

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
- Summery 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 find 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