



LAO PEOPLE'S DEMOCRATIC REPUBLIC  
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY  
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Ministry of Home Affairs

No. 02/MOHA  
Vientiane Capital, date 27 April 2012

## **GUIDELINE**

### **On the Implementation of the Decree on the Foundation**

This guideline enhances, suggest performing content in some article of the decree on foundation, issue No. 149/PM, dated 19 May 2011 (brief called as the decree) which aim to ensure the actual implementation with fairness and high effective in the area throughout the country.

#### **I. Definitions**

Some terms and sentences use in the decree have meaning as follows:

1. Sub-ministry governance and state personnel management means the Ministry of Home Affairs.
2. The state organization that eligible to approve for establishment means the Ministry of Home Affairs, provincial or capital authorities.
3. Name of the head of board of management or the chief of board of director that defined in Article 20 can be called the of foundation head.

#### **II. Receiving fund donation, property and setting up the fund and property donation box**

1. Receiving donation from individual, legal entities and organization within the country:  
The foundation can receive donation fund, property without request approval from the state organization that authorized to approve for establishment, but any donation amount fifty thousand million kip or more, after received then shall report in writing to the Ministry of Finance or provincial finance department and the state organization that authorized to approve for establishment within seven (7) days.
2. Receiving donation from individual, legal entities and foreign organization: the foundation that can receive the donation fund, property with value less than one hundred million kip and below shall be not request from any state organization, if the value more than one hundred million kip then shall request for approval as follows:
  - The foundation that actively operate at national level shall request for approval from the Ministry of Foreign Affair with certified feedback of the foundation status from the Ministry of Home Affairs. After complete obtaining the donation each time then shall report to the Ministry of Finance and Ministry of Home Affairs in writing within seven (7) days.
  - The foundation that actively operate at province or capital-wide, district or chief-town wide shall request for approval from the provincial, capital foreign relation department with certified feedback of the foundation status from the provincial, capital interior department. After complete obtaining the donation each time then shall report to the Ministry of Finance, the provincial, capital foreign relation department within seven (7) days.

3. Setting up the fund, property donation box: the foundation can set up the fund, property donation box to locations according to defined in the foundation regulations and base on the agreement of the site owner.

### **III. Fund raising**

The foundation can do a campaign for fund, property to the foundation with form of hosting the stage, host a meeting or event organized to request to individual, legal entities, organization voluntary donate, support fund and property to the foundation by perform according to procedures as follows:

1. Make the proposal through the provincial, capital interior department to request with the governor or capital mayor where to be used as a location for fundraising. In the proposal letter must clearly indicate the purpose, content, date, time, location and how to do fundraising as well as to ensure the tidy orderly in the event.
2. After completion of the fundraising each time, the foundation shall report to the organization that approved for establishment within seven (7) days.

The fund and property that received from the mobilizing the campaign after the deduction of expense then shall use in the defined purpose only. In case the fundraising with any specific purpose, all money and property that received from the mobilizing the campaign shall bring to use in the specific purpose only such as disaster, storm, fire, pandemic, famine.

### **IV. Initial fund and property required for the foundation establishment**

The founder or the committee that found the foundation shall have capital and property that necessary in the beginning in appropriate amount to ensure the activities operate regularly and able to perform according to the purpose set out in its regulations.

### **V. The foundation human resource structure**

The foundation that belongs to Lao individual, organization or legal entities: Board of Management or the Board of Director, Deputy chief, Compliance board; Director(s); and secretary of the foundation shall be Lao citizen and not a person with mental health.

Alien, foreigner who actively work or have profession in the Lao PDR, who have contributed fund or property to establish the foundation with the organization or Lao citizen can be act as the honored chief or the consultant to the foundation.

### **VI. The foundation establishment procedures**

Regulations and procedures to propose for the foundation establishment which defined in Article 12 of that decree shall perform according to following details:

#### **A. For the foundation that actively operate in the area throughout the country**

##### **1<sup>st</sup> step:**

The initial founder or the committee that form the foundation shall documenting to propose for the foundation establishment properly and complete according to defined in Article 13 of the decree on the foundation then submit to the Minister of Ministry of Home Affairs for consideration.

##### **2<sup>nd</sup> step:**

When the Ministry of Home Affairs received the documents for the foundation establishment, they shall be checked for accuracy and completeness of the document. In case the document is corrected,

completed, the Ministry of Home Affairs shall deliver necessary documents to the Ministry of Public Security, Ministries or other relevant organizations which associated in the area to operate the foundation to request for feedback at latest not more than five (5) days. In case the document is incorrect, incomplete as required, the Ministry of Home Affairs shall return to the founder or the committee that form the foundation within three (3) days to re-documenting as well as instruct clearly on the point that need to be improved.

**3<sup>rd</sup> step:**

The Ministry of Public Security, Ministries or organizations that related to the area of the foundation activities, when received the proposal and documentations from the Ministry of Home Affairs then shall reply with feedback within forty (40) days (if overdue then shall deem the Ministry of Public Security, Ministries or related organizations shall deem agree to establish the foundation).

**4<sup>th</sup> step:**

After received the feedback from the Ministry of Public Security, Ministries or relevant organization, the Ministry of Home Affairs shall consider approved or reject the establishment of the foundation within fifteen (15) days.

**B. For the foundation that actively operate within the province, capital, district, or municipals**

**1<sup>st</sup> step:**

The initial founder or the committee that form the foundation shall documenting to propose for the foundation establishment properly and complete according to defined in Article 13 of the Decree on the Foundation then submit to the provincial of interior department, the capital mayor for consideration.

**2<sup>nd</sup> step:**

When the provincial, capital of interior department received the documents for the foundation establishment, they shall be checked for accuracy and completeness of the document. In case the document is corrected, completed, the interior department shall deliver necessary documents to the **police command office**, division or other relevant organization which associated in the area to operate the foundation to request for feedback at latest not more than five (5) days. In case the document is incorrect, incomplete as required, the interior department shall return to the founder or the committee that form the foundation within three (3) days to re-documenting as well as instruct clearly on the point that need to be improved.

**3<sup>rd</sup> step:**

**The Police Command Office**, Department or organizations that related to the area of the foundation activities, when received the proposal and documentation from the interior department then shall reply with feedback within forty (40) days (if overdue then shall deem the police command office, department or related organizations shall deem agree to establish the foundation).

**4<sup>th</sup> step:**

After received the feedback from the Police Command Office, Department or relevant organization, the provincial, capital of interior department shall propose to the governor or capital mayor to consider approved or reject the establishment of the foundation within fifteen (15) days.

## **VII. Merging, separation and abolition the foundation**

### **1. Merging:**

Merging from two or more foundation as one foundation according to defined in Article 31 of the Decree shall perform according to following details:

The foundation that intends to merge, the board of management from each foundation shall discuss and anonymously, after that shall prepare documentation completely as below to propose to the organization that authorized to establish the foundation consider:

- 1) Proposal to merge the foundation.
- 2) Merging reason explanation report
- 3) Copied of the regulation that recently used in each foundation (if there is any change then shall attach to with the explanation report and compare the difference between the old and new regulations).
- 4) Name list of the board of management or the board of director of the new foundation (estimation).
- 5) Brief biography of the potential to be the new board of management or the new board of director as previously did not yet informed.
- 6) The meeting minutes of the board of management or the board of director of the foundation on agreement for merging.
- 7) List of asset, debt, income, expense, and plan for debt payment of each foundation.
- 8) Certified document of the new foundation office location.

When received document proposing for merging of the foundation correctly and complete, the organization that authorized to approve for the foundation establishment shall consider adopt or reject the merge within fifteen (15) days.

In case of merge the foundation led to the change of regulation and personnel of the board of management of the foundation, the foundation that required report to explain a reason of the point the change and need to send brief biography of potential person who will be the board of management of the new foundation but previously never send before to the organization that authorized for approval of the foundation establishment to consider.

### **2. Separation**

Separation of one into two or more foundations according to defined in Article 31 of the decree shall perform as follows:

The foundation board of management shall document as follows properly and complete then submit to the organization that authorized to approve for establishment to consider as follows:

- 1) Proposal for separation
- 2) Separation reason explanation report
- 3) Draft of the new foundation regulations
- 4) Meeting resolution of the foundation board of management on the separation.
- 5) List of assets (income, expense) and plan for debt payment of the foundation.
- 6) Brief biography, proof of resident, criminal record, copied of the family book and ID card of the person who will be the new board of management (if any change)
- 7) Certified document of the new foundation office location (if any change).

When received document proposing for merging of the foundation correctly and complete, the organization that authorized to approve for the foundation establishment shall consider adopt or reject the separation within fifteen (15) days.

### **3. Abolition**

Voluntary abolish of the foundation is in case that the foundation expired or reached the expectation in all aspect or the foundation have no fund to run it anymore.

When the foundation voluntary abolishes, the foundation board of management shall prepare documents as below properly then submit to the state organization that authorized to establishment to consider:

- 1) Proposal for abolition
- 2) Meeting resolution of the foundation board of management which agreed for abolition.
- 3) Abolition reason explanation report
- 4) List of assets (income, expense) and plan for debt payment of the foundation and remaining property handover according to defined in the foundation regulations.
- 5) Seals and seals usage registration.
- 6) Agreement approval to establish the foundation (original issue)

After received document proposing for abolition of the foundation, the organization that authorized to approve for the foundation establishment shall consider abolishing or reject within fifteen (15) days.

The Ministry of Home Affairs, province, capital issue notice on the abolition of the foundation to relevant sector and the public to acknowledge.

### **VIII. Adoption of the board of management and change of the foundation location.**

- The organization that authorized to approve for the foundation establishment is the adopter of the foundation board of management.
- When there is a change of the board of management or any number, within 30 days, the foundation shall report and propose to the organization that authorized to approve for the foundation establishment to acknowledge and consider adopt the new board of management.
- After received the report and proposal letter to adopt the new board of management, the organization that authorized to approve for the foundation establishment shall consider adopt or reject the adoption at least not more than 30 days.
- In case any position of the foundation board of management vacant prior the due date, the foundation shall select the replacement within 30 days after that then report and propose to the organization that authorized to approve for the foundation establishment to acknowledge and consider for adoption or reject the new board of management to replace at least not more than 30 days.
- When there is relocation or change the foundation office location, the foundation shall report to the organization that authorized to approve for the foundation establishment to acknowledge within 30 days from the date of relocation.

### **IX. The cooperation with foreign country and the international organization of the foundation**

The foundation be able to contact, cooperate with foreign country and the international organization base on regulations which the government, the Ministry of Foreign Affair set out.

For the cooperation to receive the foreign fund aids, the international organization with value from one hundred million kip or more, it shall be passed the foundation situation certification from the state organization that authorized to approve for the foundation establishment then propose to the Ministry of Foreign Affair or the provincial foreign relation department consider.

## **X. Performing policy to the outstanding performance**

Performing policy to the foundation or individual of the foundation (collectively called the foundation) who have outstanding performance which defined in Article 46 of the Decree with detail to follow as following:

- The foundation with outstanding performance in contributing benefits and goodness to society and national shall be received medals, badges, compliment and congratulate letter in many levels appropriately.
- The foundation that actively operate in country wide shall be the Ministry of Home Affair to consider give complement or propose to upper level to provide compliment according to type and according to appropriation.
- The foundation that actively operate in province, capital area shall be the provincial, capital interior department to propose to the governor, capital mayor to give complement or the governor, capital mayor propose to upper level to provide compliment according to type and according to appropriation.

## **XI. Form of violation and measure**

Following behavior or activities is violation according to Article 47 of the Decree and having measure to the violation as follows:

1. The due date for annual report, but intend not delivery the annual report on the activities and the annual financial report to relevant organization. The 1<sup>st</sup> time violation shall be warned and educated; the 2<sup>nd</sup> time violation continuously shall be abolished;
2. Relocation the foundation office location to the new place, but intend not giving notice to the relevant organization to acknowledge according to the terms. The 1<sup>st</sup> time violation shall be warned and educated, the 2<sup>nd</sup> time violation shall be temporary suspended the activities, in case continuously violated and intend to avoid to let the state organization to acknowledge then shall be ordered to be abolished;
3. Expense the management fund exceeding 10% of the annual expense plan. The 1<sup>st</sup> time violation shall be warned and educated, the 2<sup>nd</sup> violation continuously shall be ordered to temporary suspended the activities, in case of intend to continuous violate then shall subject to be abolished;
4. Use the aid fund, donation money that have mobilized a campaign incorrect to the purpose, target that defined in the regulations of the foundation. The 1<sup>st</sup> violations shall be warned and educated, the 2<sup>nd</sup> violation continuously shall be ordered to temporary suspended the activities, in case of intend to continuous violate then shall subject to be abolished;
5. Operate exceeded the area and scope that defined in the foundation regulation which lead to damage the society. The 1<sup>st</sup> violations shall be warned and educated, the 2<sup>nd</sup> violation continuously shall be ordered to temporary suspended the activities, in case of intend to continuous violate then shall subject to be abolished;
6. Violated the prohibition according to defined in Article 19 of the law on the foundation and state regulations. Base on serious or compromise of the violation shall be considered to appropriate measurement. The 1<sup>st</sup> violations shall be warned, educated or shall be ordered to temporary suspended the activities, the 1<sup>st</sup> time violation which make serious damage to society and national other than proceeding case according to the law, also shall be subjected to abolished;

The Ministry of Home Affairs will cooperate with relevant organization to consider and perform measure to the foundation that operate in the area throughout the country wide.

The provincial, capital authorities will cooperate with relevant organization to consider and perform measure to the foundation that operate in the area of province, capital, district and municipals.

The foundation that subjected to suspended or temporary abolished the activities, the ~~state~~ organization that authorized to approve for establishment will withdraw the agreement to approval of establishment, seals as well as the seals usage registration of the foundation until the foundation have changed and resolved properly then shall be returned.

The foundation that ordered to cancel, the state organization that authorized to approval of establishment will withdraw the agreement to approved for establishment, seals as well as the seals usage registration permanently.

## **XII. Request to re-establishment of the foundation**

The approval of re-establishment of the foundation shall follow as defined in Article 49 paragraph two of the decree shall be followed below:

Any foundation that established prior the decree on charity, issue no. 149/PM, dated 19 May 2011 shall bring completed document according to defined in article 13 of the decree and other document which deem necessary such as: the agreement to establish the foundation; the agreement or resolution to assign the board of management, the chief, deputy chief, the audit committee, the foundation secretary and regulations currently applied, after that shall send to the organization that authorized to approve for establishment to consider within Sixty (60) days from the date 20 August 2011. If exceeded such due date, the foundation that not yet register to re-establishment shall be violated to the law and regulations of Lao PDR.

## **XIII. Guideline implementation**

this guideline is effective from the date of signature, through the organization to perform in actual even, if there is any unclear, still not understand, performance lack of fairness and other, please send review feedback to the Ministry of Home Affairs to consider resolve on time according to the situation.

**The Minister of Home Affairs**

*[Department seals and signed by Khampan Pilavong]*