector which issues the permit;
2. Fix a sign to indicate basic data of the project at the construction's site;
3. Correctly operate the construction according to the permit;
4. Provide data, information or other documents to the construction management organization in order to make the monitoring, control to have an efficacy during the period of the construction;
5. Notify to the construction management organization after the construction project completion in order to review according to the contract, complete set of technical plan and other relevant documents.

**Chapter 5
Allotment of the Construction's Area**

Article 28. Requirements of the Allotment of the Construction Area

The allotment of the construction area shall ensure the conditions as follows:

1. Elaborate plan to compensate the damaged value that has a correctly, firmly, completely evidence and data or the organization relating to the allotment of the construction project area before the commencement of the construction;
2. Having a compensation for the damaged value, conduct to accomplish the transfer of accommodation and obstruction then hand over the construction's project area;
3. Determine the limit of the area which will be allotted to be consistent with the national, regional, provincial and district allotment plan, general plan of the construction project and the approved investment project;
4. Duration for the allotment of the construction project area to be consistent with the timetable on the implementation of the investment project which have been approved or according to the decision of the state's relevant sectors.

Article 29. Compensation for Damages

The compensation for damages which are incurred in the allotment of the construction project area shall be performed as follows:

Unofficial Translation – Rely on Lao version for authoritative purposes Page

1. Ensure the general benefits of the nation, individual or organization;
2. Ensure to the people which were transferred to have their accommodation and their living conditions not under the level before they move;
3. Ensure the justice, equality, transparency and correctness as provided by laws and regulations;
4. Compensate the damaged value according to laws and regulations.

Article 30. The Use of the Construction Project Area

The use of the construction project area shall ensure firstly the general benefit, rights and legitimate interests of individuals or organizations also to ensure the safety, protection of the environment, cultural, historical and natural heritage in consistency with the national socio-economic development plan, urban plan and master plan of relevant sectors.

**Chapter 6
Implementation of the Construction Project**

Article 31. Requirements before the Implementation of the Construction Project

Before the implementation of the construction project, the project's owner and the contractor shall have the main requirements as follows:

1. Obtain the permit for construction as provided in Article 24 of this law;
2. Have an entrepreneurial contract of all sizes and a contract on supervision for a large and medium size of construction or having a technical complexity through the reasonable bidding form. Such contract shall be correctly registered;
3. Have detailed plan to operate the construction project of each term of reference;
4. Have measures to prevent the safety and the preservation of the environment during the construction operation period;
5. Fix the sign board indicating data of the construction project such as: the name of the project, the project's owner, the fund's grantor, designer, Number of the construction permit, constructor, construction supervisor, value, date, month, year of the commencement and the completion.

In the event that there is discovery of artifacts which are cultural and historical traces during the period of construction operation shall immediately notify the relevant sector.

Article 32. Change of Construction Project Area

The change of construction project area from one place to another place shall ensure the construction having a correctness and be appropriate to the approved plan, having a consistence with the neighboring environment, ensure the shape, characteristic and quality of the initial constructed items including to ensure the equitable benefit of the population, having a safety and have not adverse effects to the environment.

The change of the construction project area is arisen in the main cases as follows:

1. To respond to the general benefit of the State;
2. When the area condition is not suitable to the construction project,

Unofficial Translation – Rely on Lao version for authoritative purposes Page

3. When there is a discovery of artifacts, high value of minerals, during the period of construction at the area which obtain the allotment.

The change of the construction project area shall request for authorization from the relevant sector which has approved such construction project.

Article 33. Demolishment of Constructed Items

The constructed items which will be demolished are as follows:

1. Construction items that are damaged and deteriorated which may have dangerous effects to the society and environment;
2. Constructed items which are not met the standard, not erect to the plan or not proper to the construction approved permit;
3. Constructed items which have not obtained a lawful authorization and not proper to the approved urban plan;
4. Temporary constructed items to serve during the period of construction which do not need to use when the construction project is accomplished.

The demolishment of such constructed items is the responsibility of the project's owner or the owner of the constructed items. If the project's owner or the owner of the constructed items does not performed according to their responsibilities, the relevant sector will demolish or dismantle and keep such constructed items by which the project's owner or the owner of such constructed items shall be liable to all costs.

Article 34. Prevention for Safety

The prevention of safety in general cases shall use measures according to the rules of relevant sector for example: there is an alert signal, fence around the construction site, protection tools for labor: helmets, shoes, gloves, glasses.

During any construction project execution if there is a force majeure has been arisen such as: floods, storm, fire, earthquake, soil collapse or other catastrophe that affect to the construction project operation, the contractor shall have measures of prevention and timely solve as follows:

1. Make alert signal at the construction site;
2. Temporary stop the construction then timely use reasonable measures to settle in order to ensure the safety to laborers and protect assets of the construction project;
3. Urgently report of the events to the project's owner, relevant officers, local administration in order to have measures to timely solve.

**Chapter 7
Supervision of the construction**

Article 35. Supervision of the Construction

The supervision of the construction shall be performed as follows:

1. Supervise the construction to be proper to the plan, technical standard, technical norm and

Unofficial Translation – Rely on Lao version for authoritative purposes Page

- approved construction materials;
2. Permanently and continually operate if it is found some mistakes during the construction project operation, the supervisor of such construction shall notify to the project's owner including to have methods and measures to appropriately and timely solve.
 3. Correctly and clearly establish a minute or a report on the result of the supervision including the accurate filing of documents and relevant data.

The project's owner shall appoint or hire a person or consultancy's company which has an ability and appropriate experience with the work, type, size and level of the project, in order to monitor, control and supervise the construction, except the small size construction project which has no complex technique and no high value.

Article 36. Certification of the Correctness of Constructed Items

Every construction project shall be passed through the inspection of the construction project management organization after the completion of such construction. If it is found that the construction has been implemented according to the design, technical standard, technical norm, construction materials and other relevant documents as provided for correctly and completely in the construction contract, the construction activities management organization will issue the certificate of correctness of the constructed items to the project owner.

Article 37. Hand over of the Construction Project

After the completion of the construction project and there is an inspection of correctness of the constructed items; then the contractor and the project owner shall establish documents on the hand over of such construction project in order to officially use according to laws and regulations and organize to hand over the project of each type within the highest period not excess three months.

Duration and value of the guarantee of the construction project of each type is regulated in a specific regulation of each sector.

Article 38. Rights and obligations of the Project's Owner

In the operation of the construction project, the Project's owner has the rights and main obligations as follows:

1. Select, organize the bid and sign agreement with construction entrepreneurial contractor to operate the construction and with the consultancy company to supervise the construction;
2. Modify the plan in case of necessity in the area of economic-technique and reasonable value of the construction project, and thrifty from the proposal of the construction contracting company or consultancy company;
3. Payment of the construction cost to the construction entrepreneurial company and cost of the supervision of the construction to the consultancy company of each task of works in consistency with the contract as agreed;
4. Monitor, inspect activities operation of the construction entrepreneurial company and consultancy company in the area of the safety and protection of the environment;
5. Notify, suggest, order to temporary suspend, definitively stop the construction project in

Unofficial Translation – Rely on Lao version for authoritative purposes Page

case that the company entrepreneurial of construction or the consultancy company do not conform to the agreed contract and according his suggestions;

6. File all documents related to the technical feasibility study, the result of soil analysis, construction materials, and components of important structure, approved construction plan before the construction execution, actual construction plan and other relevant documents.

Article 39. Right and Obligations of the Survey, Design, Construction materials Analysis Company

The company which undertakes the survey, design, construction materials analysis has the rights and main obligations as follows:

1. Completely collect, analyze data and necessary construction materials for each type of construction project to be the basis to the design;
2. Design the plan, design-calculate the engineering structure, draw the detailed parts of the structure;
3. Determine the use of construction materials, estimate the value of the construction and elaborate the detailed action plan;
4. Consider to re-improve the plan that deemed as not proper to the proposal of the project owner;
5. Be responsible before law on the result of the survey, design and analysis of its construction materials.

Article 40. Rights and Obligations of Construction Entrepreneurial Company

1. Establish the action plan from the date of the commencement until the date of the completion then propose to the project's owner and consultancy company for adoption;
2. Operate the construction to be proper to the plan, technical standard, technical norm and construction materials according to the construction entrepreneurial contract;
3. Notify to the consultancy company in advance before the commencement of execution of important term of reference in order to monitor, actual control;
4. Manage the construction site, comply to regulation on the safety to be proper to the type, size and characteristic of the construction project, ensure order, not having adverse effects to the neighbors and constructed items located in the construction area;
5. Provide data and necessary documents to the project's owner or construction activities control organization at the agreed day and time;
6. Propose to modify the plan and the value of project with reasonable manner;
7. Be liable to compensate for damages that incurred from the non performance of the contract, perform tasks not proper to the plan, construction technical standard and the use of agreed construction materials and due to the negligence in performance of works;
8. Keep and hand over the technical feasibility study result of the analysis, actual construction plan, modified documents of the construction, minute, report and other documents concerned to the project's owner;
9. Receive the cost of construction according determined value as provided in the construction entrepreneurial contract.

Article 41. Rights and Obligations of Consultancy Company

The consultancy company has the rights and main obligations as follows:

Unofficial Translation – Rely on Lao version for authoritative purposes Page

1. Prepare the documents of bidding, draft the construction entrepreneurial contract and other documents to serve to the construction;
2. Control the plan, supervise the construction and instruct methods to the contractor to properly implement according to plan, norm and technical standard of the construction;
3. Monitor, control and summarize the detailed volume of works in each period in order to certify the correctness to the payment of the cost of the construction;
4. Report on the progress of works, conveniences, difficulties and other problems of the construction project to the project's owner from time to time;
5. Decide to approve or not approve some works in area of technique which is not met the technical standard then report to the project's owner;
6. Compile the technical feasibility study, the result of the analysis, the result of construction materials analysis, important components of the structure, construction plan which are initially approved, actual construction plan, construction contract, quotation, minute, report on the progress in each period from the day of the commencement until the day of the completion of the construction then hand in to the project's owner;
7. Receive the cost on the supervision of the construction according to the value as provided in the contract.

**Chapter 8
Maintenance and the Use of Constructed Items**

Article 42. Maintenance of Constructed items

Individuals or organizations which are the owners or the possessors of the constructed items shall manage, maintain, restore, repair their constructed items to have a lasting, safe, clean, beautiful and can be used for long time.

Article 43. Use of Constructed Items

Individuals or organizations which are the owners or the possessors of constructed items shall properly use constructed items to the authorized targets and shall have measures to protect the safety towards health, life, assets of the population and not having impacts to the environment.

In case that should have change of the targets it shall request prior authorization from the relevant construction activities management organization.

**PART III
Construction Business**

Article 44. Form of Investment on Construction Business

The form of the investment on construction business is consisted of individual enterprise, partnership enterprise and company as provided in Article 10 of the Law on Enterprise.

Article 45. Application for Investment License on Construction Business

Individuals or organizations which have the intention to invest in construction's business shall apply to the relevant sector to consider upon the procedures as provided for in the Enterprise Law

Unofficial Translation – Rely on Lao version for authoritative purposes Page

and the Law on the Promotion of the Investment.

Article 46. Size of Construction Business

The business on construction is divided in tree sizes:

1. large size;
2. medium size;
3. Small size.

The business on construction of each size is the relevant sector to determine.

Article 47. Types of Construction Business

The business on construction has four types as follows:

1. Survey-design;
2. Construction's materials analysis;
3. Consultancy;
4. Construction entrepreneurship.

Each type of construction's business may divide into different levels based on the size, value, technical requirements, technology, construction materials and duration on the use of which the relevant sector is the body to do research and specifically regulate.

**PART IV
Contract on the Construction**

Article 48. Contract of Survey-Design, Supervision of the Construction

The project's owner shall enter into agreement on the survey design, supervision of the construction with a consultancy company, architect or engineer according to each task of the project in respect to the conditions as provided in the contract and Tort Law in order to regularly monitor, control in the area of professional in the process of the construction aiming to ensure that the construction project has a quality and proper to the design.

Article 49. Contents of the Survey- Design, Supervision of Construction Contract

The contract on survey design, supervision of the construction has the main contents as follows:

1. Description of terms of reference of the survey-design, monitor, control and supervise the construction;
2. Expenditure and method of payment to the person who conduct the survey-design supervision of the construction;
3. Duration and survey-design plan, supervise each task of the construction project;
4. Report on the result of the monitoring, control and supervision of the construction;
5. Fine in case there is a breach of the contract or do not implement obligations in due time;
6. Modification, cancellation or termination of the contract;
7. Dispute resolution;

Unofficial Translation – Rely on Lao version for authoritative purposes Page

8. Language using in the contract.

Article 50. Bidding and Requirements in tendering a bid of the survey-design Construction's Consultancy Company

The survey-design, the selection of construction consultancy, in general shall have bidding in consistency with the law on state's investment especially the State's investment.

Participation to the bid by the survey design, construction Consultancy Company shall met the complete requirements as follows:

1. Correctly incorporated in accordance with laws and regulations;
2. Have architects and engineers who have the knowledge, ability, qualification and experience in the survey-design, supervision of the construction proportioned with the size and nature of each type of the construction project;
3. Have a financial status, regularly and completely implement obligations in the area of custom duty, taxes;
4. Have possibilities as prescribed in the bidding documents.

Article 51. Construction's Entrepreneurial Contract

After the completion of the survey-design, before operating the construction, the project's owner and the construction entrepreneurship company shall mutually make a contract in respect to the requirements as provided in the Contract and Tort Law.

Article 52. Contents of the Construction's Entrepreneurial Contract

The construction's entrepreneurial contract has the main contents as follows:

1. Objective, description of terms of reference of the construction project;
2. Value, method of payment of the construction cost;
3. Duration and schedule of construction project operation;
4. Provision of construction materials;
5. Control, approval and hand over of the construction project;
6. Fines, in case there in a breach of the contract or not performance of obligations in due time;
7. Duration and value of construction items' guarantee according to laws and regulations;
8. Modification, cancellation and termination of the contract;
9. Dispute resolution;
10. Language using in the contract;
11. Technical norm and technical standard of the construction.

Article 53. Bidding and Requirements in the Participation of the bid of the Construction Entrepreneurial Contract

The construction entrepreneurial contract in general shall have a bid in consistency with the Law on State's Investment especially State's Investment Project.

The participation into the bidding of a construction entrepreneurial company shall have complete

Unofficial Translation – Rely on Lao version for authoritative purposes Page

requirements as follows:

1. Correctly incorporated in accordance with laws and regulations;
2. Have an experience and actual achievement which is appropriate to the type, size and level of the construction project;
3. Have a good financial status by obtaining the certification from the bank;
4. Have architects and engineers who have the knowledge, ability, qualification and experience proportioned with the size and level of each type of project;
5. Have vehicles, tools and construction equipments that have a quality and be sufficient;
6. Regularly and completely implement obligations on custom duty, taxes;
7. Have other requirements as prescribed in the bidding documents.

**PART V
Professional Association on Construction**

Article 54. Professional Association on Construction

The Association of professionals on construction is a social organization that is a place to gather architects, engineers, technicians and business operators on the construction.

The association of professionals shall be established in accordance with laws and regulations.

Article 55. Location and Role of the Professional Association on Construction

The association of professionals is one social organization which is subject to the Public Works and Transportation sector, has the role to gather the solidarity, intelligence, of professionals in construction and business operators on the construction to act upon the construction, laws and regulations, by laws and their ethics in order to protect, promote and develop their profession, contributing into the creation of advantages to the society and the development of the nation.

Article 56. Rights and Duties of the Professional Association on the Construction

The association of professionals on construction has the rights and main duties as follows:

1. Propagate, disseminate the policies, laws and regulations and State's socio-economic development plan on the construction and contributing into the implementation;
2. Assist, build and promote its members in the implementation of activities as well as the exercise of profession to have a progress and efficiency;
3. Manage and protect rights and equitable benefits to their association's members based on the policy, laws and regulations;
4. Be responsible in the study and research in order to conserve, promote the unique in the area of architecture and constructed items which are the national heritage;
5. Use the science, technique-technology of the construction which is modern;
6. Exchange of lessons, other experiences on the construction to upgrade knowledge, ability of its members to be continually higher;
7. Enhance the solidarity, unification within professionals and liaise to cooperate with other professionals' association in domestic and foreign countries;
8. Regularly summarize and report the result of the implementation of their works to the Public Works and Transportation Sector and other relevant sectors.

Article 57. Architects

An architect is a technician who has knowledge, ability in architectural design, decoration and embellishment.

An architect has the duty and role to determine ideology regarding the form on the draft design, shape, proportion, structure, economic-technical norm and determination on the use of construction materials, monitoring, control of correctness in respect to architectural style, technical standard and direct the construction to be realized.

Article 58. Construction Engineers

A construction engineer is a technician who has knowledge, ability in the field of science-technique on the construction.

A construction engineer has the duty and the role to analyses, calculate, engineering design, direct, control and supervise the quality of the construction according to the plan.

**PART VI
Prohibitions****Article 59. General Prohibitions**

It is prohibited to individuals and organizations to act as follows:

1. Operate business on construction without license from the relevant sector;
2. Construct in the area where laws and regulations are not permitted such as military strategic zone, artifacts site, historical place, cultural, reserved forest heritage area, reserved area of the public road, railroad, pond, marsh, stream, rice fields, irrigation system, hydropower dam, airport area, and the area that is related to the safety of the aviation, embankment protection area and others.
3. Survey-design, construct, supervise and control the state's and private construction projects by the same person;
4. Construct, repair, extent and modify the plan without responsibility and without receiving authorization, not correct and in consistency with the socio-economic development plan, infrastructure and urban plan;
5. Digging soil, heaping soil or filling soil without the authorization from the relevant sector;
6. Cutting small trees to make wooden support without authorization;
7. Transport of construction materials such as soil, gravel, stone and sand that create dirt on the surface of the roads, public places or the places of other people without receiving authorization from relevant sector;
8. Obstruct, not felicitate or not cooperate without sufficient reason to the construction operation;
9. In accomplice to give or receive bribe in the construction operation;
10. Having other acts that are a breach to laws and regulations.

Article 60. Prohibitions for Officials and Relevant Officers

Unofficial Translation – Rely on Lao version for authoritative purposes Page

It is prohibited to officials and relevant officers to act as follows:

1. Operate business, be a consultant or technician to a construction project entrepreneurial company which is related to their responsibilities;
2. Disclose data on the bid;
3. Accept bribe on the construction for his own interest or for his friends;
4. Neglect to their responsibilities, delay, withhold documents on construction, erection and neglect to the incorrect act of the contractor;
5. Issue a permit to construct a hotel or a restaurant bar and entertainment hall near the pagoda, hospital and school;
6. Have other acts that are a violation to laws and regulations.

Article 61. Prohibitions for the Project's Owner

It is prohibited to the project's owner to act as follows:

1. In conspiracy with officials, relevant officers or the contractor, consultancy company, architects or engineers in the certification and approval of constructed items which are not met the standard;
2. Accept bribe on construction from the contractor;
3. Delay in the payment of constructed items which are already accomplished except otherwise agreed;
4. Retard, withhold the constructor on the method and measures to settle problems which are occurred in the construction;
5. Neglect to the monitoring, controlling the execution of the construction of the contractor;
6. Have other acts that are the violation of laws and regulations.

Article 62. Prohibitions for Business Operations on the Construction

It is prohibited to a business operator on the construction to act as follows:

1. Operate the construction out of the type of which one's has registered the enterprise or concession registration;
2. Construct not proper to the plan, technical norm and technical standard of the construction;
3. Construct without measures of protection for the safety and preservation of the natural and social environment;
4. Sell or transfer the construction project to individual or other organization without obtaining the authorization from the project's owner;
5. Digging soil, heaping soil or filling soil outside of the construction site as prescribed during the construction operation, except if it has obtained the authorization from the relevant sector;
6. Abandon activities of the construction project that one's has signed the construction contract with the project's owner;
7. Cutting trees to make the wooden support without authorization;
8. Have other acts that are a violation of laws and regulations.

Article 63. Prohibitions for Consultancy Company, architects and construction's Engineers

Unofficial Translation – Rely on Lao version for authoritative purposes Page

It is prohibited to the consultancy company, architects and construction's engineers to act as follows:

1. Copy architectural and engineering plan of another people to seek for personal commercial benefit;
2. Disclose data on the middle price of the construction project which has opened an auction;
3. In conspiracy with the project owner or the contractor on the construction project to seek for personal interests;
4. Wrong behave to the ethics of their profession;
5. Have other acts that are a violation of laws and regulations.

**PART VII
Dispute Resolution****Article 64. Form of Dispute Resolution**

The dispute resolution may undertake under the following forms:

1. Mediation or conciliation;
2. Administrative arrangement;
3. Resolution by the Economic Arbitration committee;
4. Court decision.

Article 65. Mediation or Conciliation

In the event that a dispute is arisen in the course of business operation concerning the construction, the parties may negotiate, mediate and mutually conciliate.

Article 66. Administrative arrangement

In case of failure of the mutual conciliation, the parties have the rights to propose to the relevant sector where one's has been licensed to arrange for settlement.

Article 67. Resolution by the Economic Arbitration Committee

In the event that the relevant can not mediate and resolve, the parties have the rights to submit to the economic arbitration committee to consider for giving an award in accordance with laws and regulations.

Article 68. Court Decision

The dispute that is occurred during the operation of business related to the construction which can not settle by the mediation or conciliation or administrative arrangement or economic arbitration committee, one of the parties has the rights to sue to the People's Court to consider for decision in accordance with laws and regulations.

**PART VIII
Management and Supervision of the Construction Activities**

Article 69. Construction Activities Management Organization

The government is the organ to manage the construction's activities in centralized and unified manner throughout the country by assigning to the Public Works and Transportation as the focal point of coordination with other relevant sectors for example: Energy and Mines sector, agriculture and forestry sector, industry and commerce sector, science and technology agency, relevant local administration to manage according to their responsibilities.

The Construction Activities Management Organization is consisted of:

1. Ministry of Public Works and Transportation, other relevant sectors;
2. Public Works and Transportation Division;
3. Public Works and Transportation Office, other District, municipality's relevant Offices.

Article 70. Rights and Duties of the Ministry of Public Works and Transportation, other relevant Sectors

In the management of the construction's activities, the Ministry of Public Works and Transportation, other relevant sectors have the rights and main duties as follows:

1. Study the policies, strategic plan, laws and regulations related to the construction's activities of their sectors to propose to the government for consideration;
2. Transform the policies, strategic plan, decisions of the government related to the construction's activities to become their plans, action plans and detailed projects of their sectors;
3. Propagate, disseminate policies, strategic plan, laws and regulations to stimulate awareness to the population to contribute into the construction's activities of their sectors in the entire country;
4. Direct, monitor the implementation of policies, strategic plan, laws and regulations, investment plan, the development, expansion of infrastructure system in their sectors;
5. Research on norm and technical standard of the construction, study and select appropriate technology including to issue a guideline for the implementation;
6. Consider on the authorization of big size of construction according to their responsibilities;
7. Examine, give opinions related to the investment expansion, suspension and cancellation of the construction projects;
8. Build, train, upgrade the personnel in the field of construction;
9. Coordinate with other sectors and relevant local administration on construction's activities;
10. Liaise and cooperate with foreign countries, regional, international on construction's activities;
11. Regularly summarize, report the result of the implementation of construction's activities to the government.

Article 71. Rights and Duties of Public Works and Transportation Division, other Division subject to the Provinces, City

In the management of the construction's activities the division of Public Works and Transportation, other divisions subject to the provinces, city have the rights and main duties as follows:

Unofficial Translation – Rely on Lao version for authoritative purposes Page

1. Translate policies, strategic plan and construction's activities development plan of their sectors;
2. Propagate, disseminate policies, strategic plan, laws and regulations related to construction's activities of their sectors in the area of the provinces, city;
3. Direct and monitor the implementation of construction's activities within their localities;
4. Survey, collect data, statistics related to construction's activities in their localities;
5. Consider to authorize the medium size of construction according to their responsibilities;
6. Examine, give opinion related to investment expansion, suspension and cancellation within the provinces, city;
7. Manage the business operation, survey, design, construct and consultancy within their localities;
8. Collect data, statistics related to the construction's activities of the sectors in their localities;
9. Liaise and cooperate with foreign countries, regional and international related to the construction's activities from the assignment of the higher level;
10. Regularly summarize, report the result of the implementation of construction's activities to the relevant higher sectors and provincial, city administration organization.

Article 72. Rights and Duties of the Public Works and Transportation Offices other district, municipality, relevant offices

In the management of the construction's activities, the Public Works and Transportation Offices, other district, municipality, relevant offices have the rights and main duties as follows:

1. Implement plans, projects, regulations and instructions of the provincial, city Public Works and Transportation division regarding the construction's activities;
2. Disseminate laws and regulations related to the construction's activities in the area of their districts, municipalities;
3. Research to provide opinion related to the construction's activities within the district area, integrated development point and rural area in order to propose to the provincial city Public Works and Transportation division for consideration;
4. Consider on the authorization of the small size construction according to their responsibilities;
5. Coordinate with other relevant sectors including to monitor the implementation of various construction's projects within their districts, municipalities;
6. Regularly summarize, report on the result of the implementation of construction's activities of their relevant divisions and districts, municipalities administrative organizations.

Article 73. Rights and Duties of Village's Administration Organization

In the management of the construction's activities the village's administration organization has the rights and main duties as follows:

1. Disseminate and implement laws and regulations related to the construction's activities and instructions of the Public Works and Transportation sector, other sectors related to construction's activities in their villages area;
2. Mobilize the population to participate to give opinions and contribute into the construction and the maintenance of the constructed items such as the move to the population and

Unofficial Translation – Rely on Lao version for authoritative purposes Page

- obstacle items out of the construction's area, repair, restore, renovate constructed items which serve the public utilization within their village's area;
3. Report on the violation of laws and regulations situation related to the construction within their villages to the Public Works and Transportation offices, other relevant offices of the districts, municipalities;

**Chapter 2
Inspection of Construction Activities**

Article 74. Inspection Organization of Construction Activities

The construction activities inspection organization has two categories as follows:

1. Internal inspection organization which is a part of the construction's activities management organization as provided in Article 69 of the law;
2. External inspection organizations which are:
 - National Assembly as provided in the Law on the oversight of the National Assembly;
 - State Inspection organization as provided in the law on State Inspection;
 - State Audit organization and independent audit unit as provided in the Law of Audit;
 - Lao National Front for Construction, Mass Organizations, Population and Media.

The external inspection has the objective to control the performance of duties of construction's activities management and control in order to have the strength, transparency, justice and efficiency.

Article 75. Rights and Duties of the Inspection Organization

In the control of the construction's activities, the inspection organization has the rights and duties to perform according to the contents and forms as provide in Article 76 and 77 of this law.

Article 76. Contents of the Inspection

The inspection of the construction's activities has the main contents as follows:

1. Control on the implementation of strategy plan, policies, laws and regulations, investment plan, the development and maintenance of infrastructure of their sectors;
2. Control the performance of technical standard in the implementation of construction's projects including construction materials, installation of infrastructure system of their sector;
3. Control the performance of the standard of the safety and social welfare policies to labors in the construction operation;
4. Control on the use of protection measures, settle impacts and compensate for damages to life, health, property of the population, public and environment in the construction operations;
5. Control the bidding, construction contract, construction's supervision and installation of infrastructure system contract of their sectors;
6. Control the progress of the implementation of the construction according to the scope as provided in the construction contract.

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In addition, the control shall be performed in accordance with the contents of the control as provided in the law on the State's investment.

Article 77. Forms of Inspection

The inspection of the construction's activities is performed on regular basis, by having an advance notification and immediate inspection.

In performing construction's project inspection, officers of the inspection authority shall strictly comply with the laws and regulations.

**PART IX
Policies towards Productive Persons and Measures against Violators**

Article 78. Policies towards Productive Persons

Individuals, legal entities or organization which have an outstanding deed in the performance of this law especially the contribution into the construction's activities development will receive commendations and policies as deemed reasonable.

Article 79. Measures against Violators

Individuals, legal entities or organizations which violate this law will be educated, imposed discipline sanctions, fined, compensated civil damages cost or be taken action in accordance with law depending on the severity of the case.

Article 80. Educational Measures

Individuals, legal entities or organizations which violate the laws and regulations related to the construction especially prohibitions that have minor characteristic which are not criminal offenses will be educated and admonished.

Article 81. Disciplinary Measures

Officers or officials that manage the construction's activities which violate the laws and regulation related to the construction, especially prohibitions that have minor characteristic which is not criminal offense, cause not considerable damages and not willingly to report on his own wrongdoing, escape from his own mistake will be imposed disciplinary sanction according to regulations must be admonished of the wrongdoing, suspended of the promotion of rank or dismissed from office.

Article 82. Fine Measures

Individuals, legal entities or organizations which violate the law and regulations related to construction causing damages that have no constituent proof of criminal offense will be fined due to the main acts as follows:

1. Conduct business on construction without license;

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2. Construct and install equipments and construction accessories without authorization;
3. Non-performance in compliance with technical and safety standard;
4. Non-performance of measures in the construction, repair that reflect adverse effects to the environment.

For the rate of the fines is regulated in a specific regulation.

Article 83. Civil Measures

Individuals, legal entities or organizations which violate laws and regulations related to the construction that cause damages to property of individuals, legal entities or other organizations shall compensate for damages that one's has incurred.

Article 84. Criminal Measures

Individuals who violate laws and regulations related to the construction that are criminal offenses will be taken action as provided in the Penal Law.

**PART X
Final Provisions**

Article 85. Implementation

The government of the Lao People's Democratic Republic Implements this law.

Article 86. Effectiveness

This law shall enter into force after one hundred twenty days from the date of the President of the Lao People's Democratic Republic has issued a decree to promulgate it.

Any regulations, provisions which contradict this law are hereby repealed.

President of National Assembly

(Seal and Signature)

Thonsing THAMMAVONG

4. Law on Public Procurement



Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

National Assembly

No. 30/NA
Vientiane capital, date 2 November 2017

Unofficial translation

LAW ON PUBLIC PROCUREMENT

PART I GENERAL PROVISIONS

Article 1 Objectives

This Law defines the principles, regulations and measures regarding the management monitoring and performance of public procurement to ensure such activity is carried out properly and in a unified manner countrywide in order to secure the effective, efficient, economic, transparent, accountability and fair use of government funds in contribution to national socio-economic development.

Article 2 Public Procurement

Public procurement applies government funds in works, goods, services and consulting services in support of government programs and/or projects through fair procurement and selection of consultants in line with the laws.

Article 3 Definitions

Terms used in this Law have the following meanings:

1. **Government funds** refer to the state budget which includes state funds, state enterprises' funds, foreign grants and loans obtained by the government from foreign countries and financial institutions;
2. **Project Owner** refers to a ministry, agency, local administrative authority and state enterprise applying government funds in procuring works, services and consulting services;
3. **Procuring Entities** refers to a ministry, agency, local administrative authority and state enterprise applying government funds in procuring goods and services;
4. **Contractor** refers to an individual, legal entity employed or contracted by the project owner to perform works on a contract basis;
5. **Supplier** refers to an individual, legal entity providing or supplying of goods or services to a procuring entity on a contract basis;

6. **Consultant** refers to an individual, legal entity employed by a project owner to provide consulting services under a contract;
7. **Individual, Legal Entity** refer to a contractor, supplier and consultant;
8. **Force Majeure** refers to events that may not be expected and beyond control such as natural disasters, flood, earthquakes, epidemics, catastrophes, financial crisis and other circumstances requiring urgent remedies;
9. **Project Management** refers to a team or organization appointed by the project owner or procuring entities to have an oversight in public procurements management and administration;
10. **Bidding Documents** refer to documents issued by the project owner or procuring entities for works, goods and services which include invitation for bids, instructions to bidders, evaluation and qualification criteria, contract, forms, price schedules, technical specifications, delivery or completion schedules and other documents;
11. **Proposals** refer to documents issued by the project owner for the selection of consultants which include letter of invitation, instructions to consultants, evaluation criteria, contract, terms of reference and other documents.

Article 4 *Government Policy on Public Procurement*

The government promotes public procurement by identifying appropriate procurement measures and procedures, through staff training, supply of equipment and facilities to build infrastructure ensuring such activity is carried out in an effective and efficient manner.

The government encourages and promotes local and foreign individuals, legal entities and organizations to participate in bidding for works, goods, services and consulting services based on the basis of equality.

The government promotes public procurement by protecting the rights and interest of the government, individuals, legal entities or organizations and preserving the environment for green sustainability.

Article 5 *Fundamental Principles in Public Procurement*

Fundamental principles in public procurement include:

1. Consistent with the law, national socio-economic development plan and government budget plan;
2. centralized and unified management countrywide are secured;
3. Economy, equality, openness, fairness, transparency, and accountability;
4. ensuring the rights and interest of the government, local and foreign individuals, legal entities and organizations.

Article 6 *Scope of Application*

This Law applies to ministries, agencies, local administrative authorities, state enterprises, local and foreign individuals, legal entities and organizations relating to public procurements in Lao PDR.

This Law does not apply to the procurements pertaining to national security and safety.

Article 7 *International Cooperation*

The state promotes relations of cooperation with foreign countries, regional and international organizations in relation the public procurement by exchanging experiences, sharing data and information, technologies, organizing seminars and upgrading of technical capacity and, implementation of international conventions and treaties to which the Lao PDR is a party.

PART II

PUBLIC PROCUREMENT TYPES AND METHODS, LANGUAGE, CURRENCY AND PROCUREMENT THRESHOLDS

Section 1 Types of Public Procurement

Article 8 *Types of Public Procurement*

There are three types of public procurement:

1. Works;
2. Goods and/or services;
3. Consulting services.

Article 9 *Works*

Works is the process of construction and/or maintenance of infrastructure, namely bridges, roads, railways, waterways, airports, river bank erosion protections, buildings, schools, hospitals, irrigation schemes, reservoirs, weirs, power plants, power stations and transmission lines, plants and factories, and others, including services associated with construction and/or maintenance where the costs of such services do not exceed the costs of works.

Article 10 *Goods and/or services*

Supply of goods is the supply of raw materials, finished and semi-finished goods and products, equipment, vehicles, office supplies, medicines, medical equipment, educational and other equipment to procuring entities under contracts.

Supply of goods includes transport services, insurance, lease, advertising, installation, training on operation, maintenance and other services where the costs of such services do not exceed the costs of goods supplied.

Services are service activities such as routine maintenance, security service, cleaning service and other services; which are not associated with works, goods and consulting services.

Article 11 *Consulting Services*

Consulting services refer to technical services, namely feasibility studies, research and analysis, design, surveys, management of government projects, financial and accounting management.

Section 2 Public Procurement Methods

Article 12 *Public Procurement Methods*

Public procurement is carried out in the following manners:

1. Procurement (of goods, works and services);
2. Selection of consultants.

Article 13 *Procurement (of goods, works and services)*

Procurements are cost and quality competitions for procurement of works, goods and/or services in the procurement methods described in Article 18 of this Law.

Article 14 *Selection of Consultants*

Selection of consultants is a competition of methodologies, qualification, price and other criteria in consulting services according to the selection of consultants methods as indicated in Article 23 of this Law.

Section 3 Language, Currency and Procurement Threshold

Article 15 *Language in Tenders*

The language used in tenders and selection of consultants must be the Lao language. When in open international tenders, both Lao and a foreign language may be used as necessary.

Article 16 *Currency of Bid*

Currency of bid in tenders and selection of consultants must be the Lao Kip or foreign currencies. Where necessary, multiple but no more than three currencies may be used.

Article 17 *Procurement Threshold*

Procurement threshold is the estimated value for each method of procurement inclusive of taxes and fees, except in cases determined by law, as reference in the application of method of procurement as provided in Article 18 of this Law.

The threshold for each procurement method is set out in separate regulations to ensure consistency with financing sources' conditions, economic growth and appropriate execution in each stage.

PART III METHODS OF PROCUREMENT, SELECTION OF CONSULTANTS AND GUARANTEES

Section 1 Methods of Procurement

Article 18 *Methods of Procurement*

Procurement methods may follow:

1. Open bidding;
2. Limited bidding;
3. Request for quotations (Price Comparison);
4. Direct contracting;

Public procurement may be carried out through direct submission of bids or through electronic systems.

Procedures and implementation guidelines for each procurement methods are set out in separate regulations.

Article 19 *Open Bidding*

Open bidding are tenders formally announced through mass media or electronic systems without limitation of participants.

Open bidding includes:

1. National open bidding is a procurement proceeding that only local individuals, legal entities participate in the tenders;
2. International open bidding is a procurement proceeding that both local and foreign individuals, legal entities participate in the tenders.

Article 20 *Limited Bidding*

Limited bidding is applied when tenders call for high expertise or specific techniques that may be provided by a limited number of contractors or suppliers and/or services providers are announced by project owners or procuring entities directly to contractors or suppliers

and/or services providers for price competition.

Article 21 *Request for Quotations (Price Comparison)*

Request for quotations is applied for the procurement of small works, routine maintenance, supplies of office equipment and other services within set budgets.

Request for quotations are solicited by way of direct invitations or through appropriate electronic systems to no less than three participants.

Article 22 *Direct Contracting*

Direct contracting refers to the agreement between project owners and contractors or procuring entities and suppliers and/or service providers without a competitive of procurement process.

Direct contracting shall be carried out in only of the following circumstances:

1. Single source of products linked to copyrights protect or industrial or intellectual properties;
2. Specific equipment and goods from contractors or suppliers and/or service providers for maintenance or replacement;
3. Extended for additional works, goods and/or services and consulting services of a similar nature; which value does not exceed twenty percent of the original contract;
4. Government project and activity in isolated areas with poor access infrastructure or very limited interested bidders;
5. Within budgets set under regulations;
6. In force majeure or urgent cases.

Section 2 Methods of Selection of Consultants

Article 23 *Methods of Selection of Consultants*

The selection of consultants includes:

1. Quality and cost-based selection;
2. Quality-based selection;
3. Selection under a fixed budget;
4. Least-cost selection;
5. Selection based on the consultants' qualifications;
6. Single source selection.

Selection of consultants may be carried out through direct submission of documents or through electronic systems.

Article 24 *Quality and Cost-Based Selection*

Quality and cost-based selection is carried out through the assessment of participants' technical and financial proposals so as to obtain consultants with the highest scores in accordance with the evaluation method.

The selection of consultants based on quality and cost is applied to select consultants on the basis of clearly detailed scope and terms of reference allowing for the projection of the number of key staff, key staff's inputs and other reimbursables associated with the selection of consultants.

Article 25 *Quality-Based Selection*

Quality-based selection of consultants is based on the assessment of participants' qualifications so as to obtain the consultants with highest scores in accordance with the

evaluation method.

Quality-based selection of consultants is applied for the selection of consultants on the basis of multi-sectoral works where quality consulting services is of utmost importance for the works' outcome.

Article 26 Selection under a Fixed Budget

Selection of consultants under a fixed budget is based on assessments stipulated in Article 24 of this Law to obtain consultants with the highest scores with advance notice of the fixed budget to participants.

Selection of consultants under a fixed budget is applied to select consultants on the basis of outlined terms of reference, timeframe, number of key staff and fixed budget.

Article 27 Least-Cost Selection

Least-cost selection of consultants is based on assessments stipulated in Article 24 of this Law to obtain outlined scores.

Least-cost selection of consultants is applied to select consultants for short-term, routine and continuous work, namely for maintenance and regular inspection.

Article 28 Selection based on the Consultants' Qualifications

Selection based on the consultants' qualification is when participants' competence and experience are assessed to select quality and standard meeting consultants in accordance with the evaluation method.

Selection based on the consultants' qualifications is applied for the selection of highly competent and experienced consultants for tasks requiring such consultants.

Article 29 Single Source Selection

Single source selection of consultants is a non-competitive selection, as it is for work that represent a natural continuation of previous tasks carry by the same firm; or when only one consultant is qualified or has the specific conditions and experience for the tasks to be assigned or in urgent circumstances as declared by project owners.

Section 3 Securities (Guarantees) in the Public Procurement Process

Article 30 Types of Securities in the Public Procurement Process

Types of securities in the public procurement process include:

1. Bid securities;
2. Performance securities;
3. Advance payment securities;
4. Warranty securities.

Returning and forfeiting of each type securities are governed by procurement procedures and conditions of contracts.

Article 31 Bid Securities

Bid securities are guarantees provided by bidders in the form of cash deposits, bank securities and other forms of guarantees.

Article 32 Performance Securities

Performance securities are guarantees by contractors or suppliers and/or service providers or consultants to project owners or procuring entities on the performance of contracts according to agreed contract terms and conditions.

Article 33 Advance Payment Securities

Advance payment securities are guarantees by contractors or suppliers and/or service providers or consultants to project owners or procuring entities for advance payment according to agreed contract conditions.

Article 34 Warranty Securities

Warranty securities are guarantees by contractors or suppliers and/or service providers or consultants to project owners or procuring entities on workmanship, standards, quality and services according to agreed contract conditions and other guarantees.

PART IV ELIGIBILITY, RIGHTS AND OBLIGATIONS OF BIDDERS AND PARTICIPANTS TO TENDERS

Section 1 Eligibility, Rights and Obligations of Bidders

Article 35 Bidders

Bidders are those intending to be:

1. Contractors or suppliers and/or service providers;
2. Consultants;

Article 36 Eligibility for Participation in Tendering

Eligibility criteria for participation in public tendering are:

1. Be local and foreign individuals, legal entities possessing taxpayer identification numbers or business licenses and performance of taxes certificates and other obligations in compliance with the laws;
2. Have letters of reference indicating their achievements, experience, technical capacity, personnel and quality implementation of works, goods and/or services and consulting services;
3. Have certificates of financial standing over the last three years from local and/or foreign financial institutes and/or annual financial audit reports;
4. Have sufficient competent and experienced personnel related to the assignment;
5. Have no conflict of interest in such procurement as the same firm has been involved in designing or preparing the bidding document;
6. Have certificates of standards and quantity of production machinery, tools and equipment for works, and goods and/or services;
7. Have legal capacity or not sentenced to imprisonment by courts from business operations.

Article 37 Rights and Obligations of Bidders

During the bidding period, bidders have the following rights and obligations:

1. Participate to tenders;
2. Receive information relating to public procurements;
3. Perform according to public tender regulations;
4. Extend cooperation, supply information and facilitate to tender committees;
5. Preserve tenders' confidentiality;
6. complain to relevant authorities when tenders are seen as lacking transparency and fairness as required under this Law and other relevant laws;
7. Exercise other rights and perform other obligations set out in bidding documents.

Section 2 Rights and Obligations of Participants to Tenders

Article 38 *Participants to Tenders*

Participants to tenders include project owners or procuring entities and other stakeholders.

Article 39 *Rights and Obligations of Participants to Tenders*

Participants to tenders have the following rights and obligations:

1. Appoint project management and tender committees;
2. Monitor, inspect and assess tenders under their responsibilities;
3. Adopt plans, bidding documents or request for proposals and bid evaluation reports;
4. Consider suspending or rejecting public procurements, extend bidding's timeframe and decide re-bidding;
5. perform rights and other obligations set out in bidding documents or request for proposals.

PART V TENDER COMMITTEES AND EVALUATION OF BIDS

Section 1 Tender Committees

Article 40 *Tender Committees*

Tender committees are appointed by ministers, heads of agencies or governors, mayor, chief of district, chief of municipality or by relevant assignees to assist in managing and carrying out public procurements in accordance with methods as indicated in Article 12 of this law.

Structures of tender committees are set out in separate regulations.

Article 41 *Rights and Duties of Tender Committees*

Tender committees have the following rights and duties:

1. Set qualification requirements and conditions and approve bidding documents or request for proposals;
2. Carry out procurements, open bids or proposals;
3. Evaluate bids or proposals;
4. Propose approving, suspending or canceling bids or proposals;
5. Report evaluation of bids or proposals to project owners or procuring entities;
6. perform rights and other duties as stipulated by law.

Section 2 Evaluation of Bids or Proposals

Article 42 *Evaluation of Bids or Proposals*

Evaluation of bids or proposals aim at assessing procurement to achieve value for money and ensure the following:

1. Open competition;
2. Completeness of bid as required under the procurement terms;
3. Fairness;
4. Lowest evaluated bid.

Evaluation of bids is carried out through preliminary and detailed examinations.

Article 43 Preliminary Examination

The preliminary examination of bids or proposals aims at selecting bids or proposals meeting the desired general procedures by considering the following:

1. Completeness of bids or proposals, and duly signed by the authoritative persons, including letters of appointment or powers of attorney;
2. Bid securities must in an acceptable form and meet the set amounts and validity periods;
3. Proposals for discounts (if any).

Any amendment or modification to the documents' content must be certified by bidders.

Article 44 Detailed Examination

Detailed examination of bids or proposals consider in detail the financial statements, technical specifications, qualifications, quality and contract implementation timeframe, experience, personnel, vehicles and equipment, and prices.

Detailed examination for works, goods and/or services and consulting services is set out in separate regulations.

Article 45 Domestic Preference

Contractors, suppliers or consultants meeting all conditions shall be given domestic preference and considered to be awarded the contracts.

Conditions for domestic preference are set out in separate regulations.

Article 46 Complaints

During tenders, bidders unsatisfied with the procurement process, namely from unfairness, from the lack of transparency, and partiality by tender committees may file a written complaint to project owners or procuring entities for resolution within fifteen days.

If the resolution is not to the bidders' satisfaction, matters may be submitted to relevant government agencies.

Article 47 Approval of the Bid Evaluation

When bids and proposals evaluation reported by tender committees are seen as complying with procurement procedures, ministers, heads of agencies or governors, mayor, chief of district, chief of municipality or concerned assignees shall approve bids and proposals evaluations.

PART VI

CONTRACTS, RIGHTS AND OBLIGATIONS OF CONTRACT PARTIES

Section 1

Public Procurement Contracts

Article 48 Public Procurement Contracts

Public procurement contracts are agreements between project owners and contractors/consultants or procuring entities and suppliers and/or service providers.

Public procurement contracts include:

1. works contracts;
2. goods and/or services contracts;
3. Consultancy contracts.

Article 49 Contents of Public Procurement Contracts

Public procurement contracts consist of the principle contents as follows:

1. Full names and addresses of the contracting parties;

2. Purpose, price, performance period, [method of] payment and [details of] delivery;
3. Scope, quantity and quality of contractual obligations;
4. Rights and obligations of contracting parties;
5. [Project] site and notifications under contracts;
6. Consequences arising from the breach of contractual obligations;
7. Authorities and measurements for resolving disputes;
8. Conditions for modification and termination of contracts before their [natural] expiration;
9. Perform customs, tax obligations and other fees

Article 50 *Works Contracts*

Works contracts are agreements between contract parties requiring contractors build and/or maintain structures according to project owners' objectives with materials and equipment provided by project owners or contractors, and requiring project owners to accept and pay for construction and/or maintenance works which successful completion is jointly inspected.

Article 51 *Goods and/or Services Contracts*

Goods and/or services contracts are agreements between contract parties requiring suppliers and/or service providers to secure and deliver goods and/or services to destination or according to procuring entities' objectives, and requiring procuring entities to pay for goods and/or services at mutually agreed prices.

Article 52 *Consultancy Contracts*

Consultancy contracts are agreements between contracting parties where consultants are required to perform tasks outlined by project owners and project owners are required to pay consultancy fees in accordance with the rates agreed and specified in contracts.

Article 53 *Management of Contracts*

Project owners or procuring entities must appoint project management for managing contracts to ensure the quantity, quality and timeframe in works, goods and/or services and consulting services contracts.

Works, goods and/or services and consulting services contracts shall be approved and certified by inspection and certification committees. If technical and quality certifications are required, such certifications shall be from engineers or independent experts.

Article 54 *Amendment of Contracts*

Public procurement contracts may be amended as agreed between contracting parties in the following cases:

1. Costs and quality of works are not affected;
2. Increase or decrease of work quantity set in original contracts namely due to technical modifications, events of force majeure or unexpected occurrences;
3. Increase or decrease of price indexes for contracts which provide for time of implementation exceeding one year.

Amendment to contract values shall comply with contract conditions and the Public Investment Law.

Article 55 *Expiration of a Contract*

Public Procurement contracts shall expire in any of the following cases:

1. The contract is correctly and fully performed;
2. Mutual agreement between contracting parties;
3. Serious breach of contract by either contracting party, causing substantial damage;
4. Dissolution or bankruptcy of either contracting party.

In case of breach, dissolution or bankruptcy, the contracting party sustaining damage is entitled to claim cost reimbursement and damages.

Section 2

Rights and Obligations of Contracting Parties

Article 56 *Rights and Obligations of Contractors*

Contractors have the following rights and obligations:

1. Correctly and strictly comply with relevant sectoral laws and regulations;
2. Comply with instructions from project owners, project management and/or consultants, unless such instructions are inconsistent with technical specifications and likely to result in sub-standard projects;
3. Implement projects to completion according to technical specifications and schedule set out in contracts;
4. Provide performance securities;
5. Receive payments for completed projects from project owners according to contracts;
6. Propose amending terms or prices under the contracts;
7. Propose terminating contracts in the event the other contracting party fails to perform according to contracts;
8. Withdraw performance security;
9. Preserve project vehicles, equipment and construction materials provided by project owners;
10. Carry out construction and/or maintenance works in accordance with contracts;
11. Re-build or repair projects at their own costs in case projects show defects or fail to meet technical specifications during the defect liability period;
12. Perform customs, tax obligations and fees as required by law;
13. Take responsibility for damage arising from projects built by them and failing to meet technical specifications, unless such damage is caused by events of force majeure;
14. perform rights and other obligations set out in contracts.

Article 57 *Rights and Obligations of Suppliers and/or Service Providers*

Suppliers and/or service providers have the following rights and obligations:

1. Supply goods and/or services in full, in accordance with technical specifications and delivery schedule set out in contracts;
2. Provide performance securities;
3. Receive payments for supplied goods and/or services according to contracts;
4. Propose amending terms or prices under the contracts
5. Propose terminating contracts in the event the other contracting party fails to perform according to contracts;
6. Withdraw performance/warranty securities when contract has been completed or according to the mutual agreement;
7. Replace and repair defective or sub-standard goods during the period of warranty;
8. Take responsibility for all damages arising during contract implementation;
9. Perform their obligations pertaining to duties, taxes and fees as required by laws;
10. Perform rights and other obligations set out in contracts.

Article 58 *Rights and Obligations of Consultants*

Consultants have the following rights and obligations:

1. Perform their roles, duties and responsibilities as assigned by project owners in accordance with contracts;

2. Secure of contract implementation by providing appropriate performance securities/Professional liability insurance;
3. Receive consulting fees according to contracts;
4. Propose amending terms or costs under the contracts;
5. Propose terminating contracts in the event the other contracting party fails to perform according to contracts;
6. Withdraw performance securities;
7. Perform their obligations in terms of duties, taxes and fees as required by laws;
8. Perform rights and other obligations set out in contracts.

Article 59 *Rights and Obligations of Project Owners*

Project owners have the following rights and obligations:

1. Guide project management in line with work plans according to contracts;
2. Adopt procurement plans, bidding documents or request for proposals and bids/proposals evaluation reports;
3. Monitor, inspect and evaluate projects' and/or program outcomes according to technical specifications and regulations;
4. Propose, consider amending terms or costs under the contracts;
5. Consider terminating contracts at contract parties' proposal;
6. Terminate contracts in case other contracting parties fail to perform according to contracts;
7. Pay for work done to contractors according to contracts;
8. perform rights and other obligations set out in contracts.

Article 60 *Rights and Obligations of Procuring Entities*

Procuring entities have the following rights and obligations:

1. Implement procurements as plans according to contracts;
2. Adopt procurement plans, bidding documents and bid evaluation reports;
3. Monitor, inspect and assess their procurement processes;
4. Consider postponing or terminating public procurements;
5. Amend terms or costs under the contracts;
6. Terminate contracts in case other contracting parties fail to perform according to contracts;
7. Pay for goods and/or services to suppliers and/or services providers according to contracts;
8. perform rights and other obligations set out in contracts.

Section 3 **Inspection and Certification Committees**

Article 61 *Inspection and Certification Committees*

Inspection and certification committees are the same as tender committees indicated in Article 40 of this Law. Where necessary, specific inspection and certification committees may be appointed as approved by relevant ministers, heads of agencies or governors, mayor, chief of district, chief of municipality, or assignees.

Article 62 *Contents of Inspection and Certification*

Contents of Inspection and certification include:

1. Public procurement plans;
2. Bidding documents or request for proposals;
3. Exercising of rights, performing of obligations and duties of bidders and participants to tenders;

4. Other necessary relevant contents.

Article 63 *Rights and Duties of Inspection and Certification Committees*

Inspection and Certification Committees have the following rights and duties:

1. Inspect and certify proper work descriptions, quantities, quality and technical specifications according to contracts;
2. Approve or reject the procurement's implementation;
3. Recommend solutions for and measures against improper execution of contracts;
4. Report findings of inspection and certification to project owners or procuring entities;
5. Exercise other rights and perform other duties stipulated by laws.

PART VII PROHIBITIONS

Article 64 *General Prohibitions*

Individuals, legal entities and organizations are forbidden to act as follows:

1. Maintain any form of contacts, participate to and assist participants to tenders, act as middlemen, bribe relevant civil servants and officers;
2. Counterfeit documents or seals relating to public procurements;
3. Enter in collusion to win tenders;
4. Conceal, hide, delay or obstruct relevant officers' performance of activities;
5. Open or use accounts of other individuals, legal entities or organizations;
6. Perform as consultant in preparing and designing or setting technical specifications of goods and services that are fundamental factors in procurement causing conflicts of interest;
7. Act otherwise in breach of laws.

Article 65 *Prohibitions on Bidders and Participants to Tenders*

Bidders and participants to tenders are forbidden to act as follows:

1. Sell, handover or transfer awarded projects to others;
2. Advertise in all manners promote works, goods and/or services and consulting services in contravention with the laws;
3. Mislead project owners or procuring entities regarding features and quality of goods, such as brand names, trademarks, symbols and other logos;
4. Bribe civil servants and officers concerned for their personal benefit;
5. Take credit for achievements/experience or reputation of other individuals, legal entities or organizations;
6. Act otherwise in breach of laws.

Article 66 *Prohibitions on Tender Committees, Civil Servants and Officers Concerned*

Tender Committees, civil servants and officers concerned are forbidden to act as follows:

1. Abuse their rights, duties and positions to pressure and threaten for their personal benefit;
2. Disclose confidential information without authorization;
3. Solicit, demand or receive bribes;
4. Fail to act according to their duties and responsibilities or delay processing documents;
5. Act otherwise in breach of laws.

PART VIII RESOLUTION OF DISPUTES

Article 67 *Methods of Dispute Resolution*

Disputes may be resolved in the following manners:

1. Compromising;
2. Through administrative measures;
3. Determination by economic arbitration tribunals;
4. Filing complaints to the people's court;
5. International dispute resolution.

Article 68 *Resolution through Compromising*

Where disputes arise in relation with public procurements, parties to such disputes are required to endeavor resolving the disputes through discussions and compromises for mutual benefit.

Article 69 *Resolution through Administrative Measures*

Where administrative disputes arise in relation with public procurements, parties to such disputes may request the relevant government agencies to resolve the disputes in accordance with the laws.

Article 70 *Resolution by Economic Disputes Arbitration Authorities*

Where disputes arise in relation with public procurements, parties to such disputes may submit the matters to the economic dispute arbitration authorities for determination in accordance with the laws.

Article 71 *Filing complaints to the People's Court*

Where disputes arise in relation with public procurements, parties to such disputes may file the matters to the people's court for decision in accordance with the laws.

Article 72 *International Dispute Resolution*

Where international disputes arise in relation with public procurements, the laws of Lao PDR, treaties and international conventions to which the Lao PDR is a party.

PART IX PUBLIC PROCUREMENT MANAGEMENT AND INSPECTION

Section 1 Public Procurement Management

Article 73 *Public Procurement Management Authorities*

The government centrally manages public procurements in a unified manner countrywide and delegates direct responsibility to the Ministry of Finance in coordination with the Ministry of Planning and Investment, ministries, agencies, local administrative authorities and other parties concerned.

Public procurement management authorities include:

1. The Ministry of Finance;
2. Provincial/capital Departments of Finance;
3. District/ town/city Finance Offices.

Article 74 *Rights and Duties of the Ministry of Finance*

In managing public procurements, the Ministry of Finance holds the following rights and duties:

1. Research, outline policies, strategic plans, laws, programs and/or projects on public

- procurement for submission to and consideration by the government;
2. Expound policies, strategic plans and laws on public procurement into programs and/or projects and organize their implementation;
 3. Propagate, disseminate and educate on policy guidelines, laws, regulations, treaties and international conventions to which the Lao PDR is a party on public procurement;
 4. Issue instructions, decisions, regulations and notices on public procurement;
 5. Suspend or cancel decisions, instructions, regulations and notices issued by other entities contrary to laws and regulations pertaining to public procurement;
 6. Guide the management and use of state funds in implementing public procurement programs and/or projects;
 7. Monitor and inspect public procurement activities;
 8. Build capacity, train, upgrade, manage and employ civil servants for public procurements;
 9. Set up and use information management technologies in public procurement;
 10. Summarize public procurement plans at the request of relevant sectoral and local administrative authorities;
 11. Apply administrative measures to resolve disputes on public procurement according to its mandate;
 12. Collaborate with parties concerned in public procurement;
 13. Maintain external, regional and international relations and cooperation on public procurement;
 14. Regularly report public procurement activities to the government;
 15. Perform rights and other duties stipulated by laws.

Article 75 *Rights and Duties of Provincial/Capital Finance Departments*

In managing public procurement, provincial/capital Finance Departments hold the following rights and duties within the scope of their responsibilities:

1. Implement policies, strategic plans, laws, programs and/or projects on public procurement;
2. propagate, disseminate and educate on policy guidelines, strategic plans, laws and regulations, treaties and international conventions to which the Lao PDR is a party on public procurement;
3. Guide and manage the use of state funds in implementing programs and/or projects related to public procurement;
4. Monitor and inspect public procurement activities;
5. Propose training, upgrading, managing, employing civil servants on public procurements;
6. Use information technology systems in public procurement;
7. Summarize public procurement plans at the request of departments concerned;
8. Apply administrative measures to resolve disputes relating to public procurement according to their mandate;
9. Collaborate with parties concerned on public procurement;
10. Maintain bilateral, regional and international relations and cooperation on public procurement;
11. Regularly report public procurement activities to the Ministry of Finance, province governors/mayor of capital city;
12. Perform rights and other duties stipulated by laws.

Article 76 *Rights and Duties of District/ Town/City Finance Offices*

In managing public procurements, district/ town/city finance offices hold the following rights and duties within the scope of their responsibilities:

1. Implement policies, strategic plans, laws, programs and/or projects on public

- procurement;
2. Disseminate and educate on policy guidelines, strategic plans, laws and regulations, treaties and international conventions to which the Lao PDR is a party on public procurement;
 3. Manage the use of state funds in implementing programs and/or projects related to public procurement;
 4. Monitor and inspect public procurement activities;
 5. Propose training, upgrading, managing and employing civil servants on public procurements;
 6. Use information technology systems in public procurement;
 7. Summarize public procurement plans at the request of offices concerned;
 8. Apply administrative measures to resolve disputes on public procurements;
 9. Collaborate with other parties in public procurement;
 10. Regularly report public procurement activities to provincial/capital Finance Departments and governors, chief of district, chief of municipality;
 11. Perform rights and other duties stipulated by laws.

Article 77 *Rights and Duties of Ministries, Agencies, Local Administrative Authorities and Other Parties Concerned*

In managing public procurements, ministries, agencies, local administrative authorities and other parties concerned hold the following rights and duties within the scope of their responsibilities:

1. Prepare public procurement plans in accordance with the budget plans approved by the National Assembly;
2. Encourage, monitor and inspect the implementation of public procurement as plans and contracts;
3. undertake public procurements;
4. Take lead in technical reviewing related public procurement regularly by inspection department or each sectoral state inspection
5. Develop and use information technology systems in public procurement;
6. Collaborate with finance or related agencies in implementing procurement in accordance with the regulations;
7. Report public procurement activities on a quarterly, semi-annual and annual basis to the Ministry of Finance for consolidation and report to the Government;
8. Manage, follow-up and collaborate with public procurement management authorities in accordance with their mandates.

**Section 2
Inspection of Public Procurements**

Article 78 *Public Procurement Inspection Authorities*

Public procurement inspection authorities include:

1. Internal inspection authorities which are the same authorities as the public procurement management authorities indicated in Article 73 of this Law;
2. External inspection authorities which are the National Assembly, provincial people's councils, state inspection agency, state audit organization, the Lao Front for National Construction and mass organizations in accordance with their mandates.

Article 79 *Scope of Inspection*

Public procurement inspection aims at:

1. Compliance with laws and regulations in public procurements;

2. Organization and activities of public procurement management authorities;
3. The exercise of rights, performance of duties and use of legal measures against violations.

Article 80 *Technical Inspection*

Technical inspection includes:

1. Sectoral public procurement plans;
2. Purpose of using state funds in procurement;
3. Implementation of public procurements;
4. Project site, equipment and bidding documents or proposals;
5. Reporting on execution of the public procurement;
6. Review other documents related to public procurement.

Article 81 *Methods of Inspection*

Inspection of public procurements takes three methods as follows:

1. Routine inspection;
2. Inspection following advance notice;
3. Sudden inspection.

Routine inspection is an inspection carried out regularly as planned and according to set schedules.

Inspection following advance notice is an unplanned inspection when seen necessary and the parties to be inspected are given advance notice.

Sudden inspection is an inspection carried out urgently without advance notice to the inspected parties.

Inspection may cover documents and on-site performance.

Inspection officers are required to strictly enforce the laws.

PART X

POLICIES TOWARDS PERSONS WITH OUTSTANDING ACHIEVEMENT AND MEASURES AGAINST VIOLATORS

Article 82 *Policies Towards Persons with Outstanding Achievement*

Individuals, legal entities or organizations with outstanding achievements in the enforcement of this Law, such as setting good examples, active participation in implementing public procurements shall be praised or granted benefits in accordance with regulations.

Article 83 *Measures Against Violators*

Individuals, legal entities or organizations violating this Law shall be educated, disciplined, fined, obliged to pay civil damages or subjected to criminal punishments depending on the seriousness of violation.

Article 84 *Educational Measures*

Individuals, legal entities or organizations violating the laws and regulations on public procurement, deemed as first-time violation and as a minor violation shall be warned or educated.

Article 85 *Disciplinary Measures*

Officers and civil servants violating this Law, such as violating the restrictions and previously warned or educated, but without components of a criminal offence, shall be disciplined as stipulated by law on civil servant.

Article 86 *Fines*

Individuals, legal entities or organizations violating this Law without constituting criminal wrongdoings shall be fined as stipulated in separate regulations.

Article 87 *Civil Measures*

Individuals, legal entities or organizations violating this Law and thereby affecting the interest of the government, collectives or other persons shall compensate the caused damages.

Article 88 *Criminal Measures*

Individuals or legal entities violating this Law which constituted as the criminal offence shall be punished as stipulated in the Criminal Code depending on the seriousness of violation.

**PART XI
FINAL PROVISIONS**

Article 89 *Implementation*

The Government of the Lao People’s Democratic Republic shall implement this Law.

Article 90 *Effectiveness*

This Law enters into force from the date of the promulgating decree signed by the President of the Lao People’s Democratic Republic and after fifteen days of the notification of this law in the Official Gazette.

Provisions [and] rules that conflict with this Law shall be abrogated.

President of the National Assembly

Stamped and signed

Pany Yathortou

5. Instruction on the Implementation of the Law on Procurement



**Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity**

Ministry of Finance

No. 0477/MOF
Vientiane capital, date 13 February 2019

Unofficial translation

INSTRUCTION ON IMPLEMENTATION OF LAW ON PUBLIC PROCUREMENT

- Pursuant to the Law on Public Procurement No. 30/NA (National Assembly) dated 2 November 2017.
- Pursuant to the Decree on the Ministry of Finance's organization and function No. 144/PM (Prime Minister) dated 8 May 2017.

**Deputy Prime Minister, Minister of Finance
issues an Instruction as below:**

I. Objectives

This Instruction elaborates and instructs some articles' content of law on public procurement No. 30/NA dated 2 November 2017 such as scope of application of the law, preparation of procurement plan, thresholds, timeline required for advertisement/notification for procurement of goods, works, services and consulting services, procedures and implementing rules for each type of methods of procurement and selection of consultants, tender committees, evaluation of bids/proposals, securities (guarantees) and other contents as stipulated in the Law for more detail and clear aiming to such law is implemented in proper, efficient, effective, and unified manner countrywide.

II. Instruction on some articles' content of law

- 1 **Article 6: Scope of Application—paragraph 2:** This Law does not apply to the procurement pertaining to national security and safety. For the procurement of goods, equipment and vehicles for routine administrative purpose; the procurement of works, building maintenance, office buildings, dormitories, schools and hospitals under the national security and safety sector's management, the law on public procurement No. 30/NA dated 2 November 2017 and this Instruction shall be applied in strictly manner.
- 2 **Article 7: International Cooperation:** This state promotes relations of cooperation with foreign countries, regional and international organizations in relation the public procurement by exchanging experiences, sharing data and information, technologies, organizing seminars and upgrading of technical capacity and, implementation of international conventions and

treaties to which the Lao PDR is a party.

In case of the implementation of international conventions and treaties, agreements between government and donors or any donor’s agency who applied their own particular procurement regulations, such procurement regulations shall be applied. In case of the implementation of international conventions and treaties to which the Lao PDR is a party, no particular procurement procedures are specified, the law on public procurement and this Instruction shall be applied.

- 3 Article 17: Procurement threshold** is the estimated value for each method of procurement inclusive of duties, taxes and fees, they include:

3.1 Threshold (procurement of goods, works, and services) and selection of Consultants

No.	Public Procurement Methods	Threshold value (Lao Kip)
I.	Works and/or maintenance and services	
1.	Open bidding	Equal or more than five hundred million
2.	Limited bidding	Refer to condition as indicated in subarticle 4.2.2 of this Instruction
3.	Request for quotations (Price comparison)	Less than five hundred million
4.	Direct contracting	Equal or less than five million applied for particular routine and daily administrative purpose or conditional threshold as indicated in sub-article 4.2.4 of this Instruction
II.	Supply of goods and/or services	
1.	Open bidding	Equal or more than two hundred million
2.	Limited bidding	Refer to condition as indicated in subarticle 4.2.2 of this Instruction
3.	Request for quotations (Price comparison)	Less than two hundred million
4.	Direct contracting	Equal or less than five million applied for particular routine and daily administrative purpose or conditional threshold as indicated in sub-article 4.2.4 of this Instruction
III.	Consulting services	
1.	Quality and cost-based selection	Equal or more than one billion
2.	Quality-based selection	Less than one billion

3.2 Revision of procurement thresholds: The threshold value shall be reviewed by the Ministry of Finance every two years. The threshold value may be changed subject to the Consumer Price Index when it is more than twenty five percent increased against the previous year. The Ministry of Finance may revise the procurement thresholds to ensure consistency with economic growth and appropriate execution in each stage.

3.3 Calculation of procurement threshold value included:

3.3.1 Works and/or maintenance: the summation of works and/or works value and engineering value in order to meet the requirements of economic goal and technical specifications.

3.3.2 Supply of goods and/or services which having the nature of contract with longer execution by means of multiple contract awarded to a single supplier or more suppliers which may be renewed, the value is based on the total aggregate value of contract in the similar package to be awarded within one year following the first award or the total value of the contract is longer than one year.

3.4 Project owner or procuring entities may split into multiple packages or lots as per bidders' qualifications and capabilities. The procurement threshold value is the summation of total value of each package or lot prior the identification of procurement method. The split into package or lot will facilitate the option to bidder to bid all packages or lots or some packages or lots as per their own capabilities. The split into package or lot for avoidance purpose of any procurement method required shall not be allowed.

For works and supply of goods contracts, the split of sub-package or subplot for decreasing of contract amount to meet the lower of procurement threshold shall not be allowed.

4 Article 18: Methods of public procurement—paragraph 3: Procedures and implementation guidelines for each procurement methods, including procedures for each method of selection of consultants as stipulated in article 23 of the Law, it includes:

4.1 Procedures for procurement (of goods, works and services) and selection of consultants

4.1.1 Public procurement planning

4.1.2.1 Annual procurement planning

Project owner or procuring entities shall prepare an annual public procurement plan through specific procurement plan attached to its annual budget plan. The procurement plan shall be included a list of procured items to be implemented by the project owner or procuring entities as follow:

- 1) Summarize a list of procured item required from under managed-agencies and classify them in similar and different categories.
- 2) Prepare cost estimated in sufficient manner, including other expenses such as cost of advertisement and notification for bids.
- 3) Ensure the cost estimated is included in the approved annual budget plan.

4.1.2.2 Detailed public procurement plan

Project owner or procuring entities shall prepare a detailed procurement plan after the National Assembly's approval on annual state budget in consistency with market and capability of contractor or supplier and/or service provider or consultant for works and/or maintenance, supplier of goods and/or service and consulting services as the following:

- 1) Detailed items of works and/or maintenance, supply of goods and/or services and consulting services as required.

- 2) Determine procurement method or selection method; timeline estimated for bidding, delivery, contract execution or completion of works and/or maintenance, supply of goods and/or services and consulting services.
- 3) Combine into group of items for same contract bidding.
- 4) Prepare technical specifications and/or terms of reference for procurement (of goods, works, and services) or selection of consultant as per scope of contract.
- 5) Prepare cost estimated for each contract as per budget list.
- 6) Others relevant items.

The annual procurement plan and detailed public procurement plan shall be summarized and reported to the financial sector for further summary and reporting to government.

- 4.1.2 Preparation of bidding documents or request for proposals The bidding documents or request for proposals shall clearly define the necessary information to facilitate bidders or consultants in preparation of bids or proposals in proper and complete manner.

This also uses as reference for bidders or consultants' decision to submit bids or proposals. The bidding documents or request for proposals shall be accurate, simply understandable. The bidding documents or proposals comprises of the following:

4.2.1.1 Bidding documents

- 1) Invitation for bids
- 2) Instruction to bidders
- 3) Evaluation criteria
- 4) Contract
- 5) Forms
- 6) Schedule of items and price
- 7) Technical specifications
- 8) Schedule of delivery or completion
- 9) General and special conditions of contract
- 10) Others

4.2.1.2 Request for proposals

- 1) Letter of invitation
- 2) Instruction to consultants
- 3) Evaluation criteria
- 4) Contract
- 5) Terms of reference
- 6) General and special conditions of contract
- 7) Others

The period of time for procurement (of goods, works and services) or selection of consultants shall define the period of time for each process of procurement or selection procedures, and also include in the bidding documents or request for proposals. This period of time shall cover of the following: time for preparation of bidding documents or request for proposal, time for evaluation of bids or proposals, time for approval of winning bidder or consultant, time for negotiation and time for contract signing. During the procurement or selection implementation, if it is delay

for any reason not to complete in the period of time as planned, the extension of bids or proposals' validity shall be required. The project owner or procuring entities shall request in writing to all bidders or consultants to extend the period of validity of their bids or proposals. This request shall be made prior to the expiration of the bid or proposal validity period. This extension period shall be less than the original period and can be made one time.

4.1.3 Notification of bids or selection of consultants

The project owner or procuring entities shall post an invitation for bids or selection of consultants to mass media, website or through electronic media comprised of the following contents:

4.1.3.1 Procurement (of goods, works and services)

- 1) Name of procuring entities
- 2) Explanation in brief of works, and/or maintenance, supply of goods and/or services
- 3) Address for selling of bidding documents and submission of bids, contact details for enquiries of submission of bids
- 4) Bid security
- 5) Selling price of bidding documents and process required
- 6) Deadline for submission of bids

4.1.3.2 Selection of consultants

- 1) Name of project owner
- 2) Explanation in brief of consulting services
- 3) Conditions and qualifications required for consulting services
- 4) Contact address for additional information enquiries
- 5) Deadline and address for submission of proposals

Period of time required for notification (time of preparation of bids or selection of consultants) should be followed:

No.	Public Procurement Methods	Period of time (day)
I.	Works and/or maintenance, supply of goods and/or services	
1.	Open bidding	At least 35 days
2.	Limited bidding	At least 30 days
3.	Request for quotations (Price comparison)	At least 15 days
4.	Direct contracting	
II.	Consulting services	
1.	Quality and cost-based selection, Qualitybased selection, Selection under a fixed budget, Least-cost selection	
	• Shortlisting (request for expression of interest)	At least 15 days
	• Preparation of proposals	At least 30 days

No.	Public Procurement Methods	Period of time (day)
2..	Selection based on the consultants; qualifications	
	• Preparation of expression of interest	At least 20 days
	• Preparation of proposals	At least 30 days
3.	Single source selection	

Note: Day means calendar day

4.1.4 Application and selling of bidding documents or request for Proposals

The project owner or procuring entities shall apply bidding documents or request for proposals (standard documents) for each method as promulgated in each stage.

The bidding documents or request for proposals prepared by the project owner or procuring entities are allowed to sell to use for administrative expenses purpose for procurement or selection of consultants or free distribution.

The selling price of bidding documents or request for proposals shall calculate reasonably in terms of actual expenses estimated in procurement of selection of consultant such expenses for printing, delivery, advertisement as printing, delivery, notification and others.

4.1.5 Pre-bid meeting or pre-proposals meeting

The project owner or procuring entities shall consider organizing the pre-bid meeting or pre-proposals in accordance with the relevant procurement or selection of consultants. If the pre-bid meeting or pre-proposal meeting is not specified in the bidding document or the request for proposals, but clarification from bidders or consultants are in place and the meeting is required, the project owner or procuring entities shall arrange the appropriate date for facilitating the attendance of bidders and consultants. The meeting shall be organized around ten days before the last day of deadline for submission of bids or proposals.

4.1.6 Submission of bids or proposals

Bidders or consultants are to ensure their bids or proposals shall be delivered and received by the project owner or procuring entities before the closing date and time of delivery as indicated in the Instruction to Bidders or consultants in the bidding documents or request for proposals.

The bids or proposals shall be directly delivered by hand or by courier (post office). They shall be in sealed envelope and marked in outer envelope as indicated in the bidding documents or request for proposals.

The project owner or procuring entities shall prepare a record of date and time of submission for bids or proposals received. Any late bid or proposal received after the deadline for submission of bids or proposals shall be rejected, and immediately returned unopened to the bidder or consultant. In addition, the certification recording of date and time received the bid or proposal shall be issued and signed by the delivered person or authorized person.

4.1.7 Place for submission of bids or proposals

The place for submission of bids or proposals shall be the same venue as indicated in the invitation for bids or letter of invitation for consultants. The project owner or procuring entities shall assign their staff in-charge for receiving submitted bids or proposals until the closing date and time for submission of bids or proposals.

In case of change place and address for submission of bids or proposals, the project owner or procuring entity shall directly notify to bidders or consultants who have got bidding documents or request for proposals before the deadline for submission of bids or proposals and to issue a revised notification and post through original mass media.

In case of founding the envelope of bids or proposals to be torn or opened before the deadline for submission of bids or proposals, this shall record the actual status of bids for evidence. If they are torn or opened financial proposals, they shall be immediately returned to the owner.

4.1.8 Opening of bids or proposals

All bids or proposals shall be publicly opened by the deadline, at the date, time and place as specified in the invitation for bids or request for proposals, in the presence of tender committees and bidders or consultants or authorized person by signing in the list of attendance and the record of opening for their confirmation and no-rejection of bids or proposals in the opening date.

The list of attendance in the opening date shall be separate between tender committees and bidders or consultants or authorized person. The tender committees shall also prepare a record of opening of bids or proposals.

In case of the application of “single stage, one-envelope” bidding procedures. The envelopes shall be opened, and prices shall be read out.

In case of the application of “single stage, two-envelope” bidding procedures. The envelopes of qualifications and technical specifications shall be opened, while the financial envelopes shall be kept unopened until the evaluation of qualifications and technical specifications are completed.

For envelopes, the technical specifications envelopes shall be opened, in the presence of tender committees, bidders are not allowed to attend. While the financial envelopes shall be kept unopened until the evaluation of technical specifications are completed. Only qualified bidders or shortlisted consultants will be invited for opening of financial proposals. The financial proposals of unqualified bidders or non-shortlisted consultants will be returned unopened to them after the contract is signed.

4.1.9 The evaluation of bids or proposals shall be conducted through the preliminary examination and the detailed examination of bids or proposals as specified in clauses 12 and 13 of this Instruction.

4.1.10 Confidentiality

The tender committees shall keep confidentiality of examination, evaluation, recommendation of award of contract to bidder or consultant until the approval of award of contract to bidder or consultant and the contract signing are made.

4.1.11 Clarifications

After opening of bids or proposals, no negotiation with bidders or consultants is made, they have no right to ask for bids for procurement or selection of consultants matters. But the tender committees may request for clarifications to relevant bidders or consultants in written regarding the contents of their bids or proposals.

4.1.12 Approval of evaluation report of bids and proposals is specified in clause 16 of this Instruction.

4.1.13 Contract for the public procurement is specified in clause 17 of this Instruction.

4.1.14 Contract management and contract completion are specified in clause 18 of this Instruction.

4.2 Implementation of each method of public procurement

4.2.1 Open bidding

The open bidding for works and/or maintenance and supply of goods and/or services should be followed:

4.2.1.1 Single-stage, one-envelope bidding

The single-stage, one-envelope bidding applies for works and/or maintenance and supply of goods and/or services which the nature of non-complexity, non-tool or advance technology required for works, certain goods are available in the market which all items and prices required for bidders to submit in one envelope.

4.2.1.2 Single-stage, two-envelope bidding

The single-stage, two-envelope bidding applies for works and/or maintenance and supply of goods and/or services which required particular technical specifications, certain goods with high technical specifications. The bidders are required to pack in one sealed envelope by splitting out two sealed separate envelopes inside, one for qualification and technical specifications of bidder and one for bid price prior submission.

For bids which pass the qualifications and technical specifications, the bidders will be invited for opening of bid price envelope. While bids which do not pass the qualifications and technical specifications, the bid price will not be opened and return to bidders.

4.2.1.3 Pre-qualification procedure

This applies for large-scale, technically complex and high value projects, the suitable bidders shall be assessed in advance. The pre-qualification process shall be carried out as an open public bidding procedure with the prequalification documents indicated the criteria and conditions to all interested companies. Bidders who meet the criteria and conditions set out in the pre-qualification documents will then be invited to submit bids with bid price.

During the preparation of invitation for bids with bid price, the qualifications and technical specifications are still requested by the project owner or procuring entities which are the same conditions of pre-

qualification. Bidders who do not propose the qualifications and technical specifications in compliance with the project owner or procuring entities' conditions may be rejected.

The project owner or procuring entities may apply singlestage, two-envelope bidding procedure in the event of time constraint and time-consuming for pre-qualification procedure.

4.2.1.4 Double-stage bidding

This applies for large-scale, and high value projects which the implementing agency has no experience in technical specifications preparation or high value design. The double-stage bidding comprises of the following:

- 1) Stage 1: Interested bidders are requested to submit preliminary proposal of technical and methodology for assessment and acceptance of appropriate technical specifications for initial reference. Then, the project owner shall define the technical specifications and criteria for bidding.
- 2) Stage 2: The qualified bidders will be informed to submit technical specifications and methodology in order to facilitate the project owner or procuring entities to modify the criteria if needed. Then, the qualified bidders will be invited for submission of bids.

4.2.1.5 Framework agreement

The frame agreement is the agreement between the project owner or procuring entities with one or more suppliers and/or service providers which is a reference in procuring of goods, equipment, maintenance and/or services in certain timeframe or two to three-year period with pre-agreed in estimated price, quality and quantity for each period.

The conditions of framework agreement will be defined in the contract.

4.2.1.6 Public Private Partnership (PPP)

Procurement under Public Private Partnership (PPP) Arrangement comprises of (i) Build, own, operate (BOO), (ii) Build, operate, transfer (BOT) and others which risks are transferred to private sector. Procurement under Public Private Partnership (PPP) arrangement shall be procured under open bidding procedure.

4.2.2 Limited bidding

The limited bidding is used for particular technical specifications required where there are a limited number of contractors or supplier and/or service providers. The project owner or procuring entities shall inform contractors or suppliers and/or service providers for competitive price bid submission.

Procurement under limited bidding shall be procured under open bidding procedure, but the advertisement or notification through mass media are not required; which bidders may be directly invited.

4.2.3 Request for quotations (Price comparison)

The request for quotations (price comparison) is used for small scale works and/or maintenance, routine maintenance, office supplies and other services under the specified threshold value.

Under this procedure, the direct invitation or electronic media are issued to bidders, with a minimum of three. The period of time will be specified in the request for quotations.

The request for quotations will be directly sent to potential bidders initially selected by the project owner or procuring entities in order to bid as per conditions, rights and obligations of bidders.

Procurement under request for quotations shall be procured as under open bidding procedure.

4.2.4 Direct contracting

The direct contracting is the agreement between the project owner and contractor or between the procuring entities and supplier and/or service provider, no bidding conducted is required. Direct contracting is carried out by one of the following cases:

- 4.2.4.1 Goods under single source supplier who engages in patent or copy right (industry) or intellectual property right.
- 4.2.4.2 Equipment and particular goods under single source contractor or supplier and/or service provider for maintenance or replacement purpose.
- 4.2.4.3 Additional works (variation) and continuation of previous works and/or maintenance, supply of goods and/or services and consulting services which covers the same contents with main contract not exceed twenty (20) percent of the original contract amount.
- 4.2.4.4 Government's projects or activities implemented in remote areas, with poor infrastructure facilities or without interested bidders.
- 4.2.4.5 Under the threshold as indicated in sub-clause 3.1 of this Instruction and be essential for particular routine and daily administrative purpose.
- 4.2.4.6 Force majeure or emergency matters such as national disaster as per the government's decision, they include:
 - 1) For recovery of urgent works and maintenance, it shall be followed:
 - The tender committees or ad-hoc committee will be appointed
 - The qualified bidder or potential (creditable) and readiness bidder will be invited for negotiations
 - For works under force majeure matter, the contract amount will be determined by the calculation of quantity of related works and negotiated with contractor or supplier and/or service provider on case by case basis. The determination and calculation of quantity of related works shall be based on the calculation of relevant technical staff.
 - In case of the related works cannot be determined and calculated, the preliminary negotiation with contractor or

supplier and/or service provider is required as per the scope of unit price for each item implemented. This will be used as a basis for implementation.

- After the completion of works, the assessment, inspection and certification are required for summarize the contract amount for contract signing and payment certification.
- 2) For goods, equipment in urgent needs, the potential supplier with capability to provide such items required will be invited for negotiations and contract signing based on the market price comparison.
 - 3) For direct contracting: besides the threshold as indicated in sub-article 3.1 of this instruction, the item to be procured shall not be the same item listed in the approved annual procurement plan of that year. After the completion, the project owner or procuring entities shall revise such annual procurement plan of that year.
 - 4) For direct contracting, the approval is required, and the tender committees or ad-hoc committees is appointed on case by case basis as below:

Estimated Threshold Value (Lao Kip)	Ministry or Agency	Province or District level	Embassy or Government Office abroad	Loan and Grant Project
More than five million up to five hundred million	<ul style="list-style-type: none"> • Permanent Secretary/Chief of Cabinet (if the budget is managed by the Ministry or Agency). • Relevant Department’s director general (if the budget is managed by the Department). • Authorized person to approve and appoint ad- hoc Committees which composed of 3-7 members. 	<ul style="list-style-type: none"> • Head of Provincial Administrative Office (if the budget is managed by the province). • Provincial Department’s director general (if the budget is managed by the Department). • Head of District, Head of Municipality, Head of City (if the budget managed by the District). • Authorized person to approve and appoint ad- hoc Committees 	Ambassador or Head of Office or Authorized person to approve and appoint ad- hoc Committees which composed of 3-7 members.	Based on agreement and financing agreement and shall be approved by the donor.

Estimated Threshold Value (Lao Kip)	Ministry or Agency	Province or District level	Embassy or Government Office abroad	Loan and Grant Project
		which composed of 3-7 members.		
More than five hundred million up to ten billion	Minister or Head of Agency or authorized person to approve and appoint ad-hoc Committees which composed of 3-7 members.	• Provincial Governor, Capital Governor or authorized person to approve and appoint ad-hoc Committees which composed of 3-7 members.	Ambassador or Head of Office or Authorized person to approve and appoint ad-hoc Committees which composed of 3-7 members.	Based on agreement and Financing agreement and shall be approved by the donor.
More than ten billion	Government or authorized relevant agency responsible to approve and appoint ad-hoc Committees.			

5 Article 23: Selection of consultants may be carried out through direct submission of documents or electronically in which the procedures and methods are the following:

5.1 Procedures for selection of consultants may be carried out as indicated in sub-article 4.1 of this Instruction.

5.2 Methods of selection of consultants

Selection of consultants for each method shall be followed:

5.2.1 Quality and cost-based Selection (QCBS) Project owner issues the request for expressions of interest to interested consultants to submit the expressions of interest which includes of information on achievements, professional experience, staff organization chart and other relevant information.

Then, the consultants will be shortlisted. Short lists shall comprise three to six consultants and will be invited to submit technical proposal and financial proposal which will be evaluated through weight and point system as the following: Evaluation applies point system to be assigned for criteria, and sub-criteria as indicated in the request for proposals.

For this method of selection, the ratio of weight given to the technical and financial proposal scores is ninety percent against 10 percent (90%/10%) or eighty percent against 20 percent (80%/20%) or seventy percent against 30 percent (70%/30%) respectively as indicated in the request for proposals. The evaluated scores obtained from technical and financial proposals will be combined to define the highest score. The consultant achieving the highest combined score shall be recommended to award a contract.

5.2.2 Quality-based Selection (QBS)

Quality-based selection may be carried out in compliance with sub-article 5.2.1, the ratio of weight for technical and financial proposal is not determined, but the technical evaluation is mainly focused on. The consultant obtaining the highest

technical score shall be invited for contract negotiations.

5.2.3 Selection under a fixed budget (FBS)

Selection under a fixed budget may be carried out in compliance with sub-article 5.2.1, the ratio of weight for technical and financial proposal is not determined, but the technical evaluation is mainly focused on. The consultants obtaining the minimum score required to pass shall be invited for opening of financial proposals. The consultant most qualified, but under the allocated budget will be taken into contract negotiations. While the consultants whose proposals over the allocated budget shall be rejected.

5.2.4 Least-cost selection (LCS)

Least-cost selection may be carried out in compliance with subarticle 5.2.1, the ratio of weight for technical and financial proposal is not determined, but the technical evaluation is mainly focused on. The consultants obtaining the minimum score required to pass shall be invited for opening of financial proposals, and the consultant proposing the lowest price will be invited for contract negotiations.

5.2.5 Selection based on the consultants' qualifications selection (CQS)

Selection based on the consultants' qualifications selection may be carried out in compliance with sub-article 5.2.1, but the most qualified of three consultants shall be shortlisted. Only the best qualified consultant among three shortlisted consultants shall be asked to submit a combined technical and financial proposal for consideration and contract negotiations.

5.2.6 Single source selection (SSS)

Project owner may conduct a direct negotiation with consultant as per specified scope of works and approve on case by case basis as indicated in the law such as a natural continuation of previous tasks carry by the same consulting firm or when only one consultant is qualified and has the specific conditions and experience for the tasks to be assigned or in emergency and urgent circumstances as declared by project owners.

- 6 Article 31: Bid Securities** are guarantees provided by bidders in the form of cash deposits, securities issued by local or foreign banks or insurance institutions. The amount is not less than two (2) percent of estimated contract amount or a certain amount as indicated in bidding documents. In case of cash deposits or securities are not applied, a bid-securing declaration may apply and will be issued by the bidders through their own honors.

Validity of bid securities shall be 30 days beyond the validity period for the bids. The currency of bid securities shall be Lao Kip. In case of other currencies applied, the exchange rate (buying rate) of bank on the date of bid opening shall apply. After the award of contract is approved and the contract is signed, the tender committee shall return the bid securities to unsuccessful bidders within 7 days after the contract is awarded.

Project owner or procuring entities shall return the bid security to the winning bidder after the contract is signed. In case of the winning bidder fails to sign the contract and fails to furnish the performance security, the project owner or procuring entities may negotiate with the next-ranked bidder for contract negotiations and contract signing.

In case of a bid-securing declaration is applied, if a winning bidder withdraws or changes any bid matters during the period of bid validity or fails to sign the contract or fails to furnish the performance security as timeframe required, the winning bidder will pay a fine to the project owner or procuring entities. In addition, the project owner or procuring

entities will propose to issue a notification to that winning bidder to be not eligible to join any tender for two years starting from the date of notification is issued.

- 7 Article 32: Performance securities** are guarantees by contractors or suppliers and/or service providers or consultants to project owners or procuring entities on the performance of contracts according to agreed contract conditions in order to fulfill the contract's obligations and conditions as indicated in the bidding documents and contract agreement such as the guarantee prior the contract execution that may specify an amount or ratio but not less than ten (10) percent of contract amount.

Project owners or procuring entities may specify the amount of performance security or may not require this performance security, subject to the contract amount or anticipated risks of non-execution of contract conditions. If this risk is the case, the project owners or procuring entities shall apply the other option such as the temporary suspension of payment. Project owners or procuring entities shall return the performance security to contractors, suppliers and/or service providers or consultants upon to the fulfillment of all guaranteed contract conditions or the completion of contract with no faults causing from contractors, suppliers and/or service providers.

- 8 Article 33: Advance payment securities** are guarantees by contractors or suppliers and/or service providers or consultants to project owners or procuring entities for advance payment according to agreed contract conditions. Such contract may provide the advance payment security to contractors, suppliers and/or service providers or consultants in order to ensure the contract execution in effective manner or price competition. The advance payment security should not to exceed of thirty (30) percent

of contract amount. The advance payment security provided by contractors, suppliers and/or service providers shall be in the same amount of the advance payment.

For consultants, the advance payment security is not required subject to the consultants are on board for carrying out the assignment.

- 9 Article 34: Warranty securities** are guarantees by contractors or suppliers and/or service providers or consultants to project owners or procuring entities on workmanship, standards, quality and services, they include:

9.1 Warranty for works and/or maintenance or services

The warranty for works and/or maintenance should not less than ten (10) percent of contract amount. The warranty period (defect liability period) should not less than 12 months. This warranty shall apply in one of the following cases below:

9.1.1 For this warranty, the project owners retain not less than ten (10) percent of contract amount until the warranty period of works and/or maintenance or services are expired.

9.1.2 Contractors, service providers shall provide the guarantee issued by banks or financial institutions in the amount of not less than ten (10) percent of contract amount until the expiration of warranty period.

9.2 Warranty for supply of goods and services

The warranty for supply of goods and services should be amounted from two to ten (2-10) percent of contract amount. The warranty period should not less than 12

months. This warranty shall apply in one of the following cases below:

- 9.2.1 For this warranty, the procuring entities retain in the amount of two to ten (2-10) percent of contract amount until the warranty period of goods and services are expired.
- 9.2.2 Suppliers and/or service providers shall provide the guarantee issued by banks or financial institutions in the amount of two to ten (2-10) percent of contract amount until the expiration of warranty period.

9.3 Warranty for consultants

The warranty for consultants may apply and should not less than ten (10) percent of contract amount. The warranty period should also not less than 12 months. Consultants shall provide the guarantee issued by banks or financial institutions in the amount of less than ten (10) percent of contract amount until the expiration of warranty period or consultants shall be required to have insurance to cover all risks of feasibility study, design during the period of these assignments were carried out.

- 10 Article 36 clause 1: Eligibility of bidders/consultants** as local and foreign individuals, legal entities possessing taxpayer identification or numbers or business licenses and performance of taxes certificates and other obligations in compliance with the laws. In case of joint venture of individuals, legal entities or stated-owned enterprises or foreign individuals, legal entities, it shall be followed:

10.1 if an association of a joint venture between individuals, legal entities, enterprises and state-owned enterprises, the agreement and contract among them is required. All members of the joint venture shall be jointly or severally liable as agreed for the entire assignment or shall appoint authorized person or representative with a power of attorney, for submission of bid, contract signing and contract execution.

10.2 if bidders that are state-owned enterprises, they are eligible if they are financially autonomous, operate under commercial law, and are not under supervision of such project implementing agency.

10.3 if bidders that are non-business registered enterprises in Lao PDR, a legal business license and referenced tax payment obligations in routine and complete manners in relevant country are required. In case of being a winning bidder, such enterprise is required to proceed as per regulation of tax payer registration and management in Lao PDR.

- 11 Article 40: Tender committees** are appointed to carry out procurement (of goods, works and services) or selection of consultants. The tender committee, for each method of procurement or selection of consultants under public procurement shall be required. The tender committee consists of 3 to 7 members from project owners or procuring entities' technical team and specific experience staffs from relevant sector. In addition, the tender committee may appoint 3 to 5 members as secretariat team to assist the works. The secretariat team members shall hold experiences, technical and basic knowledge of procurement or selection consultants matters, but not engage in voting or participating in decision on this matter. The composition, for each level, of tender committee includes:

11.1 Ministry and agency level

- 1) Vice Minister or Deputy Head of equivalent Authority or assigned person as

- a chairman
- 2) Person in-charge of procurement/selection of consultants of project owner or procuring entity as vice-chairman
- 3) Person in-charge of relevant technical matters to be procured/selected as a member (3 to 5 persons)

11.2 Provincial level

- 1) Deputy Provincial Governor or Deputy Capital Governor or assigned person as a chairman
- 2) Person in-charge of procurement/selection of consultants of project owner or procuring entity as vice-chairman
- 3) Person in-charge of relevant technical matters to be procured/selected as a member (3 to 5 persons)

11.3 District level

- 1) Deputy Head of District, Deputy Head of Municipality or Deputy Head of city as a chairman
- 2) Person in-charge of procurement/selection of consultants of project owner or procuring entity as vice-chairman
- 3) Person in-charge of relevant technical matters to be procured/selected as a member (3 to 5 persons)

Tender committee of each level shall gain knowledges, experiences and skills relating to the nature of procurement/selection of consultants such as technical skills, understanding the target of applications, knowledge of procurement/selection of consultants, management skills and financial analysis including knowledge of laws.

Tender committee shall keep confidentiality of all procurement/selection of consultants matters. The transfer of tasks under their own responsibilities to others to do or assign others to participate in the meeting on their own behalf are not allowed.

12 Article 43: Preliminary examination of bids or proposals, it includes:

- 1) Completeness of bids or proposals, and duly signed by the authorized persons, including letters of appointment or powers of attorney;
- 2) Bid securities must in an acceptable form and meet the set amounts and validity periods;
- 3) Proposals for discounts (if any).
- 4) Examination of bids or proposals such as sealed envelope, outer envelope marking, number of original/copies, power of attorney, and other relevant information for verification and completeness purpose.
- 5) Examination of qualifications of bidders or consultants for verification and completeness purpose.
- 6) Examination of other documents for verification and completeness purpose required as indicated in the bidding documents or request for proposals.

Any amendment or modification to the documents' content must be certified by bidders. If case of major deviations incurred for submitted bids or proposals in terms of verification and completeness aspects as indicated in the bidding documents or request or proposals, those bids or proposals may not be taken further into consideration or be rejected by the project owner or procuring entity.

- 13 Article 44: Detailed examination—paragraph 2:** Detailed examination for works, goods and/or services and consulting services consist of the following:

13.1 Evaluation of bids or proposals

13.1.1 Detailed examination of bids or proposals shall carry out based on criteria as indicated in the bidding documents or request for proposals. The application of additional criteria shall not be allowed.

13.1.2 Examination of qualifications and technical specifications are the detailed examination of bidders' qualifications as indicated in the bidding documents, methodology statement of works and/or maintenance, technical specifications of goods and equipment to be provided and related services as indicated in the technical specifications required. In case of bids with non-responsiveness on technical specifications above, may be rejected by the project owner or procuring entity. Only responsive bids or proposals will be taken into price (financial) evaluation.

13.1.3 Price evaluation is to conduct the corrections on arithmetical errors for all items required (if any); if incorrect number of items incurred, the correction is based on the unit price; if some missing items incurred, the correction is assumed that the missing items are already included in the total bid price or

based on the other bidders' average bid price for those items for price comparison purpose; If a multi-currency of bids is allowed to bidders, the conversion into one currency is required for evaluation. In addition, the correction of items and correspondent unit price in consistent manner is required. In case of discount for bids, the amount of discount shall be subtracted from total bid price.

If there is any correction on arithmetical errors or other relevance, the notification to the concerned bidder or consultant for acceptance is required. If any bidder or consultant that does not accept the correction of errors, shall be rejected and its bid security may be not returned.

Other additional principles (criteria) for price evaluation are allowed to apply and stipulate in the bidding documents such as schedule for completion of works or services and/or delivery of goods, frequency of related maintenance services and supply of spare-parts of goods supplied, which is the following:

13.1.3.1 Schedule for completion of works and services and/or delivery of goods is the proposal of schedule for completion of works and services and /or delivery of goods. The completion prior the expected date as indicated in the bidding documents and request for proposals is not considered to have better proposal. If the completion later than expected date as indicated in the bidding documents or request for proposals, the rate of zero point zero one (0.01) percent of the total bid price/financial proposal for each day of delay. The additional figure will be added into the bid price/financial proposal for price comparison purpose.

13.1.3.2 Frequency of related maintenance services is the method of calculation for

maintenance fees, after sale services fees, and technical support fees. These, fees shall be in compliance with estimated costs against the initial expenses which refers to a basis of current value.

- 13.1.3.3 Supply of related spare-parts of goods shall refer to the capability of supply of spare-parts for annual spare-parts replacement on the entire frequency of usage of these goods such as within 3 years, 5 years, 7 years, 10 years or 15 years.

Besides the principles above, an assessment through application of non-value conditions which refers to scoring that shall be indicated in the bidding documents or request for proposals such as quality of methodology and workplan, method statement, capacity or usage and sustainable condition detailing as below:

- 1) Quality of methodology and workplan is an assessment of proposed tools, technology, method of construction, techniques on remedy of defects and management in execution of works and/or maintenance and supply of goods and/or services.
- 2) Method statement, capacity or usage is a quality assessment on usage of materials and tools adopted to the country environment in appropriate manner.
- 3) Sustainable condition is an assessment on usage of materials and tools that no environmental impacts under sustainable and green growth direction.

- 13.1.4 Clarifications on bids or proposal are the bidders or consultants' clarifications to project owners or procuring entities regarding the unclear information provided during the evaluation process. No modifications on the contents of bidders or consultants' clarifications provided allowed are listed below:

- 1) Bid price or financial proposal except the correction on arithmetical errors.
- 2) Major contents of bid or proposals.
- 3) Major deviations effected to the bid evaluation.
- 4) All of bidders or consultants' clarifications may not respond to the intention of project owner or procuring entity's request for clarifications may not be taken into consideration or may be rejected of bids or proposals.

- 13.1.5 An abnormally low bid is one where the bid price is considered as unreasonably low appearance leading to unreliability as to the capacity of bidder or consultant to perform the contract for the offered price.

In the event of identification of a potentially abnormally low bid, the requirement is to seek written clarifications from the bidder or consultant, including detailed price analyses of its bid price in relation to the subject matter of the scope of work, proposed methodology, schedule, allocation of risks and responsibilities of the bid price.

The clarifications to low bid price is considered in relation to cost saving production process, methodology for works and/or maintenance and supply of goods and/or services, techniques on remedy of execution, favorable conditions of bidder, supplier or service provider to propose this bid price for execution of such works and/or maintenance and supply of goods and/or services, and actual survey price.

After the bidder's clarifications are considered, the project owner or procuring entity may carry out as the following:

- 1) Acceptance of bid.
- 2) If an abnormally low bid is a result of proposed bid price which appears the significant difference to the project owner or procuring entity' forecasted estimated cost, bidder shall bear the actual additional cost (if any) during the contract execution, and this issue shall be included in the conditions of contract as additional provision.
- 3) Rejection of bid if the evidence provided is unable to reasonably explain for proposed low bid price or proposed expenses.

In the event of the proposed bid price exceeds the allocated budget, it shall carry out as below:

- 1) Review the criteria (conditions), technical specifications and requirements as indicated in the bidding documents or request for proposals in order to modify appropriately.
- 2) Take out some unnecessary items or quantities or tasks.
- 3) Cancel a procurement through rejection of all bids and conduct a new bid as per criteria, technical specifications and requirements needed but to ensure the sufficiency of time.

13.1.6 Cancellation of public procurement is a rejection of all bids or proposals which submitted to the project owner or procuring entity. Project owner or procuring entity has rights to cancel the public procurement in one of the cases below:

- 1) The lowest evaluated bid price exceeds the allocated budget which was approved by the project owner or procuring entity under a fixed budget and non- revisionable.
- 2) All bids do not meet the requirements as indicated in the bidding documents or request for proposals.
- 3) Low competition or uninterested bidders or collusion practice of procurement or selection of consultants found and considered by the project owner or procuring entity.

In case of the procurement or selection of consultants was cancelled due to low competition or uninterested bidders or consultants, the project owner or procuring entity may review and revise bidding documents or request for proposals for competitive purpose and conduct a re-invitation for bids or selection of consultants.

13.2 Evaluation of consultant services

Evaluation of consultant services is a calculation of point system through 100 points basis and points to be assigned for criteria and subcriteria for evaluation purpose.

The weights given to the technical and financial proposals is subject to the method of selection of consultants to be applied. The project owner shall determine such weights in the following range: not less than seventy (70) percent for technical proposal, and not more than thirty (30) percent for financial proposal. All of details of evaluation and weights for each of method of selection of consultants is specified in the request for proposals.

14 Article 45: Domestic preference shall apply for international open bidding (International competitive bidding) only and such given domestic preference shall be stipulated in the bidding documents though following conditions:

14.1 For works and/or maintenance

14.1.1 Preference for local contractors

If a local bidder's bid price is not exceeded seven point five (7.5) percent of an international bidder's bid price, the local bidder will be considered as the winning bidder for works, and/or maintenance as per international open bidding procedure and shall comply with the following

Local bidder who will enjoy that preference shall provide some information on qualifications which contains detailed rights in order to determine contractors' eligibility or to group of eligible contractors who obtain those rights. Bidding documents shall clearly indicate any reference to be granted and method of evaluation based on the principles and grouping as below:

- 1) Group A: Bids to be eligible obtaining preference.
- 2) Group B: Bids to be ineligible obtaining preference. The ratio of seven point five (7.5) percent of bid price will apply and add to Group B's local bidders for evaluation and price comparison purpose.

14.2 Supply of goods

14.2.1 For international open bidding, preference is given to goods manufactured in Lao People's Democratic Republic in order to promote domestically manufactured goods when comparing bids offering such goods with those offering goods manufactured abroad.

14.2.2 Where preference for domestically manufactured goods is granted, the methods and stages shall be followed in the evaluation and comparison of bids as indicated in the bidding documents based on the conditions of the latest version of INCOTERMS such as EX-Works (EXW), Carriage and Insurance Paid (CIP), and Delivered Duty Paid (DDP).

14.2.3 Bidding documents shall clearly indicate any preference to be granted to domestically manufactured goods indicating production-base (origin) and the information required to establish the eligibility of a bid for such preference. The nationality of the manufacturer or supplier is not a condition for such eligibility.

14.2.4 For evaluation and comparison purpose, bids shall be classified as the following three groups:

14.2.4.1 Group A: Bids offering domestically manufactured goods and supporting information:

- 1) Labor, raw material, and components will account not less than thirty (30) percent of the EXW price of the product offered,
- 2) Goods will be manufactured or assembled has been engaged in manufacturing/assembling such goods at least since the time of bid submission.

14.2.4.2 Group B: Bids offering goods fully manufactured in the country.

14.2.4.3 Group C: Bids offering goods manufactured abroad and will be directly imported.

14.2.5 The price quoted for goods in bids of Groups A and B shall include all duties and

taxes already paid or to be paid on the basic materials or components purchased in the domestic market or imported but shall exclude the Value-Added Tax on the finished product. The price quoted for goods in bids of Group C shall be on CIP, which is exclusive of duties and taxes already paid or to be paid.

14.2.6 All evaluated bids in each group shall be compared to determine the lowest bid in each group. Such lowest evaluated bids shall be compared with each other and if, as a result of this comparison, a bid from Group A or Group B is the lowest, it shall be selected for the award.

14.2.7 If as a result of the comparison under paragraph 14.2.6 above, the lowest evaluated bid is a bid from Group C, all bids from Group C shall be further compared with the lowest evaluated bid from Group A after adding to the evaluated price of goods offered in each bid from Group C, for the purpose of this further comparison only, an amount not to exceed fifteen (15) percent of the respective CIP bid price. The lowest evaluated price from the final comparison shall be selected for the award.

15 Article 46: Complaints are bidders or consultants' complaint on public procurement, namely from unfairness, from the lack of transparency, and partiality by tender committees may file a written complaint to project owner or procuring entity for resolution within fifteen (15) days. The complaint may carry out as the following:

15.1 Bidders or consultants may file a written complaint to project owner or procuring entity or tender committee, if they found out that the nonbeneficiary or loss or damage caused by the violation of laws or regulations or the officials' performance. Submission of complaint is fourteen (14) days prior the contract signing is required.

15.2 Project owner or procuring entity shall consider the complaint within fifteen (15) days from the date of receipt of the written complaint. If there is no resolution from the project owner or procuring entity within such period or improper resolution or not satisfaction to the bidder or consultant, it may refer to the financial sector for their consideration within the next fifteen (15) days from the date of receipt of the written complaint or the financial sector itself may form the ad-hoc committee consisted of relevant sectors' personnel for their consideration within the next fifteen (15) days from the date of appointment of ad-hoc committee is issued or the financial sector itself may propose to proceed solving complaints as per laws and regulations.

If the complaint is unsolved by the project owner or procuring entity, it may carry out as the following:

- 1) Suspend the procurement or selection process until the complaint is solved, except for necessity engaging to the public interest that the procurement or selection shall be required.
- 2) Provide a written response which includes the detailed reason of solving and the inspection of procurement execution within fifteen (15) days from the date of receipt of the written complaint.

If the resolution conducted by the Ministry of Finance is not to the bidders or consultants' satisfaction, matters may be referred to the method of dispute resolution as stipulated in Article 67 of the law on public procurement or may be submitted to relevant government agencies.

16 Article 47: Approval of the bid evaluation is an approval of bid and proposal evaluation

from Minister, Head of Authority or Provincial Governor, Capital Governor, Head of District, Head of Municipality, Head of City or authorized person when bids and proposals evaluation reported by tender committees are seen as complying with law on public procurement and its procurement regulations. Then it shall carry out as below:

16.1 Project owner or procuring entity shall award the contract and issue a notification, within the period of the validity of bids or proposals, to the winning bidder or selected consultant attaching a draft contract for negotiations and contract signing including the timeline for contract signing, in case of no complaints about such procurement or selection of consultant.

16.2 In case of open bidding procedure, an award of contract shall also notify all other bidders containing name, address and contract amount of winning bidder, and all other name of bidders. The contract shall be signed after fourteen (14) days from the date of a notification of award of contract is issued.

16.3 If there is no performance security furnished or failing to timely come for contract signing after the performance security is furnished or no reaching to the conditions of contract, the project owner or procuring entity may notify to the next ranked-bidder from such winning bidder for negotiations and contract signing.

Project owner or procuring entity shall notify to unsuccessful bidders or unsuccessful consultants containing the reasons of rejection such bids or proposals or consultants. If there are requirements to provide the reasons of rejection such bids or proposals, it shall be in written in the timeline indicated. If there are no requirements to provide the reasons of rejection such bids or proposals or rejection of bids or consultants, only information of date and time to be included in the letter of invitation or opening of bids or proposals are required.

17 Article 48: Public procurement contracts are agreements between project owners and contractors or procuring entities and suppliers and/or service providers or consultants, it may carry out as below:

17.1 Contract signing or award of contract

17.1.1 Winning bidder or selected consultant will sign a contract in written after fourteen (14) days from the date of a notification of award of contract is issued to the winning bidder or selected consultant for contract signing purpose, in exceptional case If there are requirements to provide the reasons of rejection of such bids or proposals from other bidders or consultants.

17.1.2 Contract shall be signed by the project owner or procuring entity or authorized person and the winning bidder or selected consultant or authorized person.

17.1.3 In case of no counter-signed of both parties, a draft negotiated contract certified by the contractor or supplier and/or service provider or consultant will be signed in two original by the project owner or procuring entity and sent to the contractor or supplier and/or service provider or consultant for signature. The contract signing date will be treated as the project owner or procuring entity's signing date. The original will be retained for each by the project owner or procuring entity and the contractor or supplier and/or

service provider or consultant.

17.2 Contract registration

The signed contract shall be registered by the contractor or supplier and /or service provider or consultant, in accordance with relevant regulation. The said contract registration holder above shall bear the contract registration fee.

- 18 Article 53: Management of contracts—paragraph 1:** Project owners or procuring entities shall appoint project management personnel for managing contracts to ensure the quantity, quality and timeframe in works and/or maintenance, supply of goods and/or services and consulting services contracts, they consist of the following:

18.1 Contract management committee

Project owner or procuring entity may appoint separately the contract management committee or this committee will be taken from tender committee or inspection committee which be already appointed in the past. The project owner or procuring entity will participate and arrange the contract management process and provide necessary tools and equipment including human resources to manage the contract execution in efficient and effective manner.

18.2 Responsibilities of contract management committee consist of the following:

- 18.2.1 Determine a process of acceptance and inspection of works and/or maintenance, supply of goods and/or services or consulting services in order to print into the procurement manual.
- 18.2.2 Inspect and certify the execution procedures for works and/or maintenance, supply of goods and/or services or consulting services as stipulated in the signed contract. If fault is found as per the signed contract, the reporting to the project owner or procuring entity is required for solving those issues.
- 18.2.3 Manage and seek for solution in dispute matters incurred as the signed contract, including the agreed measures on breaches of contract.
- 18.2.4 Record, retain documents and report on contract execution.
- 18.2.5 Perform other duties in accordance with laws and regulations.

18.3 Completion of contracts

Contract execution is fully completed whenever both parties fulfill all conditions of contract and timeframe of contract performance and warranty period. The signed contract, documents and procurement related information shall retain at least ten (10) years period.

19 Article 86: Fine measures

Individuals, legal entities or organizations violating the law on public procurement and this Instruction will be fined as below:

- 19.1 In case of a bid-securing declaration** applied for the winning bidder, but the withdrawal or modification of bid incurred during the bid validity period or rejection to sign a contract or to furnish a performance security in timely manner, such winning bidder shall pay fines in the amount of two (2) percent of the proposed price to the project owner or procuring entity.

19.2 The winning contractor or supplier and/or services provider or consultant, in the event of selling, transfer of the project to others after the contract is signed, will pay fines in the amount of ten (10) percent of contract amount and be not returned the performance security.

19.3 For the execution of works and/or maintenance supply of goods and/or services and consulting services which do not meet the requirements on quality, technical specifications and professional techniques, the fines shall be made in two times of evaluated of loss or damage values.

III. Implementation and effectiveness

Authorize to the Ministry of Finance's State Budget Department, as a focal point for coordination, to advertise, disseminate, instruct and implement this Instruction in good result to concerned parties and local government authorities.

Ministries, agencies and local government authorities, state-owned enterprises, individuals, legal entities or local and international agencies shall acknowledge, understand and strictly implement this Instruction.

Any difficulty found through the actual implementation mention of this Instruction shall be reported to the Ministry of Finance for guidance, revision and solving in timely manner.

This Instruction enters into force from the date of signing and after fifteen days of the notification of this Instruction in the Official Gazette.

Deputy Prime Minister, Minister of Finance

Signed and stamped

Somdy Douangdy

6. Law on Resettlement and Vocation



Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

President

No. 204/P
Vientiane Capital, 01 August 2018

**Decree
of the President
of the
Lao People's Democratic Republic
regarding
the Promulgation on the Law on Resettlement and Vocation**

- Pursuant to the Constitution of the Lao People's Democratic Republic (2015 Amendment) chapter VI, article 67 paragraph 1;
- Pursuant to National Assembly's Resolution No. 086/NA, dated 15 June 2018 on the Adoption of the Law on Resettlement and Vocation;
- Pursuant to Standing Committee's Request No. 06/SC dated 13 July 2018,

The President of the Lao People's Democratic Republic Decrees that:

Article 1: The Law on Resettlement and Vocation is hereby promulgated.

Article 2: This Decree is effective from its date of signature.

President of the Lao PDR

(signed and sealed)

Bounnhang Vorachith



Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

National Assembly

No. 086/NA
Vientiane Capital, 15/06/18

Resolution
of the
National Assembly
on the Adoption of the Law on Resettlement and Vocation

- Based on Article 53 Point 1 of the Constitution (2015 Amendment) and Article 11 Point 1 of the Law on the National Assembly of the Lao People's Democratic Republic regarding rights and duties of the National Assembly (2015 Amendment).

After extensive and in depth discussion and consideration regarding the contents of the Law on Investment Promotion (Amendment) during the 2th Ordinary Session of the Eighth Legislature on 17 November 2016,

The National Assembly's Session has resolved:

Article 1: To adopt the Law on Resettlement and Vocation by majority votes.

Article 2: This Resolution is effective from its date of signature.

President of the National Assembly

(signed and sealed)

Pany Yathotou



LAO PEOPLE'S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

National Assembly

No. 45/NA
Vientiane Capital, dated: 15 June 2018

LAW
ON RESETTLEMENT AND VOCATION

Part I
General Provision

Article 1 Objective

This Law sets out principles, rules and measures regarding the supervision, inspection and monitoring of resettlement and vocation in order to enhance its efficiency, effectiveness, compliance, and to be consistent with locality condition and development to ensure Lao multi-ethnic persons who live in resettlement and vocational area have place to stay, place to earn a living and sustainable vocation which aim to solve illegal relocation problem, reduce poverty, improve livelihood of Lao multi-ethnic persons physically and mentally, develop social discipline, become development village and agglomerate big villages into small town in rural areas therefore contribute to national socio-economic development as well as to safeguard national defense and security.

Article 2 Resettlement and Vocation

Resettlement is an arrangement of place to live and to earn a living for persons in urban and rural areas who have displaced or migrated from their original residence to a new residence, to ensure the balance and consistency with the development.

Vocation is to build facility and capacity to make a living for persons in urban and rural areas who displaced or migrated from their original residence to a new residence, to ensure that they have stable sources of income, have a better livelihood and are graduated from poverty.

Article 3 Definitions

Terms used in this Law have the meaning as specified below:

1. Residence means the location where persons live and make a living;
2. Stable vocation means a certain activity that provides income for a person and household constantly and perpetually;
3. Displacement means to orderly and properly reallocate living place for persons in former village or location;
4. Relocation means the change of initial residence area of families and villages to a new residence area;

5. Project owner means Ministry of Agriculture and Forestry, Government-equivalent organization, relevant administrative authority who is assigned by Government to implement the resettlement and vocation project;
6. Settlement and vocation project means activities that defines categories, zones, approved areas and requirement for resettlement and vocation including procedures, methodologies, budget and timeline for implementation;
7. Project developer means domestic and foreign individual, legal person who are permitted to invest in a project;
8. Development project means investment project or any activities that implemented in the Lao PDR which requires persons resettlement and compensation.
9. Necessary basic infrastructure means basic public service system such as road, electricity, health centre, clean water, school;
10. Host village means any village where persons have been living to date and it is the village receiving other affected person to live in such village;
11. Project Affected person/persons means individual, legal person or entity who affected from development project;
12. Developer means a person who has obtained a certain technical training, experiences, and approved by relevant sectors;
13. Benefit received in the lost opportunity period means compensation for any activity implementation that affected person/persons will receive from resettlement and vocation project for three years period;
14. Basic living condition means basic livelihood needs such as food, necessary clothing, permanent residence, ability to access to necessary primary public service;
15. Transition period means the rehabilitation of affected person's livelihood period within three to five years from resettled date;
16. Compensation means to compensate in the form of land, material or money for the land, constructed facilities, agricultural products, livestock and incomes that are affected by development project resettlement and vocation project based on the compensation value in each timber period;
17. Substitute value means the value that accounts for object, money or land which need to be used for replacing land, construction, agricultural products, livestock and income affected from settlement allocation;
18. Customary land use rights mean that the affected person or village has possessed the land use rights in land clearing, land development which the land has been protected and used regularly, and disclosed continuously for greater than or equal to 20 years without holding land use certificate issued by relevant authorities, and the land is not located in conservation area of the State.

Article 4 Government policy on Resettlement and Vocation

Government ensures the right on resettlement and vocation of citizen according to constitution and focuses on implementing the resettlement and vocation as a strategic measure linked to the foundation of construction, rural development and poverty reduction in near and long term to ensure the better livelihood of persons.

Government allocates budget, personnel and materials for resettlement and vocation from time to time base on its condition and ability to do so.

Government encourages and promotes domestic and foreign individuals, legal entity and organization to participate in and contribute fund to resettlement and vocation.

Article 5 Principles on Resettlement and Vocation

Resettlement and vocation activities shall be conducted pursuant to the following principles:

1. To be consistent with policies direction, strategy, law, national socio-economic development plan as well as to safeguard the national defence and security;
2. Centralized and democratized management throughout the country;
3. To protect the right and interest of affected person base on equality, accuracy, transparency, disclosure, promptitude and fairness approach;
4. To have place to live, place to make a living and sustainable vocation, to have better livelihood and graduate from poverty;
5. To resettle within original residence first, then resettle to other selected location by ensuring the balance between number of persons and selected area;
6. To ensure the early coordination, consultation and participation of persons, Government authorities and relevant stakeholders.

Article 6 Scope of Application of the Law

This Law shall apply to natural persons, legal entities and organizations, both domestic and foreign, who relating to resettlement and vocation activities in Lao PDR.

Article 7 International Cooperation

The Government encourages and promotes relation and cooperation with foreign countries, regional and international, regarding resettlement and vocation program by exchanging experience and information, improving technical knowledge development, technology and seeking for supports in order to efficiently and effectively develop such program, and the implementation of international conventions and agreements to which the Lao PDR is a party.

Part II

Resettlement and Vocation Strategy

Article 8 Resettlement and Vocation Strategy

Resettlement and vocation strategy describes policy, direction, plan and project which included in Rural development and poverty eradication plan, related to implementing the supervision of population movement and resettlement and vocation work plan by focusing on resettlement and vocation program to ensure the balance between population or labour force and selected area, to promote sustainable vocation for persons to make available stable source of income and consistent with the development in each period.

Article 9 Development of Resettlement and Vocation Strategy

Ministry of Agriculture and Forestry develops the resettlement and vocation strategy in coordination with Ministry of Home Affairs, Ministry of Planning and Investment, Ministry of Finance, Ministry of Natural Resources and Environment, Ministry of Energy and Mines, Ministry of Public Works and Transport, Ministry of Labor and Social Welfare, Ministry of Education and Sport, Ministry of Public Health, Ministry of National Defence, Ministry of Public Security, National Social and Science Research Institution, National Economic Research Institution, academic institutes, other ministries, organizations and relevant local administrations in order to propose to the Government for consideration, and further propose to the National Assembly for approval.

Article 10 Content of Resettlement and Vocation Strategy

Resettlement and vocation strategy consists of the main content as follows:

1. Evaluation of the previous implementation on resettlement and vocation;
2. General direction, targets and goals for each period;
3. Focus points of resettlement and vocation;
4. Policies, measures and implementation mechanism;
5. Monitoring and assessment systems;
6. Budget.

Part III

Resettlement

Section 1

Resettlement Categories, Areas and Eligibility Criteria

Article 11 Categories of Resettlement

The resettlement is classified into two categories as follows:

1. General resettlement;
2. Specific resettlement.

General resettlement means the allocation of place for persons who live in remote and underdeveloped areas, high risk living area and specific area, to stay and to make a living. Ministry of Agriculture and Forestry and other relevant sectors are responsible for implementing the resettlement in coordination with relevant local administration.

Specific resettlement means the allocation of place to stay and make a living for persons who affected from the development project. Ministry of Agriculture and Forestry, other relevant sectors and project developer are responsible for implementing the resettlement in coordination with relevant local administration.

Article 12 Resettlement Areas

The resettlement areas consist of the following:

1. Areas with difficult access and lacking conditions for development;
2. High-risk living areas;
3. Special areas;
4. Areas affected by development projects.

Article 13 Areas with Difficult Access and Lacking Conditions for Development

Areas with difficult access and lacking conditions for development include:

1. The areas where there are no production activities or very less, producing rice by slash and burn causing environmental harmful and lack of living standard improvement;
2. The remote area with no development condition or having difficulties such as mountain forest area, watershed forest area, and area with difficulties to access to public services;
3. Small scattered villages, unsettled and poor groups of persons.

Article 14 High-Risk Living Areas

High-risk living areas include:

1. The areas where natural disaster occurs frequently such as flooding area, soil erosion area;
2. Crowded area where safety is not guaranteed and may results in having epidemics, pollution, and environmental impact.

Article 15 Special Areas

Special areas are strategic areas for national defence and security, border, Conservation Forest, Protection Forest, toxic or radio-active areas, and archaeological areas.

Article 16 Areas affect by Development Projects

Areas affected by development projects are areas affected by dam construction projects, mining projects, special economic zone, infrastructure construction project and other projects.

Article 17 Eligibility Criteria for Resettlement

Individuals who are eligible for resettlement shall meet the following criteria:

1. Being Lao citizens, residents and stateless persons who permanently and lawfully live in the Lao PDR;
2. Living in the area eligible for resettlement in accordance with Article 12 in this Law;
3. Agreeing to accept the resettlement.

Section 2

Resettlement Areas and Requirements

Article 18 Resettlement Areas

Resettlement areas are including in the followings:

1. Former locations that suitable to build living place where there is land available for production and development;
2. Empty land or abundant land where improvable and repairable for building place to live and to make a living;
3. A location to be developed and reallocated as development focused area, agglomerating big villages into small town in rural areas;
4. Labour needed area such as industrial area, special economic zone, specific economic zone, planting or industrial crops areas;
5. Special designated areas for families and villages who responsible for national defence-security, national assets and resources protection such as cross border areas, conservation forest, high valued mineral resource, archaeological areas.

Article 19 Requirements for Resettlement Areas

The resettlement areas shall follow the following requirements:

1. Having existing village where living and working place can be expanded;
2. Suitable for building habitation and earn a living, and be able to support long-term population growth;
3. Suitable for infrastructure development;
4. Having water source for consumption and production adequately;

5. Be able to facilitate national defence and security activities, It is not a risk living and environmental harmful area.

Section 3

Resettlement Process

Article 20 Resettlement Process

The resettlements shall be conducted as the following steps:

1. Resettlement project study and planning;
2. Compensation for damages caused by resettlement;
3. Building of Infrastructures to support resettlement;
4. Displacement or relocation;
5. Resettlement area development;
6. Livelihood rehabilitation during transition period;
7. Handover of resettlement project;
8. End of resettlement project.

Article 21 Resettlement Project Study and Planning

The resettlement project study consists of initial study, feasibility study and detailed study.

Initial study is the study of information related to economy, culture, society, population and public services system of targeted villages to be displaced or resettled including geographic characteristics of resettlement area in order to move to feasibility study step.

Feasibility study is to comprehensively study technical principles such as conducting survey on land, assets, new village development plan, environmental and social impact.

Detailed study is to study full details and evaluate initial project cost as well as to evaluate effectiveness of the project.

As for the study of general resettlement, the project owner is responsible for proposing to the relevant resettlement and vocation committee within its authority for their approval.

For the study of specific resettlement, the project owner and project developer are responsible for proposing to the relevant resettlement and vocation committee for their approval.

Article 22 Compensation for Damages caused by Resettlement

General resettlement shall be implemented according the resettlement plan as officially and lawfully approved by the resettlement and vocation committee.

Compensation for specific resettlement shall be made as follows:

1. Affected person having lawful documents for the land use rights and who have lost the whole or part of their land where the remaining area is not usable, shall receive full compensation through the allocation of a replacing piece of land at the pre-set substitute value as determined periodically and giving them the land use rights documents for that piece of land and being responsible for all expenses related to the obtaining of such documents.
2. In case the value of land and house of affected person is lower than the one of the allocated land and house, the resettlement and vocation committee shall consider an appropriate solution;

3. Affected person having lawful documents for the land use rights and who have lost the whole or part of their land where the remaining area is still usable, shall receive compensation only for the lost part with the pre-set substitute value. Deed of land use rights shall then be issued for the remaining area of land;
4. Affected person having customary land use rights, but having lost such rights as certified by local administration and relevant authority, shall receive the same compensation as described in Points 1 or 2 of this Article;
5. Affected person without documents for the land use rights as required in Points 1, 2 and 3 of this Article, will not receive compensation for the loss of their land, but for the loss of their buildings, trees and produces according to the pre-set substitute value;
6. The entire or partial loss of buildings shall be compensated with the substitution value of such buildings for the affected person who owns such buildings without any deduction of depreciation or reduction of compensation against remaining construction materials;
7. In case the land or buildings could not be used temporarily, the affected person who is the owner of such land or buildings shall receive compensation on case by case basis and shall ensure that the land or buildings are returned to the affected person in original condition;
8. The loss of trees, crops, livestock or income shall be compensated based on the substitute value;
9. For the loss of infrastructure and other facilities of local communities, the project owner shall be responsible for rehabilitation of livelihood and repair to make it better and shall specifically pay attention to the rehabilitation efforts if there are losses of infrastructure concerning culture, religion and traditions of local persons. If the graveyard, cemetery, burial place has been affected, there shall be a move to a new area. The project owner shall be responsible for all the costs depending on the actual situation and based on the consultation with the resettlement and vocation committee and other stakeholders;
10. The implementation of compensation activities for affected persons in any cases shall be conducted through coordinating with the resettlement and vocation committee of each local authority level to monitor and verify the accuracy of the compensation plan;
11. Affected persons who voluntarily move to another place not allocated by the State, but obtaining the approval for such moving, will not be resettled but still receive compensation;
12. Any activities taking place after the date of registration of affected persons' eligibility for compensation shall not be subject to compensation except for the case that the compensation plans are not implemented within the time frame as defined in Point 13 in this Article;
13. Resettlement and vocation committee shall re-evaluate compensation value in case the compensation plan is not implemented within twelve months;
14. The implementation of the compensation plan shall be completed within twenty-four months from the date that the compensation plan is officially adopted. Failure to complete the compensation within the specified timeframe, the project developer shall submit an application to the resettlement and vocation committee for consideration of time extension but not exceeding twelve months.

Article 23 Building of Infrastructures to Support Resettlement

The project owner or project developer shall complete the building of necessary infrastructures in advance to support the actual resettlement according to the officially approved plan.

Article 24 Displacement or Relocation

The project owner or project developer shall coordinate with the resettlement and vocation committee at each local authority level to operate the actual displacement and relocation and shall do as follows:

1. To ensure the resettlement is implemented in timely manners based on official approved resettlement schedules;
2. Respect the local culture, religion, traditions and believes of affected person;
3. Reduce the impact to host village as well as to ensure that host village is eligible to use the infrastructure of communities allocated by Government or project developer.

In case there is no progress on resettlement as scheduled within twelve months after list of affected person issued, the resettlement shall be implemented as follows:

1. Project developer shall be responsible for occurred impacts
2. The resettlement and vocational committee shall make decision for new project developer. If the existing project developer is willing to continue the implementation, it needs to propose to resettlement and vocational committee for reconsidering.
3. The project developer selected by resettlement and vocational committee shall improve the displacement implementation plan and submit to the committee for approval.

Article 25 Resettlement Area Development

Project owner or project developer shall accurately develop resettlement area in accordance with key principles as follows:

1. To implement official approved resettlement area development plan accordingly;
2. To ensure the infrastructure and facilities development comply with technical standard set by relevant sector;
3. To comprehensively develop resettlement area in order to build developed village and transform large villages into small towns in rural areas.

Article 26 Livelihood Rehabilitation during Transition Period

The project owner or project developer shall rehabilitate the livelihood of affected person during transition period and ensure the followings:

1. To provide assistance during transition period according to livelihood rehabilitation plan to improve living standard of affected person such as provide food, necessary consumer products;
2. To allocate or provide necessary equipment for production to affected person.

The project owner or project developer shall pay special attention to the livelihood rehabilitation for disabled persons to help them overcome poverty.

Article 27 Handover of the Resettlement Project

The specific resettlement project, once the construction is completed, project developer shall propose to the related resettlement and vocational committee to inspect the technical standard and quality of the project for its handover.

Project developer shall pay a guarantee deposit at ten percent of resettlement project value at a bank in the Lao PDR with certification by the project owner.

The guarantee period of resettlement project shall be at least one year from the date of handover. If any defect is found in the project development during this period, the project owner has the right to demand the project developer to remedy such defect.

Article 28 End of Resettlement Project

The specific resettlement project shall end after the project developer has completed the guarantee period. Any damages or losses caused by a technical defect shall be remedied and certified

by the relevant resettlement and vocation committee.

The project owner shall issue a certificate upon request by the resettlement and vocation committee and return the deposit as agreed.

Section IV

Vocation

Article 29 Categories of Vocation

The Agriculture and forestry sector authority coordinates with other relevant sector and stakeholders at both central and local levels to review and classify the vocations of targeted groups according to the actual situation of such vocations as follows:

1. Cultivating, livestock farming, fisheries;
2. Tree planting and forest protection;
3. Services, trades, tourism;
4. Industrial production and handicraft;
5. Labour worker in factories or development project, factory production or small enterprise, tools, equipment or materials assembly including assembly production line.

Article 30 Areas and Eligibility Criteria for Vocation

Persons eligible for vocation include individuals or families who live in affected areas and meet the same requirements as for resettlement as described in Article 12 and 17 of this Law.

Article 31 Prioritization of Vocation

Vocation for individuals or families affected by the development project shall be prioritized as follows:

1. Families with disabled, handicapped and elderly persons who would potentially become poorer compared to other groups;
2. Families or poor individuals with unstable jobs;
3. Families or individuals whose situation is suitable to become model family in the production, handicraft, trade and service.

Article 32 Vocation Procedures

The vocation shall follow the following procedures:

1. Data collection;
2. Vocation option assessment;
3. Vocational training and development;
4. Support and promotion of technical aspects, access to finance and marketing;
5. Building of onsite developers and model families;
6. Monitoring and evaluation of vocational implementation;
7. End of vocation project.

Article 33 Data Collection

The collection of vocational data of affected persons shall be conducted in parallel with the study of resettlement project.

The project owner or project developer is responsible for collecting vocation data and propose the same to the relevant resettlement and vocation committee for consideration.

Article 34 Alternative Vocation Assessment

The vocation option assessment is the research on locally existing vocation or new vocation opportunities in order to identify appropriate category of vocation for affected persons.

The project owner or project developer is responsible for vocational assessment and propose to the relevant resettlement and vocation committee for consideration.

Article 35 Vocational Training and Development

Once the vocational assessment is completed, the project owner or project developer shall conduct the vocational training for affected persons to develop their capacity in the areas of establishment and management of production group, production techniques, maintenance, harvesting, processing to add value, marketing and environmental conservation including the supervision, protection and sustainable use of natural resources.

Article 36 Support and Promotion of Technical Aspects, Access to Finance and Marketing

The project owner or project developer shall coordinate with related sector or stakeholder to develop and implement technical skill enhancement plan such as cultivating, raising livestock, handcrafting, trade, service includes financial and marketing accessibility through dissemination, introduction of technical skill and guiding affected person on how to do actual practice until they can rely on their own under basic standard living condition.

Article 37 Building of Onsite Developers and Model Families

The project owner or project developer in coordination with related sector or stakeholder shall train the person who has fundamental knowledge, eligible and willing to get a vocation according to technical plan, to become an onsite developer and train a household who has development potential such as cultivating, raising livestock, handcrafting, trade, service to become a model family.

Article 38 Monitoring and Evaluation of Vocational program Implementation

The project owner or project development in coordination with resettlement and vocation committee, and other related stakeholder at its local authority shall monitor, inspect and evaluate the implementation of vocation program periodically in order to improve and strengthen the program to be more efficient and effective.

Article 39 End of Vocation Project

The vocation project shall end after the project developer has completed the implementation of vocation plan and after evaluation by the resettlement and vocation committee that affected persons have stable jobs, higher income and better livelihood.

The agriculture and forestry sector authority shall issue a certificate upon request by the resettlement and vocation committee.

Section V

Resettlement and Vocation Projects

Article 40 Resettlement and Vocation Projects

The agriculture and forestry sector authority is responsible for coordinating with all relevant sectors and other stakeholders to study and develop resettlement and vocation project at the present and long term perspective to be consistent with socio-economic development plan, balancing between population and labour force to fit in selected areas includes activities relating to national defence-security in each local and region.

Resettlement and vocation project is divided into three levels as follows:

1. Central resettlement and vocation project;
2. Provincial resettlement and vocation project;
3. District resettlement and vocation project.

Article 41 Central Resettlement and Vocation Project

Central resettlement and vocation project means the project that involves the displacement or relocation of more than one hundred families up to five hundred families and is subject to the Government's approval.

The displacement or relocation of more than five hundred families shall be approved by the Standing Committee of National Assembly upon recommendation by the Government.

Article 42 Provincial Resettlement and Vocation Project

Provincial resettlement and vocation project means the project that involves the displacement or relocation of twenty up to one hundred families within a district, or from one district, municipality, city to another district, municipality, city within the same province and is subject to the Provincial People Assembly's approval upon recommendation by the governor, mayor.

In case of the displacement or relocation of twenty families or less from one to another province shall be approved by the relevant governor, mayor.

Article 43 District Resettlement and Vocation Project

District resettlement and vocation project means the project that involves the displacement or relocation of less than twenty families within a village, or from one village to another village within the same district, municipality, city and is subject to the approval of chief of district, municipality, city upon recommendation by the district agriculture and forestry office subject to consent of the relevant village chief.

In case of the displacement or relocation of less than twenty families or less from one to another district, municipality, city shall be approved by the relevant chief of district, municipality, city.

Part VI

Rights and Obligations of Project Developer and Person Receiving Resettlement and Vocation

Article 44 Rights of project developer

The project developer has the following rights:

1. To receive a cooperation from relevant sector or stakeholder in developing resettlement and vocation project;

2. To self-monitor and self-inspect their own study on resettlement and vocation program includes compensation and livelihood rehabilitation for affected person according to their responsibility;
3. To propose the project owner, relevant sectors or stakeholders to solve the issues concerning the resettlement and vocation program;
4. To exercise other rights as described in the laws.

Article 45 Obligations of project developer

The project developer has the following obligations:

1. Establishing a report concerning environmental and social impact assessment includes management, monitor and inspection plans in compliance with technical standards;
2. Strictly exercising obligations on social and natural environment as stated in the contract;
3. Establishing compensation plan, resettlement plan and livelihood rehabilitation plan for affected person on the basis of ensuring sufficient budget to be covered in the cost of project;
4. Properly and strictly responsible for the implementation of compensation plan, resettlement plan and livelihood rehabilitation plan for affected person;
5. Responsible for the expenses of related effects from the resettlement and vocational allocation project
6. Responsible for the expenses related to hiring or inviting expert, experienced domestic or foreign organization includes the project owner and ministry of natural resources and environment to monitor, inspect and evaluate the completion of the project;
7. Responsible for self-developed data as well as providing and disclosing information related to the implementation of the development project to relevant Government authority and to the public;
8. Paying deposit money by 10 percent of project value
9. Reporting all issues concerning its own project development to project owner and the resettlement and vocation committee periodically;
10. Providing vocational skills and local labor training;
11. Implementing other obligations as stated in the laws.

Article 46 Rights of person receiving resettlement

Person receiving resettlement shall have the rights as follows:

1. To obtain the information related to the development project and its benefits and impact as well as the progress of the resettlement, compensation and livelihood rehabilitation that will be made for affected person during the project implementation term;
2. To receive compensation, the displacement allocation and livelihood rehabilitation according to the official approved plan;
3. To make a written proposal to the project owner, project developer and the resettlement and vocation committee to seek for their consideration on solving issues related to the development project;
4. To participate in the consultation meeting and discuss on the resettlement plan, compensation and livelihood rehabilitation, and to participate in other meetings as invited;
5. To use other rights as stated in the laws.

Article 47 Obligations of person receiving resettlement

Person receiving resettlement shall have the following obligations:

1. Providing clear information in conformity with the reality and be responsible for their proposal by law;
2. Extending cooperation and facilitation to the project owner, project developer, the resettlement and vocation committee and other relevant parties in implementing the resettlement plan, compensation, livelihood rehabilitation and the solution of their requests;
3. Fulfilling other obligations as described in the laws.

Article 48 Rights of person receiving vocation

Person receiving vocation shall have the right as follows:

1. To obtain information concerning the benefits and impacts on their occupation;
2. To choose the job that they have foundation or new job according to their skills;
3. To receive priority for employment under the project
4. To obtain the support on vocational and technical skills development, and the accessibility to finance and marketing;
5. To make a written proposal to the project owner, project developer and the resettlement and vocation committee to seek for their consideration on solving issues related to their vocation;
6. To participate in the consultation meeting and discuss on the vocational allocation plan and participate in other meetings as invited;
7. To use other rights as described in the laws.

Article 49 Obligations of person receiving vocation

Person receiving vocation shall have the following obligations:

1. Providing clear information concerning their vocation in conformity with the reality and be responsible for their proposal by law;
2. Extending cooperation and facilitation to the project owner, project developer, the resettlement and vocation committee and other relevant parties in implementing the vocation;
3. Being dedicated to overcoming the difficulties and working hard to improve their livelihood;
4. Fulfilling other obligations as stated in the laws.

Part VII Prohibitions

Article 50 General prohibitions

Any individual, legal person and organization is prohibited from conducting any following actions:

1. Provide falsification of information on her/his habitat and vocation;
2. Conducting any action that indicates narrow minded thinking such as discrimination between tribe and religion, merely look out for their own community and tribal interest;
3. Illegal displacement or subscription of habitation;
4. Disseminate against policy direction, manipulate, incite, threatening, withhold, create obstacles or obstruct the implementation of resettlement displacement program and against the project owner or project developer from performing the project;
5. Offer bribery or be bribery agent;

6. Implement the resettlement without approval;
7. Other actions in violation of the laws.

Article 51 Prohibitions for staff, project owner and the resettlement and vocation committee

Staff, project owner and resettlement and vocation committee are prohibited from conducting the following actions:

1. Using their rights, duties and positions to force, threaten, withhold or request for bribery which causes damage to the interest of Government, community, individuals and affected person;
2. Disclose confidential information or official confidentiality of Government, individuals, legal person or organization;
3. Falsifying documents or issue documents without approval;
4. Performing duties in a thoughtless, negligent, insensitive and irresponsible manner which causes damage to the interest of Government, community, individuals and affected person;
5. Other actions in violation with the laws.

Article 52 Prohibition for project developer

The project developer is prohibited from conducting the following acts:

1. Conducting survey or study on resettlement and vocation without approval;
2. Slow down or delay in implementing resettlement, compensation and livelihood rehabilitation plan for affected person;
3. Utilize or notify information on the survey and study of resettlement and vocation project without approval;
4. Offer bribery to staff, project owner, the resettlement and vocation committee, and affected person;
5. Use violence and claim other' names to threaten staff, project owner, resettlement and vocation committee, and affected person;
6. Violate the rights and duties of project owner, resettlement and vocation committee;
7. Improperly implemented resettlement, compensation and livelihood rehabilitation plan for affected person which inconsistent with what has been agreed with the project owner, and resettlement and vocation committee;
8. Other actions in violation with the laws.

Article 53 Prohibition for person receiving resettlement and vocation

Person receiving resettlement and vocation is prohibited from conducting the following actions:

1. Create obstacles, interrupt the performing of duties of or do not cooperate with relevant official who involved in the resettlement and vocation;
2. Resettle back to the original habitat or new location without approval;
3. Provide inaccurate information on their resettlement and vocation;
4. Inciting, create their own group of persons, build a disagreement within a group of affected person or a host village;
5. Other actions in violation with the laws.

Part VIII

Dispute resolution

Article 54 Dispute resolution methods

The resolution of dispute on resettlement and vocation activities shall be escalated through the following methods:

1. Conciliation or mediation;
2. Administrative dispute resolution;
3. Dispute resolution by the committee for economic dispute resolution;
4. Resolution by the people's court.

Article 55 Conciliation or mediation

In case there is any dispute arising on resettlement and vocation activities, the involved parties may proceed with consultation, negotiation, conciliation or mediation.

Article 56 Administrative dispute resolution

In case there is any dispute arising on resettlement and vocation activities, the involved parties are entitled to propose to resettlement and vocational authority or other related sectors for consideration in compliance with the laws.

Article 57 Dispute resolution by the committee for economic dispute resolution

In case there is any dispute arising on resettlement and vocation activities, the involved parties are entitled to propose to economic dispute resolution authority for consideration in compliance with the laws.

Article 58 Resolution by of the people's court

In case there is any dispute arising on resettlement and vocation activities, any involved party is entitled to submit the dispute to the people's court for consideration in accordance with the laws.

Section IX

Resettlement and vocation committee

Article 59 Resettlement and vocation committee

The resettlement and vocation committee is the temporally authority which is responsible for approving policy and strategies, and coordinate with relevant sector or other stakeholder concerning resettlement and vocation program.

The resettlement and vocation committee has three level as follows:

1. The central resettlement and vocation committee;
2. The provincial resettlement and vocation committee;
3. The district resettlement and vocation committee.

The central resettlement and vocation committee is appointed by the prime minister as proposed by the minister of agriculture and forestry.

The provincial resettlement and vocation committee is appointed by the provincial governor, capital mayor as proposed by the director of DAFO.

The district resettlement and vocation committee is appointed by the city mayor, head of municipality, governor of town as proposed by the head of agriculture and forestry office at the city, municipality, town level.

Article 60 Structure of the central resettlement and vocation committee.

The central resettlement and vocation committee consists of:

1. Minister of agriculture and forestry acts as the chairman;
2. Vice minister of home affairs acts as vice chairman;
3. Vice minister of natural resources and environment acts as vice chairman;
4. Vice minister of energy and mine acts as commissioner;
5. Vice minister of public works and transport acts as commissioner;
6. Vice minister of labor and social welfare acts as commissioner;
7. Vice minister of planning and investment acts as commissioner;
8. Vice minister of finance acts as commissioner;
9. Vice minister of education and sports acts as commissioner;
10. Vice minister of health acts as commissioner;
11. Vice minister of national defence acts as commissioner;
12. Vice minister of public security acts as commission;
13. Vice minister of industry and commerce acts as commission;
14. Vice minister of information, culture and tourism acts as commission;
15. Deputy director of propaganda and training of the party central committee acts as commission;
16. Vice chairman of the central Lao front for national development acts as commission;
17. Vice governor of relevant province, capital acts as commission.

Article 61 Structure of the provincial resettlement and vocation committee

The provincial resettlement and vocation committee is consisting of:

1. Vice governor of province, capital who responsible for the resettlement and vocation acts as chairman;
2. Director of agriculture and forestry department acts as vice chairman;
3. Director of home affairs department acts as vice chairman;
4. Director of natural resources and environment department acts as vice chairman;
5. Deputy director of energy and mine department acts as commissioner;
6. Deputy director of public works and transport department acts as commissioner;
7. Deputy director of labor and social welfare department acts as commissioner;
8. Deputy director of planning and investment department acts as commissioner;
9. Deputy director of finance department acts as commissioner;
10. Deputy director of education and sports department acts as commissioner;
11. Deputy director of health department acts as commissioner;
12. Deputy director of military commanding division acts as commissioner;
13. Deputy director of public security commanding division acts as commission;
14. Deputy director of industry and commerce department acts as commission;
15. Deputy director of information, culture and tourism department acts as commission;
16. Deputy director of provincial, capital training committee acts as commission;
17. Vice chairman of provincial, capital Lao front for national development acts as commission;
18. Vice mayor of relevant city, municipality, town who responsible for resettlement and vocation program at city, municipality, town level acts as commission.

Article 62 Structure of the district resettlement and vocation committee

The city resettlement and vocation committee consists of:

1. Vice district mayor, deputy head of municipality, vice mayor of town who responsible for resettlement and vocation program acts as chairman;
2. Director of DAFO acts as vice chairman;
3. Deputy director of home affairs office acts as vice chairman;
4. Deputy director of natural resources and environment office acts as vice chairman;
5. Deputy director of energy and mine office acts as commissioner;
6. Deputy director of public works and transport office acts as commissioner;
7. Deputy director of labor and social welfare office acts as commissioner;
8. Deputy director of planning and investment office acts as commissioner;
9. Deputy director of finance office acts as commissioner;
10. Deputy director of education and sports office acts as commissioner;
11. Deputy director of health office acts as commissioner;
12. Deputy director of military commanding unit acts as commissioner;
13. Deputy director of public security commanding unit acts as commission;
14. Deputy director of industry and commerce office acts as commission;
15. Deputy director of information, culture and tourism office acts as commission;
16. Deputy director of city, municipality, town training committee acts as commission;
17. Vice chairman of city, municipality, town Lao front for national development acts as commission;
18. Relevant head of village acts as commissioner.

Article 63 Rights and duties of the resettlement and vocation committee

The resettlement and vocation committee has rights and duties under their scope of responsibility as follows:

1. Directing, supervising and implementing the resettlement and vocation plan;
2. Training and educating affected person from the resettlement and vocational project, residents of the host village and relevant parties, to make them understand reasons, needs and direction of resettlement and vocation plan;
3. Approve resettlement and vocation plan and propose to its supervised authority for endorsement;
4. Formulate policies and compensation unit, term of Resettlement Area development, term of transition period and livelihood rehabilitation of affected person;
5. Consider and find solution of the requests concerning compensation, displacement and livelihood rehabilitation of affected person in timely manner;
6. Issue decision, order, guideline or notice to be reference for the implementation of compensation, displacement and affected person livelihood rehabilitation plan;
7. Provide information on development project, benefits and impact of the project includes the progress of project implementation to affected person and stakeholders periodically;
8. Monitor, inspect and report the results of resettlement and vocation implementation to executives regularly;
9. Use other rights and conduct other duties as assigned by executives.

Article 64 Resettlement and vocation committee secretariat

The resettlement and vocation committee secretariat is a standing authority who acts as an advisor for the resettlement and vocation committee at each level, comprises of:

1. At the central level, rural development and cooperatives department, Ministry of Agriculture and Forestry;
2. At provincial level, rural development and cooperatives division, PAFO;
3. At district level, rural development and cooperatives unit, the city, municipality, town office of agriculture and forestry.

Article 65 Rights and duties of the resettlement and vocation committee secretariat

The resettlement and vocation committee secretariat has rights and duties at their scope of responsibilities as follows:

1. Study, summarize and propose to the resettlement and vocational plan to the resettlement and vocation committee at its level for approval;
2. Study the policies, compensation unit, term of Resettlement Area development, transition period and livelihood rehabilitation of affected person from the project;
3. Collecting and summarizing information of affected person and stakeholders concerning the development project includes the progress in implementing development project and report to the resettlement and vocation committee periodically;
4. Use the rights and conduct other duties as assigned by the resettlement and vocation committee.

Part X

Supervision and inspection of resettlement and vocation activities

Section 1

Supervision of resettlement and vocation activities

Article 66 Resettlement and vocational supervisory authority

The Government supervises the resettlement and vocation in a centralized and uniform manner across the country by assigning the Ministry of Agriculture and Forestry to be in charge and to directly and actively coordinate with relevant ministries, agencies and local administrations.

Resettlement and vocation supervisory authorities are comprised of:

1. Ministry of Agriculture and Forestry;
2. Department of Agriculture and Forestry;
3. Office of Agriculture and Forestry;
4. Agriculture and forestry unit of village economic-finance division.

Article 67 Rights and duties of Ministry of Agriculture and Forestry

The Ministry of Agriculture and Forestry have the rights and duties in supervising resettlement and vocational activities as follows:

1. Research and create policies, strategies, laws and regulations relating to resettlement and vocation and to propose the same to the Government for consideration;
2. Transcribe policies, strategies, laws and regulations on resettlement and vocation into action plans, work plans, projects and implement the same;
3. Disseminate the policy, strategies, law, detailed plan, development project and other legislations relating to resettlement and vocational activities;
4. Draft and amend legislation relating to resettlement and vocational activities;
5. Coordinate with relevant central and local authorities to study and determine the potential zone and area to accommodate the resettlement and vocation and establish as a central resettlement and vocation project;
6. Study, consolidate and prioritize the Government investment projects, development assistance fund, concessional loans from foreign country concerning the resettlement and vocation activities to propose to the Government for consideration;
7. Direct the central resettlement and vocation committee on implementing resettlement and

- vocation activities;
8. Direct, encourage, monitor, inspect and evaluate the performance of resettlement and vocation activities;
 9. Consider issuing certificates after the end of resettlement and vocation projects;
 10. Coordinate with Governmental authorities and other authorities regarding the resettlement and vocation activities;
 11. Develop, train, enhance the skills of, supervising and utilizing the personnel to be involved in resettlement and vocation activities;
 12. Accept and consider the request/proposal relating to resettlement and vocational activities;
 13. Cooperate with foreign countries, region and international regarding resettlement and vocational activities;
 14. Summarize and report the implementation of resettlement and vocation to the Government regularly;
 15. Use the rights and perform other duties in accordance with laws.

Article 68 Rights and duties of provincial, capital agriculture and forestry department

The provincial, capital agriculture and forestry department has the rights and duties in performing their functions as follows:

1. Implement policies, strategies, laws and regulations on resettlement and vocation into action plans, work plans, projects related to resettlement and vocation activities;
2. Disseminate, publicize, direct, monitor and inspect the implementation of laws, action plan, detailed plan and project concerning the resettlement and vocational activities;
3. Study and propose to the governor of province, capital to consider to issue order, decision, recommendation on resettlement and vocation program;
4. Conduct survey, collect information and study on accommodated zone and area to establish as a provincial resettlement and vocation project;
5. Study, consolidate and prioritize the Government investment projects, development assistance fund, concessional loans from foreign country concerning the resettlement and vocation activities to propose to the governor of province or capital for consideration;
6. Developing, training, enhancing the skills of, supervising and utilizing the personnel to be involved in resettlement and vocation activities;
7. Direct, encourage, monitor, inspect and evaluate the performance of resettlement and vocation activities;
8. Coordinate with Governmental authorities and other authorities regarding the resettlement and vocation activities;
9. Accept and consider the request/proposal relating to resettlement and vocational activities;
10. Cooperate with foreign countries, region and international regarding resettlement and vocational activities as assigned by supervised authority;
11. Summarize and report the implementation of resettlement and vocation to Ministry of Agriculture and Forestry and provincial, capital administrative authorities in regularly basis;
12. Use the rights and perform other duties in accordance with laws.

Article 69 Rights and duties of city, municipality, town office of agriculture and forestry

The city, municipality, town office of agriculture and forestry shall have to rights and duties in performing their functions as follows:

1. Implement policies, strategies, laws and other legislations concerning resettlement and vocational activities;
2. Disseminate, monitor and inspect the implementation of laws and regulations relating to the resettlement and vocational activities;

3. Conduct survey, collect information and study on accommodated zone and area to establish a city resettlement and vocation project;
4. Make a proposal on the development, training, skills enhancement of, supervising and utilizing the personnel to be involved in resettlement and vocation activities;
5. Encourage, monitor, inspect and evaluate the performance of resettlement and vocation activities;
6. Coordinate with relevant sectors and other stakeholders in implementing the city resettlement and vocation project;
7. Summarize and report the implementation of resettlement and vocation to provincial, capital agriculture and forestry department and city, municipality and town administrative authorities in regularly basis;
8. Use the rights and perform other duties in accordance with laws.

Article 70 Rights and duties of agriculture and forestry unit of village economic-finance division

The agriculture and forestry unit of village economic-finance division have the rights and duties in performing their functions as follows:

1. Implement the policies, strategies, laws and other legislations concerning resettlement and vocational activities;
2. Disseminate the implementation of laws and regulations relating to the resettlement and vocational activities;
3. Participate in the survey and collection of information relating to resettlement and vocation project;
4. Mobilize residents in the village to cooperate with and facilitate the staff of resettlement and vocation;
5. Participate in the mediation relating to resettlement and vocation activities with their own village;
6. Summarize and report the implementation of resettlement and vocation within their own village to the agriculture and forestry office of city, municipality, and town in regularly basis;
7. Use the rights and perform other duties in accordance with laws.

Article 71 Rights and duties of other ministries

In the supervision of resettlement and vocation activities, other relevant ministries shall have the following rights and obligations:

1. Ministry of Planning and Investment has the right and duty to consider allocating resettlement and vocation projects into the five-year and annual socio-economic development plans for the Government's consideration; to direct its local subordinate authorities to include resettlement and vocation projects in the five-year and annual socio-economic development plans of province, district levels for the governor, mayor, chief of district, municipality, city's consideration;
2. Ministry of Finance has the right and duty to allocate budget for resettlement and vocation into the five-year and annual state budget plans for the Government's consideration; to direct its local subordinate authorities to allocate budget for resettlement and vocation projects into the five-year and annual state budget plans of province, district levels for the governor, mayor, chief of district, municipality, city's consideration;
3. Ministry of Internal Affairs, Natural Resources and Environment, Public Works and Transport, Labour and Social Welfare, Energy and Mines, Public Security and National Defense have the right and duty to coordinate and cooperate with the resettlement and vocation supervisory authorities according to their roles and responsibilities.

Article 72 Rights and duties of local administrations

In the supervision of resettlement and vocation activities, local administrations shall have the following rights and obligations:

1. Consider and determine areas to receive resettlement and areas to host resettlement and vocation according to conditions and standards as defined in this Law;
2. Direct their subordinate sector authorities, agencies to actively participate in the implementation of resettlement and vocation;
3. Disseminate, promote and educate it local people on resettlement and vocation matters;
4. Accept and redress requests made on resettlement and vocation matters;
5. Coordinate and cooperate with the resettlement and vocation supervisory authorities according to their roles and responsibilities.

Section 2

Inspection of resettlement and vocation activities

Article 73 Resettlement and vocation inspection authority

Resettlement and vocation inspection authority is comprised of internal inspection authority and external inspection authority.

Internal inspection authority is the same authority as resettlement and vocation supervisory authority as described in article 66 of this Law.

External inspection authority consists of national assembly, provincial people's council, Government inspection authority, state audit organization, Lao front for national development, mass organization, media and citizens.

Article 74 Inspection content

The inspection of resettlement and vocation activities is comprised of the following content:

1. The enforcement of laws and regulations related to resettlement and vocation activities;
2. The execution of function of project owner, project developer and staff or resettlement and vocation project;
3. The development and implementation of resettlement, compensation and livelihood rehabilitation plan for affected person;
4. The utilization of budget and funding in the resettlement and vocation program.

Article 75 Inspection methods

The inspection of resettlement and vocation activities shall be escalated through the following methods:

1. Regular inspection which is inspection conducted according to plan regularly and periodically;
2. Inspection by giving prior notice which is an inspection conducted out of plan when necessary, whereby inspection targets shall be notified in advance;
3. Sudden inspection which is an urgent inspection without giving prior notice to inspection targets.

Each operation thereof shall strictly comply with laws.

Part XI

Policy toward persons with outstanding achievement and measures against violators

Article 76 Policy toward persons with outstanding achievement

Individuals, legal persons or organizations who are outstanding in implementing this Law, e.g. the supervision, monitor and inspection of resettlement and vocation activities shall receive rewards or other bonuses as described by the regulations.

Article 77 Measures against violators

Individuals, legal persons or organizations who are in violation of this Law shall be educated, punished, fined, sentenced to civil measure or criminal offences depending on the severity of the case.

Article 78 Educate sanctions

Individuals, legal persons or organizations who are in violation of this Law, e.g. the prohibition with a minor offence which is not a criminal offence and not caused serious harm to socio-economic and environment but have sincerity to report and confess his/her offence, shall be warned and educated.

Article 79 Disciplinary sanction

The resettlement and vocation staff who violate this Law, e.g. the prohibition with minor offence which is not a criminal offence and not caused serious harm, but do not have sincerity to report his/her offence, shall be subject to disciplinary sanctions according to the regulation such as suspension of level of position, salary or dismissal from Government official without any benefits.

Article 80 Fine sanctions

Individuals, legal persons or organizations who are in violation of this Law, such as its prohibitions, which does not constitute a criminal offence and does not cause any serious losses to other person's assets, shall be subject to a fine of one-time value of such losses.

The second violation or recidivist shall be subject to a fine of double value of such losses.

Article 81 Civil sanctions

Individuals, legal persons or organizations who are in violation of this Law which is caused harm to the interests of Government, public, social or other person, shall be subject to compensate for the loss occurred.

Article 82 Criminal sanctions

Individuals, legal persons who are in violation of this Law which is criminal offence, shall be punished according to the seriousness of each case.

Section XII

Final provisions

Article 83 Budget

The budget for the implementation of resettlement and vocation activities come from state budget, project developer and from the domestic and foreign assistance includes the contribution from people.

Article 84 Implementation

The Government of the Lao People's Democratic Republic shall implement this Law.

Article 85 Effectiveness

This Law shall be effective after the date of the promulgating decree is issued by the President of the Lao People's Democratic Republic and fifteen days after it is published in the official gazette.

Any regulations and provisions that contradict this Law shall be void.

President of the National Assembly

[Signed and sealed]

Pany Yathortu

7. Law on State Budget

Translation Endorsed by the Law Committee of the National Assembly of the Lao PDR



LAO PEOPLE'S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

President's Office

No. 01/PO

DECREE
of the
PRESIDENT
of the

LAO PEOPLE'S DEMOCRATIC REPUBLIC

On the Promulgation of the Amended Law on the State Budget

Pursuant to Chapter 6, Article 67, point 1 of the Constitution of the Lao People's Democratic Republic which provides for the promulgation of the Constitution and of laws adopted by the National Assembly;

Pursuant to Resolution No. 02/NA, dated 26 December 2006, of the National Assembly of the Lao People's Democratic Republic regarding the adoption of the Amended Law on the State Budget; and

Pursuant to Proposal No. 01/NASC, dated 10 January 2007, of the National Assembly Standing Committee.

The President of the Lao People's Democratic Republic

Decrees That:

Article 1. The Amended Law on the State Budget is hereby promulgated.

Article 2. This decree shall enter into force on the date it is signed.

Vientiane, 16 January, 2006
The President of the Lao People's Democratic
Republic

[Seal and Signature]

Choumaly XAYASONE

Translation Endorsed by the Law Committee of the National Assembly of the Lao PDR



LAO PEOPLE'S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

National Assembly

No. 02/NA
26 December 2006

**LAW ON THE STATE BUDGET
(AMENDED VERSION)**

Part I

General Provisions

Article 1. Objectives

This Law on the State Budget defines principles, regulations and measures in planning, implementing, evaluating, and auditing the State budget with the objectives of managing the accurate and full collection of budget revenues, performing budget expenditures in a transparent, economical, efficient and unified manner throughout the country, increasing accountability of State agencies at all levels, developing the revenue base, gradually enhancing financial ownership, financial self-strengthening, and the achievement of a stable national financial system integrated with international financial systems with the aim of constructively contributing to the continuous and sustainable growth of national socio-economic development.

Article 2. State Budget

The State budget is a projection of public revenues and expenditures approved annually by the National Assembly. The State budget is the core of the national financial system and serves as an instrument for macroeconomic management and adjustment to ensure enabling conditions for socio-economic development.

Article 3. Definitions

Terms used in this law have the meanings ascribed to them as follows:

1. **State budget balance** refers to the comparison between total revenue and total expenditure of the State budget during a period of time. As a result of such comparison there will be three possible budget positions as follow:
 - Balanced budget, where total revenue is equal to total expenditure;
 - Budget surplus, where total revenue is higher than total expenditure;
 - Budget deficit, where total revenue is less than total expenditure;
2. **Budgetary aid** refers to support provided by the central budget to local budgets within the scope of the annual State budget;
3. **Budget units** refers to State organisations, the Lao Front for National Construction, and mass organisations empowered by the government to perform State budget planning, implementation and reporting;
4. **Primary Ordonator** refers to the Minister of Finance who is assigned by the government the responsibility of implementing the State budget;
5. **Ordonators** refers to the ministers of different ministries, heads of ministry-

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- equivalent organisations, provincial governors, and city mayors responsible for the implementation of budgets within their respective sectors¹ and localities as assigned by the Primary Ordonator;
6. **Government reserve fund and local reserve funds** refers to allocations provided for in the annual budget expenditure plan to be used in meeting contingencies and urgent requirements, such as: defense, security, mitigation of natural calamities and epidemics;
 7. **State Accumulation Fund** refers to allocations provided for in the annual budget expenditure plan and calculated from the budget's total expenditure, annual revenue surplus and proceeds from the sale of natural resources within the threshold as decided by the government, accumulated annually for the purpose of meeting important, urgent requirements of national significance, such as: financial crises;
 8. **State Fund** refers to an organisational unit established with the authorisation of the government that has the function to collect part of the budget revenues into the fund to carry out expenditures in compliance with the regulations approved by the government;
 9. **Administrative-technical agencies** refers to agencies using assets provided by the State for the purpose of extending services to the society, and the total revenue and expenditure of these agencies shall be reflected in the annual budget plan;
 10. **Financial discipline** refers to the strict adherence to and enforcement of the financial laws and regulations;
 11. **State budget allocation norms** refers to recommended targets in determining allocations to sectors and localities based on the characteristics, standards of work and specifics of each sector and locality, such as: geographical location, population and area, and development needs, that are established by the government and submitted to the National Assembly for consideration and approval.

Article 4. State Budget Policy

The State sets its State budget policy by tapping domestic revenue potential, identifying and administering domestic revenue sources, ensuring expenditure needs and maintaining part [of revenue] as reserves. At the same time, it undertakes, with ownership, international cooperation in order to maintain the country's financial stability, and it performs expenditures for socio-economic development, such as: human resources development, public administration, construction of important infrastructure, scientific research, use and development of technology to promote commercial production and services for domestic consumption and for export, ensuring national defence and security, and eradication of poverty, in order to achieve the country's gradual ownership, self-reliance, self-strengthening, and ability to integrate with the region and the world.

Article 5. Obligations of Individuals and Organisations Towards the State Budget

Individuals and organisations have the obligation to pay tax, duties and charges for remittance to the State budget in a proper and timely fashion and in full, in accordance with the laws and regulations, in order to contribute to the protection and building of the country.

¹ The reader should note that "sector" is used in two ways in this law. First, the term "sector" is used in this law, as in many Lao laws, to refer to the cluster of government ministries or agencies engaged in a particular activity. Second, the term "sector" is used in its more commonly-understood meaning of a business or industrial sector. While it is usually clear from the context which of these two meanings is intended, the reader should nevertheless be aware of this potential ambiguity. In this law, with its context of State internal administration, virtually all uses of the term "sector" are in this governmental sense.

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Article 6. Fundamental Principles of the State Budget

The fundamental principles of the State budget include:

1. All budget revenues and expenditures shall be fully centralised and accounted for in the State budget through the National Treasury on the basis of nationwide unified laws and regulations. No revenues may be retained outside the budget system and no funds may be established without proper authorisation;
2. The budgeting process shall ensure the principles of centralisation, democracy, openness and transparency by starting from the actual capacity of the national economy, and ensuring macro-economic equilibrium and consistency with the national socio-economic development plan of each period;
3. The national budget expenditures shall be implemented in line with the annual budget's targets, amounts and timeframe as approved by the National Assembly. Unplanned expenditures and spending in excess of the budget are not permitted, and expenditures shall be managed in accordance with financial regulations, ensuring the principles of economy and efficiency;
4. A budget deficit is allowed only for the budget of the central level. Local budget deficits are not allowed. The central level will assist in covering the difference between revenue and expenditure plans of the localities;
5. The State budget shall ensure balancing between total revenue and total expenditure. In the event of a State budget deficit, only capital expenditures for development shall be authorised. The level of budget deficit shall be decided by the National Assembly based on the requirements and capacities of the finances of the State. State budget financing sources include domestic and external borrowings, and borrowing from the State Accumulation Fund;
6. State budget information on budgeting, budget execution and assessment shall be accurate, transparent, open, made accessible to the public and controlled, inspected, audited and certified by the competent agencies;
7. The division of responsibility over the revenues and expenditures of the State budget between the central and local levels shall ensure the principle of centralised democracy, and the unified application of laws and regulations. The leading role of the central budget in controlling major revenue sources shall be maintained for the purpose of performing expenditures of national importance, and providing budgetary aid to local levels to ensure equitable and balanced development for all;
8. Customs, tax and National Treasury operations, including personnel, budget and activities, are centrally managed along the vertical organisational line;
9. Budget allocations to sectors and localities shall be based on the budget allocation norms considered and approved by the National Assembly as proposed by the government.

Article 7. Fiscal Year

The fiscal year covers 12 months from October 1 to September 30 of the following year.

Article 8. State Funds

Revenues and expenditures of State Funds shall be recorded in the annual State budget plan and executed by the National Treasury, to be used for expenditures in accordance with regulations of the State Funds approved by the government. All revenues and expenditures of the State Funds shall

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fall under the management, monitoring and control of the concerned² sector and of the finance sector.

Revenues and expenditures of the State Funds shall be calculated and assessed. In the case where such revenues are not sufficient to cover the expenditures, the State will provide support; if revenues are more than the expenditures, the transfer back to the State budget shall take place.

Article 9. Budget Units of Administrative-Technical Agencies

Budget units of administrative-technical agencies under the jurisdiction of the central and local budgets that have collected revenue for services provided by the professional sectors, shall calculate and assess revenues and expenditures, incorporate them into the annual budget plan of the agencies concerned, and comply with State financial regulations[; they] fall under the management of the concerned agencies and the finance sector.

With regard to revenues and expenditures of the administrative-technical agencies, these shall comply with Article 10, paragraph 2 of this law.³

Article 10. Utilisation of Government and Local Reserve Funds

Disbursement from the government reserve fund shall be authorised by the Prime Minister. Disbursement from local reserve funds shall be authorised by the provincial governors and city mayors. In the event that no disbursement is made within the year, the resources shall be remitted to the State Accumulation Fund.

Article 11. Utilisation of the State Accumulation Fund

Disbursement from the State Accumulation Fund shall be authorised by the National Assembly as proposed by the government. In the event of an emergency, the Prime Minister has the right to issue an authorisation, but a report shall be submitted to the National Assembly.

Article 12. International Relations and Cooperation

The State promotes relations and cooperation with other countries and international organisations, and regional and international integration through coordination, exchange of lessons, and enhancement of technical and technological skills and competence, in order to strengthen and modernise the national financial system, to attract financing sources and to gain access to capital markets.

Part II

Structure of the State Budget

Article 13. Structure of the State Budget

The State budget consists of:

- State budget revenues;
- State budget expenditures;
- State budget balancing sources.

Article 14. Classification of State Budget Revenues and Expenditures

The Ministry of Finance shall set the detailed classification of State budget revenues and expenditures for submission to the government for consideration and approval, which then proposes to

² The term “concerned” is used in the sense of “relevant”.

³ The translators are aware that Article 10 has only one paragraph.

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the National Assembly for consideration and approval of annual revenue and expenditure figures for nationwide unified application.

Chapter 1

State Budget Revenues

Article 15. State Budget Revenues

State budget revenues include domestic revenues and revenues from abroad.

Article 16. State Budget Domestic Revenues

State budget domestic revenues are from different sources as follow:

1. Import-export duties;
2. Taxes;
3. State assets;
4. State Funds;
5. Administrative-technical agencies;
6. Interest on loans, repayment of loan principal;
7. Sale of State assets and equity;
8. Fines, sales of confiscated goods;
9. Fund-raising, contributions by individuals and organisations;
10. Charges and others⁴.

Article 17. Revenue Sources from Abroad

Revenue sources from abroad are those obtained from grant assistance in the form of cash or in kind extended by governments, international organisations, foreign individuals and legal entities to the Lao government and people.

Chapter 2

State Budget Expenditures

Article 18. State Budget Expenditures

State budget expenditures include the following expenditures:

1. Current operating expenditures;
2. Debt service;
3. Capital investment for national socio-economic development;
4. Funds, administrative-technical agencies;
5. Government reserve fund and local reserve funds;
6. Transfer to the State Accumulation Fund;
7. Other expenditures.

Article 19. Current Operating Expenditures

Current operating expenditures are to serve the apparatus of the State, the Lao Front for National Construction, and mass organisations, and for national defense and security, including: expenditures on salaries and allowances for civil servants, administrative expenditures, and technical

⁴ The term “and others” is a literal translation and is not subject to further specificity.

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expenditures of each sector.

Article 20. Debt Service Expenditures

Debt service expenditures include: repayment of principal and interest on domestic and external loans, settlement of arrears on loans, and contributions to international organisations.

Article 21. Capital Expenditures for National Socio-Economic Development

Capital expenditures for national socio-economic development include: capital expenditure on construction of infrastructure, purchase of equity in companies and enterprises, and new purchases of: equipment, machinery and vehicles.

Article 22. Other Expenditures

Expenditures of funds, administrative-technical agencies, the government reserve fund and local reserve funds; transfers, and to the State Accumulation Fund, are as provided in articles 8, 9, 10, and 11 of this law.

Other expenditures are those not provided under Article 18 of this law, and include:

1. Expenditures to address poverty;
2. Price or inflation subsidies;
3. Loans extended;
4. Grants;
5. Contingency expenditures.

Article 23. State Budget Expenditures by Sectors, Programmes and Projects

In addition to the budget classification provided under Article 18 of this law, the State budget expenditures are classified by sectors, programmes and projects as follows:

- Classification by sectors: education, health, economic, socio-cultural, science, environment, public administration, national defense and security, social welfare, and other sectors;
- Classification by programmes and projects refers to projects approved in each period, such as: projects to ensure comprehensive stability and public order, comprehensive agriculture development projects, rural development and poverty eradication projects, projects to stop slash-and-burn cultivation and [promote] permanent livelihood [practices].

Chapter 3

State Budget Balance

Article 24. State Budget Balancing System

The State budget balancing system has three possible positions:

- Balanced State budget;
- Surplus State budget;
- Deficit State budget.

Any annual State budget deficit shall be commensurate with the requirements and capacity of the finances of the nation. The level of the deficit is decided by the government and submitted to the National Assembly for consideration and approval. Sources of financing of the State budget deficit are domestic and foreign borrowings.

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Article 25. State Budget Balancing

State budget balancing means ensuring a balance between revenues and expenditures as follows:

- In the case of a budget surplus, the surplus is transferred to the State Accumulation Fund or added to necessary activities;
- In the case of a budget deficit, financing shall be sought from borrowings or by reducing expenditures to maintain the balance of the State budget.

Article 26. Surplus, Deficit and State Budget Balance Financing Sources

The government will decide the use of any surplus at the central level to increase any expenditure or to be transferred to the State Accumulation Fund.

State budget deficit is permitted at the central level for investment [expenditures]⁵ only. Financial sources for balancing the State budget are from domestic and external borrowings:

1. Domestic borrowings are obtained by raising domestic funds through the sale of bonds, debentures, and others;
2. External borrowings are obtained in the form of loans from foreign countries, international organisations, bilateral or multilateral cooperation agencies, and others.

Part III

State Budget Responsibilities of Agencies ⁶

Chapter 1

Responsibilities of Agencies Relating to the State Budget

Article 27. Responsibilities of the National Assembly

In relation to State finance and budget, the National Assembly has the following primary responsibilities:

1. To participate in the formulation of the socio-economic development plan and State budget plan, such as in making budget allocations to ministries and ministry-equivalent organisations at the central level, provinces and cities;
2. To consider, adopt and improve laws in the sectors of State finance and budget;
3. To consider and adopt national fiscal and monetary policies, revenues-expenditures, deficits, debts and [proposals to] balance the State budget, and to ensure economic and financial stability;
4. To consider and adopt medium- and long-term financial strategic plans and the annual State budget plan;
5. To consider and approve assessment of the annual State budget execution;
6. To consider and approve programmes of infrastructure projects of national

⁵ The literal translation of this term is “in the investment line only”.

⁶ In the Lao language, the word roughly meaning “the entire organisation of responsible governmental agencies” is capable of being translated as any one of the following English words: “organisation”, “agency”, or “authority”. In choosing which English word to use, the translators have adopted the following convention. Where the governmental agencies in question have in practice adopted an English term for themselves (e.g., the Tax Authority), the translators have used that term. Otherwise, as in this law, the translators have used the term “agency”.

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- significance;
- 7. To consider and approve amendment of the annual State budget plan when necessary;
- 8. To monitor and review the implementation of finance legislation and the execution of the annual State budget nationwide.

Article 28. Responsibilities of the Government

In relation to State finance and budget, the government has the following primary responsibilities:

1. To submit draft strategic plans, policies for the medium and long term, and laws and other legislation relating to State finance and budget to the National Assembly;
2. To submit the draft annual budget, including investment programmes and projects, to the National Assembly;
3. To submit allocations under the annual State budget for State agencies, the Lao Front for National Construction and mass organisations at the central and local levels to the National Assembly for consideration and approval;
4. To issue a decree on the annual State budget to guide, manage, monitor, control and inspect the execution of the State budget plan;
5. To provide guidance to the Ministry of Finance, and central and local State agencies in executing State budget revenues and expenditures in accordance with the budget plan as provided by laws and regulations, and to decide on suspension of expenditures when financial laws and regulations appear to be breached;
6. To decide to authorise the Ministry of Finance to issue regulations and measures on the management of revenue collection and the execution of budget expenditures in conformity with the laws and regulations and in a unified manner nationwide;
7. To propose amendments to the annual budget plan to the National Assembly, when necessary, by increasing or reducing expenditures according to revenues to ensure that the State budget is balanced;
8. To report on the execution of the State budget plan and infrastructure projects to the National Assembly.

Article 29. Responsibilities of the Committee for Planning and Investment

In relation to State finance and budget, the Committee for Planning and Investment has the following primary responsibilities:

1. To coordinate with the Ministry of Finance in the formulation of the medium- and long-term financial strategic plans and annual budgets;
2. To coordinate with the Ministry of Finance in setting the ceilings under the plan for annual public investments in the Lao PDR that use domestic and external sources of financing;
3. To study and propose priority investment projects to the government;
4. To exercise ownership in managing, monitoring, controlling and evaluating the implementation of public investment in coordination and cooperation with other concerned State agencies, the Lao Front for National Construction, and mass organisations in order to submit to the government for consideration and decision on a case by case basis;
5. To exercise ownership, in conjunction with the Ministry of Finance, and other concerned sectors at the central and local levels, in drafting domestic and foreign investment agreements.

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Article 30. Responsibilities of the Bank of the Lao PDR

In relation to State finance and budget, the Bank of the Lao PDR has the following primary responsibilities:

1. To extend savings account services to the State budget, and to safely keep precious materials entrusted by the finance sector;
2. To consider providing short-term loans, when the need arises, based on the request of the Ministry of Finance; such loans shall be repaid within the same fiscal year;
3. To extend cooperation in providing receipt and disbursement services, and opening letters of credit for the purchase of goods and services and foreign debt servicing as instructed by the Ministry of Finance;
4. To sell State bonds as decided by the government;
5. To control the inflation rate at a level that the macro-economy can absorb.

Chapter 2

Responsibilities of State Budget Stakeholders

Article 31. Responsibilities of Other Ministries and Agencies

In relation to State finance and budget, ministries and State agencies have the following primary responsibilities:

1. To provide guidance to finance sections under their responsibility in developing, executing and assessing their budgets, in formulating revenue plans, in managing planned expenditures to ensure efficient, cost-effective and economical operations of the apparatus in accordance with the laws and regulations and in conformity with the budget plan approved by the National Assembly;
2. To manage, guide and control State owned and private enterprises, and administrative-technical units under their responsibility to perform their obligations towards the budget in a proper, complete, and timely fashion and to execute budget expenditures in accordance with the budget plan, laws and regulations;
3. To manage, guide and control the execution of the State budget under their responsibility[;] on the revenue side to achieve and exceed the planned targets; on the expenditure side to achieve the annual planned target as assigned by the government, taking into account the need for cost-effectiveness, economy and compliance with the laws and regulations;
4. To coordinate with the Committee for Planning and Investment and the Ministry of Finance in reviewing proposed domestic and foreign investment agreements to secure the State's appropriate interests.

Article 32. Responsibilities of the Provincial Governors and City Mayors

In relation to State finance and budget, the provincial governors and city mayors have the following primary responsibilities:

1. To provide guidance to divisions at the provincial level under their responsibility in formulating, executing and reporting on the State budget in accordance with the laws and regulations;
2. To provide guidance to local finance sectors⁷ in collecting complete and accurate information on budget revenue sources to form a database and to report to the

⁷ "Sectors" as used here is a common term including both the divisions and the offices of the Ministry of Finance.

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- centralised revenue collection sections⁸ and to the Ministry of Finance;
3. To manage, guide, monitor, control and inspect the collection of budget revenues within the scope of their rights and responsibilities to ensure the principle of complete, proper, unified, fair, and open collection of revenues consistently with the laws and regulations; tax–customs duty exemptions or reductions are not permitted;
 4. To manage, guide, monitor, control and inspect the execution of budget expenditures to ensure cost-effectiveness, economy and compliance with the annual budget plan and laws and regulations; payment instructions and commitments outside the budget plan are not permitted;
 5. To coordinate with the Ministry of Finance in managing, guiding, monitoring, controlling and inspecting the above-mentioned revenue collection and expenditure execution;
 6. To enable the committees of members of the National Assembly in the constituencies⁹ to participate in the formulation of budget plans, in the inspection of correctness in budget planning, reporting and assessment and in the promotion of monitoring and control of budget execution by the sectoral provincial divisions and district offices;
 7. To manage, guide, monitor, control and inspect the exercise of duties of the finance officers under the responsibility of the finance divisions of the provinces and cities; to have the right to propose the appointment, transfer or dismissal of provincial or city finance staff to the Ministry of Finance for those positions under their [respective] jurisdictions;
 8. In coordination with the Ministry of Finance, to facilitate, support and control the compliance by customs, tax and National Treasury officers at the local level with the laws and regulations;
 9. In the event that local revenue collection is lower than the level provided in the annual plan, a reduction in expenditure equal to the shortfall shall take place in order to maintain the level of annual balancing; if the local revenue collection exceeds the annual plan, the localities may use [the surplus] for their development purposes.

Article 33. Responsibilities of Taxpayers

In performing their obligations towards the State budget, organisations, individuals and legal entities have the following primary responsibilities:

1. To remit payments of duties, taxes, fees and charges to the budget in a full and timely manner, consistent with the laws and regulations;
2. To maintain accounting records as required, [to employ] accurate practices in accordance with the accounting regime set by the State in a transparent and open manner, and to operate under the periodic inspection of the finance sector and external audit agencies;
3. To have the right to make suggestions, file claims and submit petitions for justice¹⁰ [to request] fair treatment in the event that any unfair treatment appears to have taken place from the actions of finance, customs, tax and National Treasury officers.

⁸ “Sections” as used here is a common term including the revenue collection services within the Ministry of Finance, namely the tax authority, customs authority and the National Treasury.

⁹ For more information, readers may wish to refer to Chapter 7 of the Amended Law on the National Assembly.

¹⁰ The term “claims” and the term “petitions” are defined in Article 2 paragraph 2 of the Law on the Handling of Petitions.

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Any failure to perform one's obligations towards the budget, such as: concealment of income, customs duties avoidance, illicit trafficking and collusion with State officers with regard to revenue remittance to the budget, shall be considered as illegal and prosecuted in accordance with the laws.

Part IV

Division of Responsibilities in Relation to State Budget Revenues and Expenditures

Chapter 1

Division of Responsibilities between the Central and Local Authorities

Article 34. State Budget System

The State budget system includes: the central budget and local budgets:

- The central budget includes: budget revenues and expenditures of ministries, ministry-equivalent organisations, and the Lao Front for National Construction and mass organisations at the central level;
- The local budgets include: budget revenues and expenditures of local administrations, and the Lao Front for National Construction and mass organisations at the local level.

The government determines the detailed budget revenues and expenditures of the local administrations in accordance with the laws and regulations.

Article 35. Division of Responsibilities over the State Budget

The division of responsibilities over the State budget refers to the division between the central and local levels of rights in managing, guiding and making decisions regarding State finance activities and budget revenues and expenditures.

The division of revenues and expenditures between the central and local budgets shall be implemented based on the division of responsibilities for expenditures and for identifying sources of revenues.

Chapter 2

Division of Central and Local Budget Revenue Sources

Article 36. Division of State Budget Revenue Sources

Sources of State budget revenues are divided into 3 parts as follows:

- Revenue sources totally belonging to the central budget (100%);
- Revenues sources totally belonging to local budgets (100%);
- Revenues apportioned between the central and local budgets.

Article 37. Sources of Budget Revenues Belonging to the Central Budget

Revenues belonging one hundred percent (100%) to the central budget are from the sources controlled by the central level as follow:

1. Import-export duties;
2. Turnover tax or value-added tax, excise tax, profits tax collected from imported goods;
3. Fees and charges collected at import-export, such as: border service fees, fees for issuance of documents and border passes;

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4. Revenue from natural resources, such as: sale of timber, minerals, revenue from rental of buildings and from other State assets;
5. Sale of State assets and equity;
6. Overflight fees, royalties;
7. Revenue from State Funds;
8. Revenue from administrative-technical agencies;
9. Revenue from interest and principal repayments on loans extended by the government;
10. Proceeds from fines and the auction of seized objects;
11. Foreign grants received;
12. Funds raised from the contribution of individuals and organisations;
13. Other revenues stipulated by the laws and regulations.

Article 38. Sources of Budget Revenues Belonging to the Local Budgets

Budget revenues belonging one hundred percent (100%) to the local budgets are from the sources controlled by the local authorities as follow:

1. Fees charged on land use (land tax), land rental, assignment and transfer of land use rights, tax license issuance fee, and income tax from individuals;
2. Revenue from natural resources, such as: sale of gravel, sand, soil, and laterite[;] and rental of State assets, such as: buildings, land and other assets;
3. Revenue from State Funds;
4. Revenue from administrative-technical units;
5. Revenue from the collection of charges and service fees;
6. Proceeds from fines and the auction of seized objects;
7. Funds raised from the contribution of individuals and organisations;
8. Foreign grants received;
9. Other revenues stipulated by the laws and regulations.

Article 39. Sources of Revenue Apportioned between the Central and Local Levels

Sources of revenue apportioned between the central and local levels include:

1. Turnover tax or value-added tax from domestic production of goods;
2. Excise tax collected from domestic production of goods;
3. Profits tax and minimum tax collected from domestic production of goods;
4. Revenue from net dividends.

The apportionment ratios by type of revenue are decided by the government. In the case where the local authority has revenue exceeding the annual expenditure plan approved by the National Assembly, the government can determine specific revenue for that local authority.

Chapter 3

Allocation of Central and Local Budget Expenditures

Article 40. State Budget Expenditures

State budget expenditures consist of:

- Central budget expenditures;
- Local budget expenditures.

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Article 41. Central Budget Expenditures

Central budget expenditures consist of:

1. Administrative expenditures of State organisations, and of the Lao Front for National Construction and mass organisations at the central level;
2. Expenditures of defense and security forces under the management of the central level, and national force(s);
3. Interest payments on domestic and foreign loans of the government, and contributions to international organisations;
4. Expenditures of the State Funds;
5. Expenditures of the administrative-technical agencies;
6. Government reserve expenditures;
7. Expenditure into the State Accumulation Fund;
8. Capital expenditures, including: infrastructure construction, counterpart funds for grant and loan financed projects, and capital [investment] in joint venture businesses under the responsibility of the central authorities;
9. Price and interest rate subsidies based on the policy of the government;
10. Loans extended by the government;
11. Grant expenditures;
12. Other expenditures as stipulated by the laws and regulations.

Article 42. Local Budget Expenditures

Local budget expenditures consist of:

1. Administrative expenditures of State organisations, and of the Lao Front for National Construction and mass organisations at the local level;
2. Local level defense and security expenditures;
3. Expenditures of the State Funds;
4. Expenditures of the administrative-technical agencies;
5. Local reserve expenditures;
6. Expenditure into the State Accumulation Fund;
7. Capital expenditures, including: infrastructure construction, and counterpart funds for grant and loan financed projects under the responsibility of the local authorities;
8. Grant expenditures;
9. Other expenditures as stipulated by the laws and regulations.

Chapter 4

Support to Local Budgets

Article 43. Budget Balancing Support

In the event that one hundred percent (100%) of the local budget revenues plus apportioned revenues are insufficient to cover expenditures approved by the National Assembly, the central budget will provide support to local budgets to ensure their annual expenditures.

Article 44. Targeted Budgetary Support

In addition to the local budget support described in Article 43 of this law, the central budget shall also provide support to local budgets for the following specific targets:

1. To enable the execution of investment programmes and projects in the annual master plan that the government additionally assigns;

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2. To deal with emergencies and urgent situations not included in the annual budget plan of the localities, based on the decision of the government.

Article 45. Policy to Promote Budget Revenue Collection

The State implements a policy to promote the collection of revenues, as follows:

1. In the event that the localities collect more revenue than the amount apportioned to them in the plan, the surplus revenue is provided to the localities for development purposes;
2. In the event that the central level revenues collected at the local level and the shared revenues among the central and local levels exceed the plan, the government will decide on the portion of the surplus to be provided to the localities in an appropriate ratio.

Article 46. Measures to Handle the Failure to Meet Revenue Collection Targets

In the event that budget implementation has been taking place for more than 6 months, and revenue collection targets have not been met, the Ministry of Finance shall study sources of financing, and request a government decision to authorise the Ministry of Finance to seek financing, or to reduce the expenditures of State and other organisations at the central and local levels by an amount corresponding to the shortfall in order to maintain the balance of the annual budget, and after that, shall report to the National Assembly for information.

In the event that the collection of revenue is less than the target plan by five percent or more, the Ministry of Finance shall request the government to propose an adjustment of the State budget plan to the National Assembly for consideration.

Part V

Formulation and Execution of the State Budget Plan

Chapter 1

Formulation of the State Budget Plan

Article 47. Formulation of the State Budget Plan

The formulation of the annual State budget plan shall proceed as follows:

1. The annual State budget plan shall be based on the government medium- and long-term financial strategic plan approved by the National Assembly;
2. Be consistent with the level of macroeconomic growth and the country's socio-economic development plan in each period to ensure financial stability;
3. Apply the principle of centralised democracy through the participation of the committees of members of the National Assembly at the local level¹¹ and the committees of the National Assembly at the central level;
4. Start from grassroots units upwards in accordance with the instructions and indicative figures set by the government and the recommendations of the Ministry of Finance;
5. For certain priority sectors and for sectors organised along vertical lines of authority, budget proposals shall be summarised along the vertical line for annual submission

¹¹ The term used here connotes the same meaning as “members of committees of the National Assembly in the constituencies”.

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to the National Assembly.

The formulation of the annual budget revenue plan shall be based on the capacities to exploit sources of revenues by production and service units, using methodology prescribed by the laws and regulations.

The formulation of the annual budget expenditure plan shall proceed as follows:

1. Ensure fairness and equality by making apportionments as stipulated by the norms of budget expenditure approved by the government in each period;
2. Take into account the capacity to collect revenues, with the objectives of maintaining deficits at an appropriate level and ensuring economic and financial stability.

Article 48. Consultations on the State Budget

During the budgeting process, the finance authorities shall perform the following:

1. Consult State and other concerned organisations at the central and local levels in order to review and identify capacity in terms of revenues and expenditures;
2. Propose ways to ensure overall balancing of the budget. In the event of any difference in views during consultations, the Ministry of Finance shall propose the matter to the Prime Minister, and the provincial finance departments [shall propose] to the provincial governor or the city mayor for guidance and decision.

Article 49. Consolidation of the State Budget Plan

The Ministry of Finance shall consolidate the budget proposals of State and other concerned organisations at the central and local levels, including the State budget balancing plan, and report to the government for further submission to the National Assembly for consideration and approval.

Article 50. Documents to be Submitted by the Government to the National Assembly

The documents to be submitted by the government to the National Assembly include:

1. A report of its final assessment of the execution of the State budget during the previous year;
2. A report on the execution of the State budget plan for the current year;
3. A proposal of the projected total revenues, total expenditures, and level of deficit of the State budget for the following year;
4. Schedules of estimated budget revenues and expenditures of State and other organisations at the central and local levels;
5. A report on State debts falling due during the year or overdue, estimated interest payments within the year, capacity for debt servicing within the year and total debts outstanding to the end of the year;
6. A list of important public investment programmes and projects.

Article 51. Procedures and Timing for State Budget Plan Formulation

The formulation of the State budget plan shall proceed in accordance with the following procedures and timing:

1. At the beginning of January, the government shall issue an instruction for the drafting of the socio-economic development plan and the budget plan. After that, the Ministry of Finance shall issue an instruction on the formulation of the annual State budget plan;

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2. State and other concerned organisations at the local level formulate their budget proposals with the participation of the members of the committee of the National Assembly, then the finance divisions of the provinces and cities consolidate them into an annual budget plan for their locality and send [it] to the Ministry of Finance within February;
3. State and other concerned organisations at the central level formulate their budget proposals with the participation of the members of the committee(s) of the National Assembly, and send [them] to the Ministry of Finance within February;
4. The Ministry of Finance consolidates the State budget plan from budget proposals obtained from State and other concerned organisations at the central and local levels with the participation of the members of committee(s) of the National Assembly and submits to the government within April;
5. The government reviews and consolidates the State budget plan and officially submits it to the National Assembly 15 days prior to the opening of the session of the National Assembly.

Chapter 2

Consideration and Approval of the State Budget Plan

Article 52. Consideration and Approval of the State Budget Plan

The ordinary session of the National Assembly in June or July considers and approves the contents of the State budget plan as stipulated in Article 50 of this law.

Article 53. Assignment of Stages of the State Budget Plan

The stages of the State budget plan shall be assigned as follow:

1. Within fifteen days following the approval of the annual State budget by the National Assembly, the government issues a decree on the execution of the State budget plan;
2. Within fifteen days from the date of the government decree on the execution of the State budget plan, the Minister of Finance issues an instruction and technical notes on the execution of the annual budget plan;
3. Within fifteen days from the date of the instruction and technical notes issued by the Minister of Finance, State and other concerned organisations at the central and local levels assign the budget revenue and expenditure plan to their subordinate departments, sectors and units and notify the relevant higher authorities' finance and treasury sections for the management, monitoring and inspection of the execution of the budget revenues and expenditures.

Article 54. Amendment of the State Budget Plan

Amendment of the annual State budget plan may take place only once in a fiscal year and after the implementation of the first six months of the State budget plan, as a result of any modification to policies or unexpected circumstances that affect annual budget revenues and expenditures, as stipulated in Article 46 of this law.

The procedure for the amendment of the annual State budget plan shall be the same as that for the consideration and approval of the annual budget plan.

Chapter 3

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Execution of the State Budget Plan

Article 55. Revenue Collection Agencies

Agencies performing budget revenue collection include:

1. The tax sector;
2. The customs sector;
3. Agencies permitted by the government or authorised by the Minister of Finance to collect revenues;
4. Funds and other administrative-technical agencies established by the decision of the government and authorised by the Minister of Finance to collect revenues.

Article 56. Responsibilities of the Revenue Collection Agencies

State budget revenue collection agencies have the following primary responsibilities:

1. To formulate revenue collection plans, to gather complete information and statistics of units, and to accurately calculate and ensure fairness, transparency and openness;
2. To disseminate and advise on laws, regulations and procedures of the finance sector to targets that have the duty to remit obligations to the budget, and to increase professional training to upgrade the quality of performance and streamline the existing multi-layer administrative procedures;
3. To organise and manage the collection of taxes, customs duties, revenues from State assets, fees, charges and other revenues in accordance with the laws and regulations in a complete, timely, open and transparent manner;
4. To present demands and warnings, and collect fines in the case of any delay in the remittance of revenues to the budget by any organisation, individual or legal entity without proper reason, and to propose legal action in the case of severe breach.

In exercising their rights and duties, they shall be subject to inspection by the internal and external inspection bodies and task force(s) appointed by the competent agencies.

Article 57. Execution of Budget Expenditures

Budget expenditures shall be executed in line with the following principles and procedures for expenditure management:

- Be provided for in the annual budget plan;
- Approval must be obtained;
- Be in line with expenditure targets;
- Be accurately calculated in accordance with the spending norms;
- Be authorised by the ordonators or persons assigned [by them].

In the event that the budget is not yet approved for the current year by the National Assembly, the government has the right to authorise disbursement of advance expenditures in an amount equal to 1/12 of the total expenditure executed during the previous year in order to meet the requirement for salaries, allowances, administrative expenses and foreign debt service that has become due.

Budget disbursements shall be consistent with the expenditure lines provided in the annual budget plan and recorded in line with the budget nomenclature and State accounting procedures.

Public procurement of goods, and recruitment and procurement of services and construction-maintenance works shall be processed through bidding procedures and enclose full documentation in accordance with regulations.

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Disbursements of budget expenditures in any year shall be covered by revenue sources of that same year. Payments may continue but [must end] within three months after the closing of the revenue account for the fiscal year in order to enable the National Treasury to undertake final summation within each year.

Budgetary resources may be used to settle payments in various forms, such as: transfers between accounts, payments in cash, and payments by check and by letter of credit.

Article 58. Responsibilities of the Primary Ordonator

In State finance and budget matters, the Primary Ordonator has the following primary responsibilities:

1. To implement the annual State budget plan;
2. To organise and manage revenue collection to ensure that it meets or exceeds the planned performance;
3. To execute planned expenditures as assigned by the government;
4. To instruct State and other concerned organisations at the central and local levels to take action in the event that revenue collection is found to be inconsistent with the laws and regulations, or the expenditure execution is in conflict with expenditure management rules;
5. To instruct that revenue outside the system be centrally remitted to the State budget and to allocate revenue to meet expenditure requirements in the plans to enable full and timely disbursements by the ordonators;
6. To issue payment orders for expenditures provided in the annual State budget plan nationwide based on the figures assigned by the government.

The exercise of rights and duties by the Primary Ordonator shall be subject to inspection by the government, the National Assembly, inspection agencies and task force(s).

Article 59. Responsibilities of the Ordonators

In State finance and budget matters, the ordonators have the following primary responsibilities:

1. To implement the budget plans under their responsibility;
2. To collect revenues in accordance with the laws and regulations in a complete, timely, open and transparent manner;
3. To endeavor to collect revenues to meet or exceed the plan;
4. To execute budget expenditures in line with the targets and budget nomenclature and to enclose complete documentation;
5. To record transactions according to State laws and regulations on accounting, and to properly calculate according to spending norms.

The exercise of rights and duties by the ordonators shall be subject to inspection by the Ministry of Finance, inspection agencies and task force(s).

Article 60. Responsibilities of the National Treasury

In State finance and budget matters, the National Treasury has the following primary responsibilities:

1. To implement the State budget plan, to manage, monitor and record State budget revenues and expenditures based on the budget approved by the National Assembly, and to duly claim and collect revenues into the National Treasury in an accurate, full and timely manner;

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2. To be entitled to suspend the operation of customer deposit accounts in the treasury system and to request bank(s) to suspend the operation of customer deposit accounts, [in each case] at the request of revenue collection agencies;
3. To classify budget revenues, [such that] revenues belonging to the central level shall be credited to the central level account, revenues belonging to local levels shall be credited to local level accounts, and revenues apportioned between the central and local levels shall be credited according to the apportionment ratios decided by the government in each period;
4. To review all lines of State budget expenditure prior to disbursement from the treasury, and verify the ordonators' authority and disbursement requests. In the event that it is discovered that an ordonator has instructed disbursements not in line with the laws and regulations, it is entitled to immediately advise the ordonator in order to correctly address the issue;
5. To administer the treasuries of the State budget, State Funds and administrative-technical agencies, the grants, loans and deposits of State and other concerned organisations, and the deposit accounts of State-owned enterprises, individuals and organisations;
6. To open deposit accounts with banks subject to the laws and regulations and the government's decision.

Article 61. State Accounting and Budget Nomenclature

All State budget revenues and expenditures shall be recorded according to the State accounting system and in conformity with the laws and regulations on accounting and budget nomenclature in effect in each period.

Article 62. Management of Domestic and Foreign Debts

Domestic and foreign debt management is carried out as follows:

1. The government shall manage debts as decided annually by the National Assembly and control the level of net debts based on the country's financial ability to repay principal and interest, the necessary investment targets, gross domestic product growth, the annual State budget plan, and the medium- and long-term financial strategic plan;
2. The government does not permit central and local State and other concerned organisations to incur debts from unplanned spending or from spending more than planned in the State budget;
3. Debts recognised by the government shall be included in the medium-, long-term and annual budget plans for servicing.

Article 63. Borrowings

Borrowings are for balancing annual budgets and are to be used as sources of financing for investments[;] and the principal and interest must be repaid to lenders.

The following borrowing procedures shall be applied:

1. Borrowings from domestic and foreign sources shall be centralised in the medium-, long-term and annual State budget plans and recorded in the National Treasury's accounting system;
2. Borrowings shall be processed through a one-stop service¹² at the Ministry of

¹² The literal translation of this term is "a single door".

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Finance that is the secretariat to the government in the management and use of such borrowings.

In managing the borrowings, the Ministry of Finance shall assess principal and interest repayment capacity in order to report to the government for further submission to the National Assembly for consideration and approval.

Article 64. Grants

Grants shall be processed as follows:

1. Revenues from domestic and foreign grants shall be recorded or remitted to the State budget and an account shall be opened with the National Treasury system for managing grants remitted to the budget;
2. With regards to foreign grants relating to projects, the State and other concerned organisations at the central and local levels are authorised to communicate and negotiate with foreign donors with the participation of the finance sector;
3. With regards to domestic grants, the State and other concerned organisations at the central and local levels are authorised to communicate and negotiate with the donors.

Article 65. Reallocation of State Budget Expenditures

When the execution of the State budget plan is seen as inconsistent with the actual conditions, reallocation of budget expenditures shall take place as follows:

1. The transfer of budget expenditures from one line to another within the same chapter of the annual budget plan is decided by the ordonators;
2. The transfer of budget expenditures from one chapter to another of the annual budget plan is decided by the Primary Ordonator;
3. The transfer of budget expenditures from one organisation to another, or from one locality to another in the annual budget plan is decided by the Prime Minister.

Chapter 4

Closing of Accounts and Final Statement of the State Budget

Article 66. Closing of Accounts and Statements of the State Budget

The revenue collection agencies referred to in Article 55 of this law and other concerned organisations shall close their accounts and draw up accounting statements as required by the laws and regulations.

Enterprises shall close their accounts and draw up accounting statements of their annual business transactions in accordance with the Enterprise Accounting Law and regulations.

Article 67. Final Date for Submission of Budget Revenue and Expenditure Documents

The National Treasury ceases on September 30 to accept documents from agencies entitled to order the remittance of revenues and requests for the disbursement of the State budget from agencies entitled to order budget disbursements.

Article 68. Schedule for Summaries of Revenues and Expenditures

Summaries of revenues and expenditures shall be prepared in accordance with the following schedule:

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- Summarise actual revenues collected during the fiscal year by September 30;
- Summarise disbursements, withdrawal applications, and payment orders outstanding by September 30, and carry out payment of expenditures incurred during the year within ninety days until December 31;
- Revenues and expenditures in each year shall be recorded in an account for monitoring, and relevant statements shall be drawn up within the same year.

Article 69. Budget Reporting Schedule

The budget reporting schedule is as follows:

1. Within twenty days from the budget account closing date of the fiscal year, the National Treasury shall draw up statements of realised revenues and expenditures, the cash balance, receivables according to remittance orders, and payables according to payment orders and then report to the Ministry of Finance;
2. Within ten days from the date of receiving the report of the National Treasury, the Ministry of Finance shall submit a preliminary report of the budget implementation to the government.

Article 70. Final Statement of the State Budget

The date of the final statement of the State budget is set as December 31. The central and local National Treasury sections, in conjunction with budget units at each level, shall draw up a final statement of budget revenues and expenditures and report to the higher authorities. Reported budget figures of a budget unit shall be reconciled and certified by the [relevant treasury section]¹³, and in doing so, the following conditions shall be ensured:

- With regard to revenues remitted in excess of the amount set by the laws and regulations, the excess shall be returned to the remitting entities in the fiscal year;
- Expenditures inconsistent with the laws shall be returned to the State budget in full.

Article 71. Schedule for Final Statement of the State Budget

The schedule for the final statement of the State budget shall be as follows:

1. The ordonators shall verify and ascertain the correctness of the State budget reports and send them to the Ministry of Finance by January 30 at the latest;
2. The Ministry of Finance shall, no later than March 31, summarise and submit an annual budget report to the government for consideration and approval following the audit and certification by the State Audit Authority;
3. The government reviews and considers the draft annual budget report and officially submits [it] to the National Assembly fifteen days prior to the opening of the session of the National Assembly.

Article 72. Consideration and Approval of the State Budget Execution Report

The review and approval of the State budget execution report shall proceed as follows:

1. The session of the National Assembly considers and adopts the report on the execution of the previous year's State budget by the State and other concerned organisations at the central and local levels;
2. When reviewing revenue or expenditure figures, financing sources and debts, if the execution seems to be inconsistent with the budget plan adopted in the year, the National Assembly is entitled to review the responsibilities of the government,

¹³ The literal translation of this term is "the treasury providing the services".

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Primary Ordonator, ordonators and budget units at each level.

Part VI

Management and Inspection of the State Budget

Chapter 1

Management of the State Budget

Article 73. State Budget Management Agencies

State budget management agencies comprise:

1. The Ministry of Finance;
2. The finance division at each province or city;
3. The finance office at each district or municipality;
4. State budget units.

Article 74. Rights and Duties of the Ministry of Finance

In managing the State budget plan, the Ministry of Finance has the following primary rights and duties:

1. To formulate medium- and long-term strategic plans and fiscal policies of the State finance sector;
2. To draft laws and regulations in the finance area, such as, budget allocation norms and State budget spending norms, for submission to the government for consideration;
3. To formulate the draft annual State budget plan for submission to the government for consideration;
4. To disseminate laws and regulations pertaining to State finance and budget matters within the scope of its role;
5. To guide, monitor and inspect the collection of revenue based on the targets approved by the National Assembly and assigned by the government;
6. To guide, monitor and inspect the execution of expenditures to conform them with the annual plan in strict accordance with the laws and regulations and with financial discipline;
7. In coordination with State and other concerned organisations, to set budget expenditure allocation norms, allocate revenues and expenditures, develop accounting rules and budget nomenclature, manage and close budget accounts, to disclose the budget, and to submit to the government for consideration and approval;
8. To summarise State budget plans, evaluate implementation [of the State budget plans] and draw up statements of the annual budget;
9. To exercise ownership in contacting and cooperating with foreign financial agencies, international financial institutions, and other organisations relating to finance, and to draft external loan and grant agreements with bilateral agencies and international financial institutions for submission to the government for consideration;
10. To manage loans and grants, and repay the debts incurred by the government as stipulated in agreements;
11. To be responsible to the government for the management and inspection of the nationwide execution of the State budget. It is entitled to carry out inspections of

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enterprises and businesses, whether public or private, budget units, State Funds and administrative-technical agencies at each level on their fulfillment of obligations¹⁴ under the budget;

12. To manage the treasuries of the State budget, the State Accumulation Fund, and the State Funds, and the assets, debts and precious materials of the State;
13. To guide professional activities, manage and develop personnel, appoint, transfer, dismiss, reward or discipline personnel under its jurisdiction; and to provide budget and technical equipment to the customs, tax and National Treasury apparatus centralised along the vertical line of authority.

Article 75. Rights and Duties of Divisions at Provinces and Cities

In managing the State budget plan, the finance division at each province or city has the following primary rights and duties:

1. To study and comment on draft laws and legislation in the field of finance and State budget;
2. To exercise ownership in formulating and consolidating budgets, allocating budget plans, advising on and making summaries of the execution of the budgets under its responsibility and to report to the Ministry of Finance in a timely manner;
3. To be responsible to the provincial or city administration and the Ministry of Finance for the management and inspection of revenue collection to fully achieve the targets, in accordance with the laws and regulations, and for the execution of expenditures based on the annual budget plan;
4. To guide, manage, monitor and inspect the performance by finance officers under its responsibility of their duties;
5. To disseminate policies, laws, regulations and other legislation relating to finance and budget;
6. To propose to the provincial governor or city mayor, for further submission to the Minister of Finance, to consider recognising individuals with outstanding achievement, and imposing disciplinary measures against those violating the laws and regulations;
7. To propose to the provincial governor or city mayor, for further submission to the Minister of Finance, to consider the appointment, transfer, or dismissal of finance officers under its responsibility.

Article 76. Rights and Duties of District and Municipality Finance Offices

In managing the State budget plan, the finance office at each district or municipality has the following primary rights and duties:

1. To study and comment on draft laws and legislation in the field of finance and State budget;
2. To exercise ownership in formulating and consolidating budgets, allocating budget plans, advising on and making summaries of the execution of the budgets under its responsibility and to report to the finance division of the province and city in a timely manner;
3. To be responsible to the district or municipal administrative authority and finance division of the province or city for the management and inspection of revenue collection to fully achieve the targets, in accordance with the laws and regulations,

¹⁴ The term “obligations” used here refers to taxes.

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- and for the execution of expenditures based on the annual budget plan;
- 4. To disseminate policies, laws, regulations and other legislation relating to finance and budget under its responsibility;
- 5. To guide, manage, monitor and inspect the performance of finance officers under its responsibility.

Article 77. Rights and Duties of the Budget Units

In managing the State budget plan, each budget unit has the following primary rights and duties:

1. To formulate the budget plan, allocate annual budget revenues and expenditures, and assign targets under the plan to departments and budget sub-units under its responsibility;
2. To disseminate laws and regulations relating to finance and budget, and to advise on financial management, accounting and recording as required by the accounting regulations;
3. To organise the execution of assigned revenues and expenditures, to collect revenues in full, and in a timely manner, to ensure the cost effectiveness of expenditures, to use expenditures in conformity with the intended purpose, and to ensure economy and compliance with the laws and regulations;
4. To correctly and strictly implement laws and regulations in accordance with the annual State budget plan in the procurements of goods, works and services;
5. To maintain accounts and keep records in accordance with the accounting laws and regulations, and the budget nomenclature;
6. To coordinate with the National Treasury to reconcile all realised budget revenues and expenditures with budget execution reports to ensure completeness, accuracy and timeliness.

Chapter 2

Inspection of the State Budget

Article 78. Importance of State Budget Inspection

State budget inspection is important to guarantee that the management of the State budget is consistent with the laws and regulations and is transparent, ensuring economy and efficiency.

Article 79. Principles Underlying State Budget Inspection

In inspecting the execution of the State budget, the following principles shall apply:

1. Principles of comprehensiveness, completeness, objectivity, fairness, openness, transparency and uniformity;
2. Individuals and entities subject to the inspection shall extend cooperation, and supply necessary information and documents to the inspection agency.

Article 80. State Budget Inspection Agencies

State budget inspection agencies consist of: internal inspection agencies and external inspection agencies:

1. Internal inspection agencies are the same as the State budget management agencies stipulated in Article 73 of this law and the inspection agency of the concerned sector;
2. External inspection agencies are:

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- The National Assembly;
- The government;
- The Central Inspection Committee;
- The State Audit Agency;
- Inspection task forces.

Article 81. Rights and Duties of the Internal Inspection Agencies

Internal inspection agencies have the rights and duties to inspect the implementation of laws and regulations, and the performance of duties and responsibilities by finance officers at each level under their responsibility, namely, in budget formulation, revenue collection, expenditure execution, use of State assets, public procurement of goods and services, and recruitment.

The government determines detailed regulations describing the rights and duties of internal inspection agencies in the finance sector.

Article 82. Rights and Duties of External Inspection Agencies

External inspection agencies have the rights and duties, in accordance with the scope of their responsibilities, to inspect the performance of duties and responsibilities by finance officers at each level, including inspecting the implementation of the Law on the State Budget by State agencies, and other organisations at central and local levels that utilise the State budget, in order to ensure effective, transparent and fair financial activities.

Article 83. Nature and Purposes of State Budget Inspection

State budget inspection has the following nature and purposes:

1. To inspect the implementation of the laws and regulations and other legislation in the area of finance and budget, and to inspect revenue collection and expenditure execution based on the State budget plan;
2. To inspect the performance of rights and responsibilities relating to budget execution by the Primary Ordonator, the ordonators, the National Treasury, and budget units at different levels;
3. To inspect the performance of responsibilities of revenue collection agencies and State budget management agencies in accordance with the laws and regulations.

Inspection of budget expenditures is carried out in 3 stages: pre-spending inspection, inspection during implementation and post-spending inspection.

Article 84. Types of Inspection

There are three types of State budget inspection:

- Regular inspection;
- Inspection with advance notice;
- Emergency inspection.

Regular inspection refers to an inspection performed regularly according to plans at pre-determined times.

Inspection by advance notice refers to an inspection which is not included in the plan, which is performed when deemed necessary and for which advance notice is given.

Emergency inspection refers to a sudden inspection performed without advance notice to the person to be inspected.

In the course of inspection, the inspection agencies shall duly and strictly obey the laws

and regulations.

Part VII

Policies Towards Persons With Outstanding Achievement and Measures Against Violators¹⁵

Article 85. Policies Towards Persons With Outstanding Achievement

Revenue collection agencies, budget units and officers responsible for managing proper, full and timely revenue collection in accordance with the laws and regulations, according to the plan or exceeding the plan, and managing expenditures openly, transparently, economically and efficiently will receive rewards and other policies in accordance with the laws and regulations.

Individuals or legal entities duly performing their obligations to the budget by remitting in full and on time, by being cooperative, or by providing information on the violation of the laws and regulations leading to additional revenue collection will receive rewards and other appropriate policies.

Article 86. Measures Against Violators

Individuals or organisations committing violations of this Law on the State Budget will be subject to different measures depending on the severity of the case, such as: re-education measures, fines, and compensation for the loss and shall be subject to criminal proceedings as stipulated by the laws and regulations.

Article 87. Re-education Measures

Individuals or organisations committing actions leading to no danger or leading to minor loss will be subjected to re-education¹⁶ measures in the following cases:

1. Inaccurate or delayed budget formulation or annual budget report;
2. Collusion with individuals or business persons in delaying or not remitting obligations to the budget;
3. Unintentionally issuing instructions for payment inconsistent with the targets or nature of the expenditures provided for in the annual budget plan, [or inconsistent with] the budget nomenclature; making any calculation that is not in line with the spending norms;
4. Failure to openly and transparently declare the financial position under their responsibility; delay in budget formulation, implementation and reporting [under their responsibility];
5. Impeding the response to requests, impeding approval or payment orders or soliciting compensation;
6. Imposing unfair disbursement of budget expenditures, such as: first come-last served, last come-first served, failure to take care of those in need, unintentional loss of documents;
7. Creating difficulty and acting in an inappropriate manner with clients, such as: no advice or clarification is given, impolite conversation and behaviour;
8. Unfair or loose disciplinary sanctions towards personnel.

¹⁵ The term “policies” is often used as an indirect way of referring to “incentives” or “privileges” and the term “measures” is often used as an indirect way of referring to “sanctions”.

¹⁶ Here, “re-education” does not mean the same as “re-education without deprivation of liberty” referred to in the Penal Law.

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Article 88. Fines

Individuals or organisations will be fined in the event that they commit the following actions:

1. Continue to commit actions stated in Article 87 above ;
2. Fail to disclose information on taxpayer units or unfair collection of obligations[;] fail to disclose information on collection of obligations or fail to address the proposals of business units;
3. Perform incomplete revenue collection from business units, [or collection] inconsistent with the laws and regulations leading to reduced remittance of obligations to the budget;
4. Fail to implement standards or conditions provided by the laws and regulations, such as: no accounting record is maintained; no collection voucher is used; no chief of finance is appointed; no cashier is appointed; no support equipment in accordance with the business standard is provided; failure to declare business situation; no monthly, quarterly and annual report on financial situation is submitted to the Ministry of Finance or concerned sector.

The rates of fines are provided in specific regulations.

Article 89. Criminal Measures

Any individual committing an offence relating to finance and budget leading to serious loss will be subject to criminal sanctions, depending on the severity of the act, and shall compensate for the loss as stipulated by the laws.

Part VIII

Final Provisions

Article 90. Implementation

The government of the Lao People's Democratic Republic is to implement this law.

Article 91. Effectiveness

This law replaces the Law on State Budget No. 05/1994/NA, dated 18 July 1994, and shall come into effect after two hundred and seventy days from the date of the promulgating decree of the President of the Lao People's Democratic Republic.

Provisions and decisions that contradict this law are null and void.

Vientiane, 26 December 2006

President of the National Assembly

[Seal and Signature]

Thongsing THAMMAVONG