



LAO PEOPLE'S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

DECREE

ON PUBLIC PRIVATE PARTNERSHIP

Printed by: Investment Promotion Department
Ministry of Planning and Investment

2021
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Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

Government

No. 624/GOV
Vientiane Capital, date 21 December 2020

DECREE on Public-Private Partnership

- Pursuant to the Law on the Government of the Lao People's Democratic Republic, No.04/NA, dated 8 November 2016;
- Pursuant to the Law on Investment Promotion, No.14/NA, dated 17 November 2016;
- Pursuant to the Law on Public Investment, No. 72/NA, dated 15 December 2015;
- Pursuant to the Law on State Budget, No.71/NA, dated 16 December 2016;
- Pursuant to the Request Letter of the Ministry of Planning and Investment, No. 0811/MPI. IPD8, dated 2 June 2020.

The Government issues the Decree:

CHAPTER I General Provisions

Article 1 Objectives

This Decree defines principles, rules and measures to promote, regulate and monitor public-private partnership to ensure efficiency, productivity, fairness, transparency, accountability and compliance with the periodic national socio-economic development plan in effect, aiming to build confidence and attract private investments into public projects, to protect public interests, rights and lawful interests of private entities and of the people, contributing to the protection and development of the nation in accordance to the Green Growth and sustainability strategy.

Article 2 Public-Private Partnership

A partnership between public and private parties, written in English as Public-Private Partnership (PPP), can be a joint investment between public and private entities or a partnership where the investment capital is borne entirely by a private party into a public project such as a newly established project, a project to improve existing infrastructure or a project to provide public services, including to develop tourism, agriculture, energy, mining and others under a joint-venture agreement within a certain period of business operation time in compliance with the rules of law.

Article 3 Definitions

Terminologies used in this Decree are defined as follows:

1. **“Partnership”** refers to a joint investment between public and private entities as defined in Article 2 of this Decree;

2. **“Public Project”** refers to a partnership project between public and private entities utilizing public natural resources, assets and copyrights to improve existing (brown field) or to develop brand new (green field) infrastructures and services in accordance to the strategic plan of each period;

3. **“Tenderer”** refers to a qualified domestic or foreign entity participating in a bid for a partnership project;

4. **“Sponsor”** refers to the state, a domestic or a foreign financial institution or an international organization that provides a loan/credit, technical assistance and/or a grant to develop the economy, society and environment;

5. **“Feasibility Study of a Project”** refers to a set of documents that studies the project to determine its feasibility, calculate its investment costs, investment returns, its compliance with the rules of law, socio-economic benefits, potential risks, sustainability of the project, socio-economic and environmental impacts and necessary measures to mitigate the potential impacts of the project;

6. **“Official Development Assistance (ODA)”** refers to technical and financial assistance, including items such as grants and soft loans which the Lao PDR receives from its official development partners to develop the economy and society of the Lao PDR;

7. **“Private Party”** refers to any domestic and foreign entities who wish to enter into a partnership with the government to develop a public project as defined in this Decree;

8. **“Partnership Project Company”** refers to a company established by an entity or by a group of entities who won a bidding in accordance to this Decree, in compliance with the governing laws and regulations of the Lao PDR;

9. **“Agency”** refers to a ministry, a ministry-equivalent organization, a provincial authority or an authority in Vientiane Capital;

10. **“Project Executing Agency”** refers to the relevant agency entrusted with the

authority to oversee the implementation of a partnership project which has been approved by the government and granted with a concession agreement;

11. “**Project preparation funds**” refers to the funds allocated for a project’s preparation starting from the project’s feasibility study stage until the completion of the project’s design and bidding stage;

12. “**Partnership project**” refers to a project to develop any of the various public sectors which fall within the government’s socio-economic development plan and has been endorsed and approved by the higher authority to have the right to carry out the development in the public-private partnership model;

13. “**State Enterprise**” refers to an enterprise established by the state and where the state owns more than fifty percent of the total investment capital or any other enterprises that have been turned into state-owned based on a unanimous agreement;

14. “**Value-for-Money**” refers to efficiency and effectiveness of an investment into a project;

15. “**Budget plan payable for a project**” refers to a spending amount forecasted in the budget plan and in a partnership agreement to pay for the relevant project annually until the amount is paid off as specified in the agreement;

16. “**Agreement**” refers to a public-private partnership agreement;

17. “**Parties to the agreement**” refers to the government which is represented by the Ministry of Planning and Investment and the private entity who has won the project bidding which is represented by the partnership project company;

18. “**OPPP**” refers to the Office of Public-Private Partnership.

Article 4 The Government’s Policy on Public-Private Partnership

The government encourages, promotes and administers domestic and foreign private parties to enter into partnership with the government by issuing policy, creating suitable environments and conditions, providing information and services, offering incentives on customs, tax, labour, rights to utilize land, access to capital and equal treatment to enable partnerships to construct new projects, partnerships to improve infrastructures or partnerships to provide public services in various sectors under conditions and procedures as specified in relevant laws and in this Decree.

The government promotes partnerships that do not pose a threat to the national stability nor to the security, have no severe impacts on the environment at present time or in the long run, no severe impact on the health of the people or on the beautiful culture of the nation.

Article 5 Partnership Principles

A partnership shall operate under the following principles:

1. Be in compliance with the guiding policies, governing laws, strategies, the national

socio-economic development plan and relevant regulations;

2. Ensure stability, security and decorum of the society;
3. Ensure central control and unity by assigning clear responsibilities to relevant agencies;
4. Ensure ownership of the project development and management; ensure that responsibilities in governing the project and managing associated risks are shared between the project executing agency and the partnership project company in an appropriate, equal, fair, transparent, and accountable manner;
5. Reveal information on the bidding, costs, benefits and risks of the partnership, including governing regulations which have direct effects on the partnership;
6. Ensure highest socio-economic and environmental benefits based on the studies of potential impacts, feasibility and value-for-money;

Article 6 Jurisdiction

This Decree is enforceable on individuals, public and private entities and organizations, both domestic and foreign, who operate and associate with a public-private partnership in the Lao PDR.

Article 7 International Cooperation

The government promotes cooperation with foreign, regional and international entities on public-private partnership by exchanging experiences, information, technologies and techniques on the promotion and management of partnership in accordance to the laws and regulations of the Lao PDR, treaties and international agreements of which Laos is a member.

CHAPTER II

Forms, Models and Requirements of Partnership

Article 8 Forms of Partnerships

Partnerships can be divided into two types as below:

1. Partnerships with public financial contributions; and
2. Partnerships where investment capitals are borne entirely by private parties.

Article 9 Partnerships with Public Financial Contributions

A partnership with public financial contributions is a forms of partnership where the government directly contributes its capital into the project development along with the private party based on the project's feasibility study and based on the government's agreement or on approval of the National Assembly or of the People's Assembly of the

relevant province as specified in the governing laws and regulations on a case-by-case basis.

The government will enter into a partnership in models specified in Article 11 of this Decree if the project's feasibility study indicates high efficiency, utilization of natural resources and that the project possesses strategic characteristics on the basis of a joint agreement between the public and private parties.

Article 10 Partnerships where Investment Capitals Are Borne Entirely by Private Parties

For this type of partnerships, a private party is responsible for the entire investment capital of a public development project based on the project's feasibility study and based on the government's agreement or on approval of the National Assembly or of the People's Assembly of the relevant province as specified in the governing laws and regulations on a case-by-case basis.

Article 11 Models of Partnerships

Partnerships can be established in one of the following models:

1. Design Build Finance Operate (DBFO);
2. Design Build Operate (DBO);
3. Build Operate Transfer (BOT);
4. Build Own Operate Transfer (BOOT);
5. Build Own Operate (BOO);
6. Build Transfer Operate (BTO);
7. Build Lease Transfer (BLT);
8. Operate Maintenance (O&M); and
9. Other forms as approved by the government.

Article 12 Partnerships in the Design Build Finance Operate (DBFO) Model

A partnership in the Design Build Finance and Operate model has the following characteristics:

1. It is a development project, a project to improve an infrastructure or a project to provide services. The project is owned by the government who invites a private party to enter into a partnership where the investment capital is either borne entirely by the private party or the majority of the capital comes from the private party. The partnership begins from the designing, building, financing stages all the way through the operational and maintenance stages until the end of the project life in accordance to the standards and requirements determined by the government in the partnership agreement;

2. Costs of maintenance, repair and replacement fall under the responsibilities of the private party throughout the term of the partnership agreement;

3. In case the government has to contribute to the investment capital, the source of funds for repayment shall be derived from the state budget as determined in the budget plan payable for [partnership] projects. The repayment shall be implemented during the operational stage based on the real outputs of the [project's] business services and in accordance to the approved feasibility study and the partnership agreement throughout the term of the agreement. In case the government does not contribute to the investment capital, the private party shall collect incomes directly from the project;

4. At the end of the term of the agreement, the private party shall transfer the project back to the government in good condition.

Article 13 Partnerships in the Design Build Operate (DBO) Model

A partnership in the Design Build Operate model has the following characteristics:

1. It is a development project, a project to improve an infrastructure or a project to provide services. The project is owned by the government where a private party is contracted to design, build and operate under requirements and standards determined by the government in a partnership agreement. The project's operations can be proceeded under the partnership agreement or under a separate operation agreement;

2. Costs of maintenance, repair and replacement fall under the responsibilities of the private party throughout the term of the partnership agreement;

3. The repayment shall be split into two stages. The repayment for the design and construction shall be made after the completion of the construction in installments based on agreement. The repayment for the operation throughout the term of the agreement shall be made based on the real outputs of the [project's] business services and in accordance to the approved feasibility study and the partnership agreement;

4. The source of funds for repayment shall be derived from the state budget as determined in the budget plan payable for projects and allocated from the incomes the government receives directly from the project.

Article 14 Partnerships in the Build Operate Transfer (BOT) Model

A partnership in the Build Operate Transfer model has the following characteristics:

1. It is a development project, a project to improve an infrastructure or a project to provide services. The project is owned by the government who grants concession rights to a private party to study, design, build and operate under the requirements and standards determined by the government in the partnership agreement;

2. The private party is responsible for the investment capital and for all incomes and expenditures of the project as determined in the approved feasibility study and in the agreement signed with the government;

3. Costs of maintenance, repair and replacement fall under the responsibilities of the

private party throughout the term of the agreement;

4. The private party shall transfer project in good conditions as specified in paragraph two of Article 55 of this Decree to the Government after the termination of the agreement.

Article 15 Partnerships in the Build Own Operate Transfer (BOOT) Model

A partnership in the Build Own Operate Transfer model has the following characteristics:

1. It is a development project, a project to improve an infrastructure or a project to provide services. It is a large-scale project with complicated technical structures. The project is owned by the government who grants concession rights to a private party to study, design, build, own and operate under the requirements and standards determined by the government in the partnership agreement;

2. The private party is responsible for the investment capital and for all incomes and expenditures of the project throughout the term of the agreement as determined in the approved feasibility study and in the agreement signed with the government throughout the term of the agreement;

3. Costs of maintenance, repair and replacement fall under the responsibilities of the private party throughout the term of the agreement;

4. The private party shall transfer the project in good conditions as specified in paragraph two of Article 55 of this Decree to the Government after the termination of the agreement.

Article 16 Partnerships in the Build Own Operate (BOO) Model

Partnerships in the Build Own Operate model have the following characteristics:

1. It is a development project, a project to improve an infrastructure or a project to provide services. The project is owned by the government who grants concession rights to a private party to study, design, build and operate under the requirements and standards determined by the government in the agreement;

2. The private party is responsible for the investment capital and for all incomes and expenditures of the project throughout the term of the agreement as determined in the approved feasibility study and in the agreement signed with the government throughout the term of the agreement;

3. Costs of maintenance, repair and replacement fall under the responsibilities of the private party throughout the term of the agreement;

4. At the end of the term of the partnership agreement, the private party does not transfer the project back to the government.

Article 17 Partnerships in the Build Transfer Operate (BTO) Model

A partnership in the Build Transfer Operate model has the following characteristics:

1. It is a development project, a project to improve an infrastructure or a project to provide services. The project is owned by the government who grants rights to a private party to invest in the designing and building of the project under the requirements and standards determined by the government in the agreement. After the building stage is completed, the project is transferred back to the government.

2. The government will lease the facility(ies) or the service(s) to the private party referred to in Clause 1 above who has invested in the project to operate under a lease agreement;

3. The private party is responsible directly for the business operation and the collection of all incomes deriving from the project throughout the term of the lease agreement.

Article 18 Partnerships in the Build Lease Transfer (BLT) Model

A partnership in the Build Lease Transfer model has the following characteristics:

1. It is a development project, a project to improve an infrastructure or a project to provide services. The project is owned by the government where a private party is contracted to design and build under the requirements and standards determined by the government in an agreement. After the building stage is completed, the project is transferred back to the government;

2. The government will then select a private party to lease the facilities or to jointly provide services under a lease agreement or a partnership agreement;

3. Throughout the term of the lease agreement, the private party is responsible directly for the business operation and collection of all incomes deriving from the project;

4. At the end of the term of the lease agreement, the private party shall transfer the project back to the government in good condition as specified in Clause 2 of Article 55 of this Decree;

5. The source of funds to repay for the designing and building shall be derived from the state budget as determined in the budget plan payable for projects. The repayment can be a lump-sum payment or broken up into installments as specified in the agreement.

Article 19 Partnerships in the Operate and Maintenance (O&M) Model

A partnership in the Operate and Maintenance model has the following characteristics:

1. It is an existing infrastructure project or a project to provide services owned by the government where a private party is contracted to operate and maintain partially or entirely under the requirements and standards determined by the government in an agreement;

2. The source of funds to repay for the operation and maintenance shall be derived from the state budget as determined in the budget plan payable for projects. The repayment can be a lump-sum payment or broken up into installments based on the real outputs of the operation as specified in the agreement.

Article 20 Requirements of Partnerships

A partnership shall have the following requirements:

1. Have a partnership agreement between the public and private parties;
2. Be a project to build a new infrastructure, a project to improve an existing infrastructure or a project to provide services to the public which focuses on business returns and project's value-for-money;
3. Determine responsibilities for the project's risks such as construction risks, market demand, incomes and obligations of the partnership project company in order to secure efficiency and effectiveness of the investment;
4. Ensure rights and benefits of service users and service providers;
5. Go through an open and transparent tendering process in accordance to the governing laws and regulations;
6. Be transferred back to the government at the end of the term of the partnership agreement (with the exception specified in Article 16 Partnerships in the Build Own Operate "BOO" Model).

Article 21 Determination of a Partnership's Type and Model

The determination of a type and a model for a partnership as specified in Articles 8-19 of this Decree shall take into account effectiveness, category, size, value, conditions and unique characteristics of each partnership based on the project's feasibility study.

Before a project can be developed, the government shall be the body to select a type and a model for its partnership based on the results of the feasibility study done in details by the agency and/or the investor.

CHAPTER III

The Preparation, Consideration and Tendering of a Partnership Project

Section 1

The Preparation and Consideration of a Partnership Project

Article 22 Solicited and Unsolicited Proposals for Partnership Projects

A solicited proposal for a partnership project is a document that proposes an initial idea by an agency under the strategic plan of the national socio-economic development plan. It aims at drawing a private party(ies) to enter into an investment partnership as specified in Article 8 of this Decree.

An unsolicited proposal for a partnership project is a proposal for a brand-new project. It can come either from an agency or from a private party. It is in compliance with the policy of the in-force periodic national socio-economic plan. It shall be an important

project with a new concept, using new technology with a high degree of innovation. An unsolicited proposal proposes a new project that is not included in the investment plan of the government.

An instruction for drafting a solicited proposal and a manual for an unsolicited proposal can be found in the annexes.

Article 23 Requirements for Solicited and Unsolicited Proposals for Partnership Projects

Solicited and unsolicited proposals for partnership projects shall be in compliance with the government's policy and the national socio-economic development plan and with strategic plans of relevant agencies.

For unsolicited proposals for partnership projects, there are additional requirements as follows:

1. Be a project based on a new initiative of an agency or of a private party;
2. Be an important project that uses new technology and innovation, and be value-for-money;
3. Yield high returns and effect a broad socio-economic realm;
4. Provide detailed information sufficient for project assessment or for further project's feasibility study;
5. If proposed by a private party, the private party shall be responsible for all costs associated with the project's preparation and operation, including any potential risks of the project, without making any requests for financial support or customs and tax incentives.

Article 24 The Submission and Consideration of Solicited Proposals for Partnership Projects

An agency wishing to develop a partnership project that falls within the agency's development plan shall submit a solicited proposal to the Office of Public-Private Partnership at the central level for consideration and reporting further to Committee for Investment Promotion and Management at the central level within twenty business days for an investment in an activity dictated by the governing laws and regulations to be supervised by the central authority.

An agency at the provincial level wishing to establish a partnership project shall submit a solicited proposal to its vertical line of management, going through the top management of the province for inclusion in the plan to be submitted for the government's consideration via the Investment One-Stop Service Office at the central level.

Committee for Investment Promotion and Management studies and considers solicited proposals for partnership projects. Shall a proposal be endorsed, the Office of Public-Private Partnership shall inform the relevant agency in writing within five business days from the day Committee for Investment Promotion and Management reaches the resolution

in order to prepare a framework for a feasibility study and an environmental, social and natural impact assessment of the project in details before conducting a tendering to select a company to explore further. In case the proposal is not endorsed, a notification with reasons shall be given to the relevant agency.

Article 25 The Submission and Consideration of Unsolicited Proposals for Partnership Projects

An agency or a private party wishing to develop an unsolicited partnership project may submit an unsolicited proposal along with a preliminary feasibility study and an environmental, social and natural impact assessment of the project to the Office of Public-Private Partnership for further submission to Committee for Investment Promotion and Management at the central level within forty-five business days after receiving complete comments from relevant agencies at the central and provincial levels.

In case Committee for Investment Promotion and Management at the central level views that the unsolicited proposal along with the preliminary feasibility study and the environmental, social and natural impact assessment of the project are complete and with correct information, the Ministry for Planning and Investment will present them to the government for consideration. After being considered and approved by the government, the Office of Public-Private Partnership shall inform the relevant private party to sign a memorandum of understanding and develop a detailed feasibility study and environmental, social and natural impact assessment of the project in order to place a bid for the right to explore in the next step. In case the proposal is rejected, a notification shall be made to the relevant agency along with the reasons for rejection.

A private party who submitted an unsolicited proposal or a consulting company selected to conduct further exploration of an agency's project shall not be automatically granted with the right to develop the project. The selection must be done via a tendering process. In case the initiator of the unsolicited proposal does not win the tender, it shall receive reimbursements for the costs of the unsolicited proposal paid by the winning bidder. The reimbursement amounts shall be calculated as parts of the project investment costs and be declared in the bidding documents.

In case the private party who submitted the unsolicited proposal places a bid at the higher price, the below-listed incentives will be offered:

- automatic shortlisting into the final bidding round;
- the maximum bonus of no greater than 5% of the bidding price.

Article 26 A Feasibility Study of a Public-Private Partnership

A feasibility study of a partnership is a set of documents detailing model, characteristics and term of a partnership which indicate technical compliance, socio-economic benefits,

value-for-money, regulatory compliance and financial feasibility, ensuring partnership requirements as specified in Article 21 of this Decree, including the project's sustainability, socio-environmental impacts and impacts on the nature [and] gender roles in the partnership project.

In case of a solicited proposal for a partnership project, the relevant agency shall proactively collaborate with the consulting company selected to carry out further project exploration; whereas for an unsolicited proposal, the private party shall directly carry out detailed studies of the project's economic-technical and financial feasibilities, socio-environmental impacts and impacts on the nature. The studies shall be completed within eighteen months or as determined in the memorandum of understanding and submitted to the Office of Public-Private Partnership.

Article 27 The Consideration of Feasibility Studies of Partnership Projects

The Office of Public-Private Partnership has the authority to consider feasibility studies of partnership projects, including the projects' detailed assessments of socio-environmental impacts and impacts on the nature submitted by agencies in consultation with relevant agencies at the central and provincial levels and with the consulting teams within ninety business days before presenting them to Committee for Investment Promotion and Management for consideration as below:

1. To endorse the feasibility study of a project and present it to the government and to the national assembly for consideration on a case by case basis in accordance with the legal process including notifying the relevant agency to prepare tendering documents if the proposal is endorsed;
2. To make recommendations to the relevant agency or the private party to improve and correct their project's detailed feasibility study within sixty business days;
3. To reject the project's feasibility study.

In case the feasibility study of a project indicates effectiveness or broad benefits to the society, a contribution of investment capital as specified in Article 8 and/or a financial support as covered in Article 46 of this Decree may be necessary. Prior to presenting the project to Committee for Investment Promotion and Management, the Office of Public-Private Partnership shall submit the project to relevant agencies for consideration in accordance to the State Enterprise Law.

Article 28 Levels of Partnership Project Consideration, Endorsement and Approval

The levels of partnership project consideration, endorsement and approval are as the following:

1. The National Assembly has the authority to consideration and endorse in case of:
 - A partnership project with the investment capital larger than three hundred US

dollars;

- A project where the government's investment capital contribution is equal or larger than twenty billion kips;
- A partnership project to build a nuclear plant;
- A partnership related to a utilization of a national conserved and protected forest;
- A partnership that has severe impacts on the environment, nature and society; for instance, a project that will divert the flow of a river from its natural course; a project that involves resettlement of five hundred households or more; a land concession of ten thousand hectares or more; and other projects as determined in relevant laws; and
- A project seeking special incentives.

The consideration and endorsement of these partnerships require written resolutions by the national assembly.

2. The people's assembly of a province has the authority to consider and endorse in case of:

- A project where the government's investment capital contribution is less than twenty billion kips;
- [A partnership related to] a utilization of a deteriorating forest that cannot self-rehabilitate in the area of one hundred hectares or less as proposed by the provincial authority or the authority of the Capital City;
- [A partnership related to] a utilization of a bare land from thirty to two hundred hectares per project as proposed by the provincial authority or by the authority of the Capital City;
- [A partnership related to] a lease or a concession of a deteriorating forest that cannot self-rehabilitate from one hundred and fifty hectares or less per a project with a leasing or a concession period of no longer than thirty years as proposed by the provincial authority or by the authority of the Capital City;
- A partnership that has impacts on the environment, nature and society at the provincial or Capital City levels.

The consideration and endorsement of these partnerships require written resolutions by the people's assembly of relevant provinces.

3. The government has the authority to consideration, endorse and approve in case of:

- A partnership project with no investment capital contribution from the government;
- A partnership project not related to a utilization of a national conserved and protected forest;
- A partnership project that has no severe impacts on the environment, nature and

society; and involves resettlement of no larger than five hundred households;

- A partnership project that has investment capital of no larger than three hundred million US dollars;
 - Other projects not asking for more than the rights allowed by the governing laws.
- Any projects and issues other than above-mentioned shall follow the effective laws and regulations of relevant agencies.

Section 2

Project Tendering

Article 29 Partnership Project Tendering

A partnership project tendering is a competition in terms of price and quality in order to select a consultant and a bidder with the best conditions to enter into a partnership agreement in the feasibility study stage and in the partnership project development stage based on standards and criteria determined by the project executing agency.

The Office of Public-Private Partnership shall openly announce the tendering launch via mass media within three business days from the day the tender's documents are completed and shall advertise the tendering through the media for seven business days.

For tendering of partnership projects that utilize official development assistance funds, the projects shall follow governing laws and regulations of the Lao PDR, with the exception to those for which their sponsors have determined tendering rules and procedures. [For this latter case] the project executing agencies shall notify the Office of Public-Private Partnership.

Article 30 Principles Governing Partnership Tendering

A public-private partnership tender shall be based on the following principles:

1. Be in compliance with [the governing] laws;
2. Promote competitive tendering that is equal, transparent, fair and accountable;
3. Do not create extra requirements nor restrictions that might hinder or obstruct potential bidders from participating in the tender.

Article 31 Tender Documents

The tender documents shall include:

1. A detailed plan of the tender procedure to be followed;
2. A letter of interest, including preliminary requirements, tendering instructions and appraisal principles;
3. A partnership agreement form;
4. A detailed feasibility study of the project;

5. A support letter from the government (if available); and
6. Relevant technical annexes.

Project executing agencies shall coordinate with the Office of Public-Private Partnership to prepare tender documents as specified in this Decree and in other governing laws and regulations. The preparation shall complete within thirty business days from the day the feasibility study is endorsed.

The Office of Public-Private Partnership shall complete the consideration of the tender documents within five business days from the day the documents are received. In case the tender documents are incomplete and incorrect, the Office of Public-Private Partnership shall notify the project executing agency within five business days of the finding.

Article 32 The Selection of the Most Suitable Bidder

The selection of the most suitable bidder for a partnership project shall proceed as follows:

1. Consider bidders who meet all criteria;
2. Consider standards-techniques; and
3. Consider price conditions.

Details on the bidding winner selection and bidding procedures have been determined in separate regulations.

Article 33 The Tender Committee

A tender committee is appointed by the chairperson of Committee for Investment Promotion and Management in collaboration with relevant agencies. [The Tender Committee] plays the secretariat role in the management and implementation of any [partnership project] bidding in accordance to the methodologies and procedures determined in the governing laws and regulations.

A tender committee shall comprise of representatives of:

1. The finance sector, one person;
2. The planning and investment sector, which shall consist of [representative from] the Office of Public-Private Partnership and relevant departments;
3. Relevant agencies, up to three persons; and
4. Relevant senior technical advisors, up to three persons.

If necessary, more representatives from relevant agencies may be appointed.

Article 34 Rights and Responsibilities of the Tender Committee

A Tender Committee has the rights and responsibilities to:

1. Determine needs and requirements of the tendering; check for eligibility of the tender documents before presenting them to Committee for Investment Promotion and

Management for consideration;

2. Run the tendering, open tender envelopes and evaluate the tender documents that fall under the committee's authority;

3. Report on the tender document evaluation process and the tender results to the government for consideration via the Public-Private Partnership Promotion and Supervision Committee;

4. Execute other rights and responsibilities as determined in the governing laws and regulations.

The evaluation of tender documents shall take into account financial, economic-technical, environmental, natural and social conditions, including gender equality.

CHAPTER IV

Partnership Agreements

Article 35 Partnership Agreements

A partnership agreement is an agreement between an office of planning and investment on behalf of the government and a private party winning the bid to develop a partnership project represented by a licensed partnership project company. [The agreement] is intended to determine rights and commitments in the development of the partnership project under the Lao PDR laws and under specific terms of the agreement.

Article 36 Contents of a Partnership Agreement

A partnership agreement shall specify clear, explicit and concise contents that are in compliance with the governing laws and regulations.

The basic contents of a partnership agreement include:

1. Scope and tasks of the project;
2. Responsibilities of parties to the agreement and of the project executing agency;
3. Responsibilities for the project's risks by the parties to the agreement;
4. Tax and customs obligation fulfilment by the private party;
5. Direct and indirect benefits of the government;
6. Land use, access to the project site and utilization of facilities within the project site;
7. Construction period, operation date, business operation and maintenance;
8. Operation standards in terms of techniques, quality and safety;
9. Finance, accounting, independent auditing, guarantee, settlement and penalty in case a partnership project company fails to reach the standards as specified in the agreement;
10. Consideration and correction of price units;
11. Rights to intervene in the project by the government or by donor(s) in case the

- project faces a difficulty;
12. Consideration, improvement or revision of the agreement's contents;
 13. Revision of the scope and tasks [of the project] including improvement of technologies used in the project development;
 14. Monitoring and reporting;
 15. Contingency budgeting;
 16. Conflict settlement;
 17. Term of the partnership project shall be based on the results of the feasibility study, conditions and unique characteristics of the partnership project;
 18. Effective governing laws and regulations; and
 19. Project management.

Aside from the basic contents specified in this Article, shall a need arise, the parties to the agreement may agree to include additional contents which shall be in compliance with this Decree and with other governing laws and regulations.

Article 37 Procedures for Agreement Consideration

Consideration of an agreement shall follow the procedure below:

1. After the government issuing a notice on the agreement negotiation, the Ministry of Planning and Investment shall collaborate with relevant agencies at the central and provincial levels for consultation and negotiation with the private party selected to develop the project on the contents of the partnership agreement. The agreement drafting shall be completed within thirty business days from the date of tendering result announcement onwards;
2. The Office of Public-Private Partnership shall present the agreement along with the project details to Committee for Investment Promotion and Management for consideration. In case contents of the agreement need to be improved, the Ministry of Planning and Investment shall collaborate with the relevant agency and private party to consider and improve within the timeframe determined by the Public-Private Partnership Promotion and Supervision Committee.

Article 38 Procedure for Agreement Signing

An agreement signing shall proceed as follows:

1. The Ministry for Planning and Investment reports to the government for the agreement signing permission;
2. The Office of Public-Private Partnership notifies in writing to the relevant agency and private party selected to develop the project within five business days from the date of the government's approval for agreement signing;
3. The Ministry for Planning and Investment approves the establishment of the

partnership project company within fifteen business days from the date the notification is received;

4. The Ministry for Planning and Investment, on behalf of the government, signs the agreement with the project executing agency and the private party selected to develop the project, represented by the partnership project company, within thirty business days from the date of the government's approval for agreement signing.

In case the relevant private party fails to sign the agreement within the determined period without any reasonable excuses, the failure will be deemed as a decline of the offer resulting in [the private party] losing any demanding rights from the government.

Article 39 Changes or Corrections to Partnership Agreements

Any changes or modifications to a partnership agreement is a change to the contents of the partnership agreement which has been signed based on the agreement by the parties involved in accordance to this Decree and the governing laws and regulations.

In case a change or a modification to a partnership agreement will affect efficiency and effectiveness of the project, affect risk responsibilities of each party or will have direct or indirect effects to the budget, to the repayment, to the guarantee or to other responsibilities of the governmental parties, a request for permission to change or modify shall be made to the government or to the provincial authority via Committee for Investment Promotion and Management for consideration [and approval].

In case a change or a modification to the content of an agreement will have no such effects, a request shall be made to Committee for Investment Promotion and Management for consideration [and approval].

CHAPTER V

Partnership Project Implementation

Section 1

Partnership Project Implementers

Article 40 Partnership Project Implementers

Implementers of a partnership project consist of a project executing agency and a private party.

Article 41 Rights and Responsibilities of Project Executing Agencies

In the implementation of a partnership project, the project executing agency has the rights and responsibilities to:

1. Identify and complete the solicited partnership proposal by the 25th of June every

year in accordance to the in-force periodic national socio-economic development plan and submit it to the Office of Public-Private Partnership for consideration and inclusion into the five-year plan and into the annual partnership plan;

2. Request technical assistance and financial support from the government for partnership project preparation in order to create the project feasibility study and to provide estimated expenditures on the project preparation to the Office of Public-Private Partnership after receiving agreement in principle from the Public-Private Partnership Promotion and Supervision Committee;

3. Provide necessary data and information to be used in detailed feasibility studies of the project such as a full feasibility study, a preliminary assessment of the environmental, social and natural impacts and other relevant information to interested individuals and to those who have received rights from the government to conduct a detailed feasibility study of the partnership project;

4. Collaborate with the Office of Public-Private Partnership on the project preparation and tendering within the scope of their responsibilities in accordance to this Decree and the governing laws and regulations;

5. Hire expert(s) or consultant(s) to create feasibility studies and the environmental impact assessments of their partnership projects;

6. Appoint a representative to join a tender committee;

7. Appoint a committee to oversee partnership projects under own responsibilities, with a deputy director general or an equivalent rank or higher as the head of the committee for ministries and ministry-equivalent organizations; and a head of division or an equivalent rank or higher for provinces and the capital city;

8. Create a management and monitoring system for signed partnership projects to ensure efficiency and compliance with approved work scopes;

9. Monitor, inspect, evaluate, summarize and report on progress and achievements of the partnership project implementation to Committee for Investment Promotion and Management via the Office of Public-Private Partnership on a regular basis;

10. request the government or the relevant provincial authority, via the Office of Public-Private Partnership, to suspend or to revoke the implementation of a partnership project in case there is a breach of agreement and/or an activity in violation of a law or a regulation;

11. For a partnership with public financial contributions, submit a project repayment budget plan based on its partnership model to the Ministry of Planning and Investment in accordance to the governing laws and regulations via the Office of Public-Private Partnership. The budget plan shall include:

- spreadsheets for direct repayments, securities or financial commitments, customs and tax duties of the project executing agency throughout the term of the agreement;

- annual spending plan of the project executing agency for the direct repayment budget plan, securities or financial commitments, customs and tax duties of the project executing agency in order of priority to submit to the government for consideration;

12. Exercise other rights and fulfil other obligations as specified in the governing laws and regulations.

Article 42 Rights and Responsibilities of Private Parties

In the implementation of a partnership project, the relevant private party has the rights and responsibilities to:

1. Propose an unsolicited partnership project proposal [and] participate in the tendering as determined in this Decree;

2. Establish a partnership project company and receive a notification of approval to sign the [partnership] agreement as determined in this Decree;

3. Open a bank account at any commercial bank in the Lao PDR and import capital, transfer incomes, profits and dividends in accordance to the governing laws and regulations;

4. Repay for any expenses previously made by the government on the provision of necessary data and information such as on the feasibility study, on preliminary assessment of environmental impacts, and other data and information on the project; or replay for all expenses made on the detailed project feasibility study, in case the private party has been selected as the bidding winner and received the right to the development partnership;

5. Receive repayment from the bidding winner for all data and information related to the project such as on the feasibility study, on the detailed assessment of environmental impacts, layout plan, design and other relevant documents, in case of the private party who submitted the unsolicited proposal but not selected as the bidding winner;

6. Contribute investment capital into the partnership project as determined in the agreement;

7. Implement and manage the partnership project, ensuring its efficiency and effectiveness in accordance to the standards specified in the bidding documents and in the partnership agreement;

8. Create a simple and effective system and mechanism to monitor and resolve grievances and suggestions of consumers and other individuals affected by the partnership project;

9. Monitor, inspect, evaluate, summarize and report on progress and achievements of the partnership project implementation to Committee for Investment Promotion and Management quarterly, biannually and annually;

10. Request suspension or cancellation of the partnership project as agreed upon in the partnership agreement;

11. Receive and access information, partnership-governing laws and regulations from

the tendering stage until the end of the partnership life;

12. Exercise other rights and fulfil other obligations as specified in the governing laws and regulations.

Section 2

Government Support

Article 43 Government Support

Government support for partnership projects include:

1. legal support,
2. financial support, and
3. incentive support.

Article 44 Legal Support

A legal support refers to assurance and facilitation given to the implementation of partnership projects by improving or creating legal instruments based on real needs in order to effectively promote and manage partnership projects.

The improvement or creation of legal instruments shall not be in conflict with existing laws and regulations. They shall ensure the exercise of rights and obligation fulfilments by the parties to the partnerships and optimized benefits to the society.

Article 45 Financial Support

A financial support refers to the provision of a budget into the development of a partnership project, the facilitation and creation of conditions for the relevant agency or the private party selected to develop the partnership to access domestic and foreign capital sources and receive financial support based on actual capacity of the government.

The financial support shall be based on the findings of the detailed feasibility study, the research done by Committee for Investment Promotion and Management based on effectiveness of the partnership on the socio-economic development and the need for financial support in order to create benefits for the society.

The government will create specific rules and regulations for the establishment of a partnership development funds to use as a financial source to effectively conduct feasibility studies of projects before placing them for bidding in order to select the best developers to secure maximum benefits for the government and the society.

Article 46 Incentive Support

An incentive support refers to the determination of scope to where customs and tax can be reduced or exempted as specified in the law, including the guarantees and securities

as specified in this Decree.

The government will consider incentive support for each of the partnership projects based on the results of their preliminary feasibility studies and the full feasibility studies.

Section 3

Guarantee and Securities

Article 47 Guarantee

Legal assets, capital and benefits of private parties in the Lao PDR will not be forfeited, seized or transferred into state ownership via administrative methods except there is a need for common benefits of the public in which case there shall be a compensation at the real investment value, based on the market price at the time the transaction occurs or based on the agreed upon repayment method or as determined in the partnership agreement in accordance to the governing laws.

Article 48 Securities

A partnership project company may use its assets, rights as determined in the agreement and its benefits in the partnership project as collaterals for loans [in order to draw funds] for the project development in accordance to the conditions agreed to in the partnership agreement, governing laws and regulations as agreed by the government or by the provincial authority based on their copes of rights.

Securities are determined as the following:

1. Movable assets or real estates owned by partnership project companies or outputs of the partnership projects;
2. Future earnings and earnings that partnerships will receive from the projects;
3. Other securities include stocks and deposit accounts.

Section 4

Monitoring, Inspection and Evaluation of Partnership Projects

Article 49 Overall Responsibilities for Project Monitoring, Inspection and Evaluation

Agencies and relevant parties have the responsibility to monitor, inspect and evaluate relevant partnership projects such as project preparation, tendering, project capital expenditures [and] agreement implementation at the construction, operation, maintenance and project handover or project transfer stages in accordance to their roles and scopes of responsibilities to ensure success of the agreement implementation and of the partnership project.

Agencies and relevant parties shall create a mechanism to monitor and evaluate

achievements measuring against the targets and expectations of their projects.

Article 50 Responsibilities of the Office of Public-Private Partnership

The Office of Public-Private Partnership is responsible for:

1. Acting as the center for coordination with relevant agencies to monitor achievements in the implementation of standard indicators and conditions in order to reach project targets as agreed to in partnership agreements;
2. Coordinating with relevant agencies, project executing agencies and independent auditors in reviewing audit works and quality control;
3. Coordinating with relevant agencies, project executing agencies and partnership project companies in the monitoring and evaluation of their partnership projects periodically on a regular basis;
4. Reporting on situation and progress of partnership projects to Committee for Investment Promotion and Management quarterly, biannually and annually.

Article 51 Responsibilities of Project Executing Agencies

Project executing agencies are responsible for coordinating with relevant agencies to monitor, inspect and evaluate partnership projects at each stage as follows:

- at the project tendering and agreement preparation stage, during which time they shall inspect project implementation to make sure they are in accordance to the plans and as agreed upon in the partnership agreements;
- at the project operation stage, during which time they shall monitor, inspect, evaluate, summarize and report on achievements of partnership project implementation to Committee for Investment Promotion and Management via the Office of Public-Private Partnership;
- at the agreement implementation stage, during which time they shall monitor, inspect and evaluate commitment fulfilments against targets, expectations, standards and qualities as agreed upon in the partnership agreements;

Quarterly, biannual and annual progress reports on the project and agreement implementation shall be made to Committee for Investment Promotion and Management via the office of public-private partnership.

Article 52 Responsibilities of Partnership Project Companies

A partnership project company has the responsibility to monitor, inspect, evaluate, summarize and report on the progress of the partnership project and of the agreement implementation on a regular basis in monthly, quarterly, biannual and annual segments to the relevant project executing agencies, the financial units, Committee for Investment Promotion and Management and to the Office of Public-Private Partnership.

CHAPTER VI

Completion, Handover and Transfer of Partnership Projects

Article 53 The Completion of Partnership Projects

A partnership project completion is a completion of the tasks specified in its partnership agreement and in the feasibility study of the partnership project, and [at which time] the private party selected to develop the project shall handover or shall transfer the project to the state on a case by case basis.

Prior to the handover or the transfer of any partnership project to the state, the procedure below shall be followed:

1. The private party selected to develop a project shall report to the government within six months on completed tasks namely the volume of work, investment costs, financial commitment fulfilments and the fulfilments of socio-environmental commitments and commitments to nature;

2. The planning and investment sector, the relevant agencies and the project executing agency shall be in agreement with the private party selected to develop the project in the selection of an experienced and capable independent auditor to audit and certify the quality and achievements of the project against the standards determined in the project's agreement and in the feasibility study;

3. The Ministry of Planning and Investment appoints committees to inspect and evaluate achievements of partnership projects at the central level. Provincial authorities appoint committees to inspect and evaluate achievements of partnership projects at the provincial level. Any of these committees shall consist of representatives of the Office of Public-Private Partnership, of the relevant finance units, project executing agencies and relevant agencies and provincial authorities to inspect, audit and evaluate achievements and qualities of the partnership projects against the standards specified in their agreements in accordance to the governing laws and regulations and report to the Public-Private Partnership Promotion and Supervision Committee.

Article 54 The Handover of Partnership Projects

In the handover of a partnership project, the Office of Public-Private Partnership shall collaborate with relevant agencies, the project executing agency, the relevant provincial authority and other relevant organizations to inspect technical standards, quantities, qualities and assets of the project, the transfer of technologies and intellectual properties and training for state employees as specified in the project documents and in the partnership agreement, the business orientation or the trial operation for a certain period prior to the official handover.

Article 55 The Transfer of Partnership Projects

In the transfer of a partnership project, the private party selected to develop the project shall transfer assets, buildings and all of the project's facilities along with the project's documents namely manuals, data, design, construction, operation and maintenance documents as well as other relevant documents without any conditions or compensations.

Two years prior to the end of the term of the partnership agreement, the private party selected to develop the project shall conduct a major repair for the partnership project's components to ensure that the assets, buildings and all of the project's facilities to be transferred to the state are in good condition and are capable of running normally and are efficient. [Their conditions] shall be inspected and certified by an independent engineer(s) or by a state organization mutually agreed upon.

One year prior to the term of the partnership agreement's ending, the private party selected to develop the project shall conduct training on important skills to operate and maintain [the project] to government employees.

Partnerships of all models as specified in Article 11 of this Decree, except for the Build Own Operate (BOO), shall be handed over or transferred to the state at the end of their term as determined in Articles 54-56 of this Decree.

CHAPTER VII

Prohibitions

Article 56 General Prohibitions

Individuals, entities and organizations are prohibited from:

1. Abusing power, positions and ranks for own benefits and benefits of friends, family members and relatives;
2. Involving, participating in and/or helping a bidder(s); being a mediator or an agent; bribing relevant [government] employee(s) and authority;
3. Corruption, fraudulent, swindle and deceit in regards to project tendering and partnerships;
4. Falsifying a document or a seal related to a partnership project;
5. Hindering, intervening relevant [government] employee(s) and authority from in fulfilling their job;
6. Without permission, acting as a consultant(s) in the project preparation, designing or determining technical standards for commercial goods and services for a partnership project;
7. Behaving in other ways that are against the laws and regulations.

Article 57 Prohibitions for the Office of Public-Private Partnership, Agencies and Project Executing Agencies

The Office of Public-Private Partnership, agencies and project executing agencies are prohibited from:

1. Endorsing a solicited or unsolicited proposal for a partnership project without going through a proper consideration process as specified in this Decree and in the governing laws and regulations;
2. Covering up, suppressing, stalling or hiding documents on a partnership project;
3. Suppressing or delaying any partnership project implementation procedure;
4. Requesting, demanding, giving or receiving bribe related to a project tendering and/or a partnership, including mediation of partnership conflicts deemed to be in violation of the governing laws and regulations;
5. Corruption, fraudulent, swindle, deceit [or] co-conspiracy in regards to a project tendering and/or a partnership;
6. Opening or utilizing a bank account of an individual, an entity or an organization without their permission;
7. Turning funds from an approved partnership project to [another] investment based on a solicited or unsolicited proposal for a partnership which has already received financial support;
8. Changing the structure and/or increasing the volume of work of an approved partnership project without an approval from Committee for Investment Promotion and Management or from the government;
9. Allowing a consultant or a project contractor to revise technical standards of a project without approval from relevant agencies, from Committee for Investment Promotion and Management or from the government;
10. Revealing project's confidential information to an individual, an entity or an organization unrelated [to the project];
11. Behaving in other ways that are against the laws and regulations.

Article 58 Prohibitions for Tender Committees

Tender Committees are prohibited from:

1. Abusing power, positions and ranks to compel or threaten a bidder(s) in seeking own benefits and benefits of friends, family members and relatives;
2. Corruption, fraudulent, swindle, deceit or co-conspiracy in regards to project tendering, including requesting, demanding, giving or receiving bribe;
3. Revealing confidential information without permission;
4. Neglecting own duties and responsibilities or performing tasks beyond own scope of responsibilities;

5. Covering up, suppressing, stalling or hiding documents on a tendering, including suppressing or stretching the tendering process;
6. Behaving in other ways that are against the laws and regulations.

Article 59 Prohibitions for Project Consultants

Project consultants are prohibited from:

1. Providing consultation in an irresponsible manner, providing false consultation; avoiding giving consultation or avoiding giving good technical consultation on projects to project executing agencies and to public and private parties;
2. Providing incorrect financial information or incorrect technical standards of the project;
3. Neglecting duties as agreed to in the partnership agreement;
4. Modifying technical standards, increasing or reducing volumes of project's work without approval from project executing agencies, Committee for Investment Promotion and Management or from the government;
5. Co-conspiring with relevant project executing agencies, tender committees or with private parties in seeking own benefits and benefits of friends, family members and relatives;
6. Revealing project's confidential information to an individual, an entity or an organization unrelated [to the project] without permission;
7. Behaving in other ways that are against the laws and regulations.

Article 60 Prohibitions for Private Parties, Bidders and Selectees

Private parties, bidders and selectees are prohibited from:

1. Co-conspiring with authority; bribing authority, employees or project consultants who are directly in charge of the project or are related directly or indirectly to a partnership project;
2. Neglecting management of partnership project implementation as agreed upon in the agreement, governing laws and regulations;
3. Modifying technical standards, increasing or reducing volumes of project's work without approval from relevant project executing agencies, Committee for Investment Promotion and Management or from the government;
4. Avoiding customs duties and taxes; covering up earnings or profits, including customs and tax payments;
5. Causing misunderstanding by project executing agencies or by procurement officers in regards to characteristics, qualities, models, symbols and other related issues such as trademarks and brands of products;
6. Selling projects, they have won through bidding to an individual or an entity without

government approval;

7. Transferring or granting partial or whole rights, obligation and benefits deriving from the agreement to an individual or an entity unrelated [to the project] without written approval from the government, except it has been agreed to in the partnership agreement;

8. Advertising in any models to encourage and promote a construction and/or a repair, or to provide commercial goods and/or services that are in violation of the laws;

9. Falsely claiming achievements or reputation of other individuals, entities and/or organizations; maligning, smearing or defaming governmental organizations and/or government employees;

10. Acting or behaving in a way that affects national traditions and culture, and affects security of the society and of the nation;

11. Behaving in other ways that are against the laws and regulations

CHAPTER VIII

Committee for Investment Promotion and Management

Article 61 Committee for Investment Promotion and Management

Committee for Investment Promotion and Management is the same with the Investment Promotion and Supervision Committee as defined in the law on investment promotion. [The committee] has the role of promoting and managing public-private partnership.

Article 62 Rights and Responsibilities of the Public-Private Partnership Promotion and Supervision Committee

Committee for Investment Promotion and Management has the rights and responsibilities within its scope of work to:

1. Supervise researches and the drafting of policies, strategies and legal instruments related to the promotion and management of public-private partnership in order to submit to the government for consideration;

2. Guide the transformation of policies, strategies and government resolutions into programs, workplans and blueprints for promotion and management of partnership projects, including budget plans for partnership projects;

3. Supervise the operation of the Office of Public-Private Partnership in promoting and managing partnership projects to ensure efficiency and effectiveness;

4. Consider and endorse solicited and unsolicited proposals and detailed feasibility studies of partnerships projects;

5. Consider, approve, comment on or reject partnership project developments based on feasibility studies and on environmental, social and natural impact assessments of the projects;

6. Consider and comment on unsolicited proposals for partnerships;
7. Consider for approval or comment on partnership agreements;
8. Supervise, monitor and inspect partnership evaluation;
9. Consider and approve the hiring of experts and consultants proposed by the Office of Public-Private Partnership in accordance to the governing laws and regulations;
10. Contact and collaborate with foreign, regional and international [individuals, entities and organizations] in relation to project partnership as assigned to;
11. Summarize and report on own activities to the government on a regular basis;
12. Exercise other rights and fulfil other obligations as specified in the governing laws and regulations.

Article 63 The Office of Public-Private Partnership

The Office of Public-Private Partnership, having an acronym of “OPPP”, is the same office with the One-Stop Service Center which is the permanent office and secretariat of the Public-Private Partnership Promotion and Supervision Committee.

Article 64 Rights and Responsibilities of the Office of Public-Private Partnership

The Office of Public-Private Partnership has the rights and responsibilities within its scope of work to:

1. Research and draft policies, strategies and legal instruments related to the promotion and management of public-private partnership and submit them to the Public-Private Partnership Promotion and Supervision Committee;
2. Service partnerships in an effective, concise, expedient, transparent and fair manner;
3. Research and draft a standard form agreement, an information management system and a website for the Office of Public and Private Partnership;
4. Collaborate with relevant agencies in selecting solicited proposals for partnership projects to be included in the partnership plan to be submitted to Committee for Investment Promotion and Management for consideration in March of every year;
5. Consider and provide technical comments on solicited and unsolicited proposals, on feasibility studies of projects and on tendering of partnership projects before submitting them to the Public-Private Partnership Promotion and Supervision Committee;
6. Research and draft regulations on the management and utilization of funds to prepare for partnership projects;
7. Manage and administer the utilization of funds for partnership projects, including the hiring of experts and consultants, costs on tendering and on capacity building;
8. Summarize and report on own activities to the ministry of planning and investment and to Committee for Investment Promotion and Management on a regular basis;
9. Exercise other rights and fulfil other obligations as specified in the laws and regulations.

CHAPTER IX

The Management and Inspection of Partnership

Article 65 The Partnership Management and Inspection Authority

The government manages project partnership uniformly at the central level, while assigning the Ministry of Planning and Investment to answer directly for and take ownership in coordinating with other ministries and ministry-equivalent organizations and with other relevant agencies and local authorities in the management and inspection of partnership projects.

The partnership management and inspection authority consists of:

1. The Ministry of Planning and Investment;
2. The planning and investment divisions of provinces and of the Capital City;
3. The planning and investment offices of districts, municipalities and cities.

Article 66 Rights and Responsibilities of the Ministry of Planning and Investment

In managing public-private partnership, the Ministry of Planning and Investment has the rights and responsibilities within its scope of work to:

1. Research, draft, publicize and disseminate strategic plans, policies, laws and regulations on public-private partnership;
2. Create plans, issue decisions, order, recommendations and manuals on public-private partnership;
3. Create and manage an information management system; provide information on partnership promotion policy;
4. Acting as the center for coordination with relevant agencies to research, gather, negotiate agreements and represent the government in signing partnership agreements as assigned by the government;
5. Consider and request for suspension, change or cancellation of a project that does not follow [its] partnership plan or that operates in a breach of the agreement or in violation of governing laws and regulations;
6. Encourage, promote and collaborate with other agencies and relevant local authorities in evaluating achievements of project and business implementation, and resolve issues arising in PPPs nationwide;
7. Guide and facilitate partnership projects to ensure quickness, transparency, fairness and effectiveness;
8. Develop, maintain and improve capacity of employees in the field of partnership;
9. Connect and cooperate with foreign [individuals, entities and organizations] in relation to partnership;
10. Summarize and report on partnership to the government on a regular basis;

11. Exercise other rights and fulfil other obligations as specified in the governing laws and regulations.

Article 67 Rights and Responsibilities of Planning and Investment Divisions of Provinces and the Capital City

In managing public-private partnership, the planning and investment divisions have the rights and responsibilities within their scope of work to:

1. Organize the broadening of, publicize, disseminate strategic plans, policies, laws and regulations on partnership;
2. Act as the center for coordination with relevant agencies at the provincial level to research and gather partnership projects and present them to the Office of Public-Private Partnership who should then present them to the Committee for Investment Promotion and Management for consideration;
3. Collaborate with local agencies in managing and resolving issues arising in partnership projects within own jurisdiction;
4. Encourage, monitor, inspect and evaluate achievements of project implementation, including the implementation of partnership-governing laws and regulations;
5. Facilitate servicing of partnership projects to ensure quickness, transparency, fairness and effectiveness;
6. Connect and cooperate with foreigners in relation to partnerships as assigned by the higher authority;
7. Develop, maintain and improve capacity of employees in the field of partnership;
8. Summarize and report on the partnership within own provinces to higher authority on a regular basis;
9. Exercise other rights and fulfil other obligations as specified in the governing laws and regulations.

Article 68 Rights and Responsibilities of Planning and Investment Divisions of Districts, Municipalities and Cities

In managing public-private partnership, offices of public-private partnerships of districts, municipalities and cities have the rights and responsibilities to:

1. Organize the broadening of, publicize [and] disseminate strategic plans, policies, laws and regulations on partnership;
2. Encourage, monitor, inspect and evaluate achievements of partnership project implementation;
3. Coordinate with other agencies within own districts, municipalities and cities in managing and solving various problems related to partnership projects;
4. Facilitate and support partnership operations to ensure quickness, transparency,

fairness and effectiveness;

5. Collect data and information on partnerships within own districts;
6. Propose plans to develop, maintain and improve capacity of employees in the field of partnership;
7. Summarize and report on partnership to higher authority on a regular basis;
8. Exercise other rights and responsibilities as determined in the governing laws and regulations.

Article 69 Rights and Responsibilities of Other Agencies

Other relevant agencies have responsibilities in accordance to their roles in the collaboration, management, monitoring, inspection, implementation, coordination and facilitation of partnership project operation as specified in this Decree and in the governing laws and regulations.

Article 70 Audit matters

The audit matters are as follows:

1. The implementation of partnership-governing laws and regulations;
2. The implementation of partnership agreements;
3. The implementation of partnership procedures as determined in feasibility studies.

Article 71 Types of Audit

There are three types of audit as follows:

1. Regular audit;
2. Audit with prior notice (irregular audit);
3. Emergency audit.

A regular audit is a normal audit which is planned within a certain timeframe and conducted at least once a year with the public private partnership office as the focal point of audit coordination.

An audit with prior notice is an unplanned audit that is conducted only when there is a necessity. The project to be audited shall be notified twenty-four (24) hours in advance. Emergency audit is an audit that is conducted when there is an urgent need without giving prior notice to the projects to be audited.

The audit can be conducted in the form of audit of documents and actual operations at the workplace.

CHAPTER X

Rewards for Good Performers and Measures against Violators

Article 72 Rewards for good performers

Individuals, legal entities or organizations who have done good deeds in their implementation of this Decree such as encouraging, promoting and attracting partnerships which can contribute to socio-economic development of the nation and effectively protect the environment shall receive certificates of recognition and other incentives in accordance to the governing regulations.

Article 73 Measure against violations

Individuals, legal entities or organizations who violate this Decree, laws, regulations, partnership agreements and rule shall be subject to measures depending on the seriousness of the violation in the form of education and training, punishment, penalties, payment of civil compensation or subject to prosecution for criminal offence depending on the seriousness thereof.

CHAPTER XI

The Final Provisions

Article 74 The Implementation

The Ministry for Investment and Planning takes lead in the implementation of this Decree.

Other ministries, ministry-equivalent organizations, local authorities, and other organizations shall acknowledge and strictly comply with this Decree.

Article 75 The Entry into Force

This Decree shall enter into force after fifteen business days following its signing and publication in the Official Gazette.

The Government of the Lao PDR

The Prime Minister



ທອງລຸນ ສີສຸລິດ

ພິມຄັ້ງທີ 1 ຈຳນວນ 300 ເຫຼັ້ມ
ຂະໜາດ 15x21 ຊມ
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