



Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

===== 000 =====

Ministry of Energy and Mines (MEM)

No: 398 /MEM
Vientiane, Date: 19 September 2006

Ministerial Decision
on Institutional Arrangement and Term of Reference
of Department of Energy Promotion and Development

- Based on the Prime Ministerial Decrees on the Institutional Arrangement and Term of Reference of Ministry of Energy and Mines, No. 136/PM, dated 24th of July 2006.
- Pursuant to the proposal of the Department of Organisation and Personnel, Ministry of Energy and Mines, No 049/MEM-HR, dated 8th of August 2006.

The Minister issues this Decision:

Section I
Institutional Arrangement

Article 1: Hierarchy

The Department of Energy Promotion and Development, abbreviated as “EPD” is a technically administrative organization under the hierarchy of the Ministry of Energy and Mines, which has the roles to provide assistance to the Minister of MEM in relation to the promotion and the development of energy sources throughout the country.

Section II
Duties and Rights

Article 2: General Duties

- 2.1 to review and provide recommendations on improvements of pertinent laws, regulations and guidelines aiming at strengthening and achieving transparency in the promotion and investment in energy sector.

- 2.2 In close collaboration with line ministries and authorities to locate appropriate rates of duties, taxes, fees and other incentives in order to promote and attract the power development taking into account supply of sufficient energy to cope the market demand from time to time.
- 2.3 to support or provide advices on legal, financing, banking issues and relevant power development procedure as required by the public and business people for conveniently and effectively accessing financing sources.
- 2.4 to define efficient regime for the promotion and reward or appreciation to be awarded to organizations and business units for their excellent achievement in the energy sector.
- 2.5 to provide and disclose information on projects to the public and business people for use in the power development; to process investment proposals including related documents enabling the EPD to conduct economic and financial analysis, power purchase and market research in accordance with the duties and responsibilities of MEM.
- 2.6 to provide legal comments to all legal agreements to be used by decision makers as background for considering the approval of investment in the energy sector; to draft agreements and legal papers; to conduct negotiation on agreements to which the Lao Government is party, to participate in the negotiation on other agreements related to power project and in all cases the EPD shall report to the higher authorities on the results for their instruction or approval to designated the signatory for signing.
- 2.7 to facilitate, instruct and monitor compliance with laws, policy, development procedure for the promotion of power development. To manage and monitor implementation of executed agreements in relation to project construction and operation as to keep higher authorities informed of the status of development periodically.
- 2.8 to facilitate public, domestic and foreign private parties to be involved in various options of energy development as set forth in the Term of Reference of the Ministry of Energy and Mines.
- 2.9 to act as secretariat of ad hoc committee within the energy sector and project steering committee for the implementation of power projects as the case may be.
- 2.10 to recruit, assign, provide capacity building and manage EPD's staff in accordance with the public servants' code.

Article 3: Power and Authority

- 3.1 to sign invitation letters for internal governmental meetings as well as meetings with foreign invitees, delivery notes, formal correspondences between parties of agreements and to make direct contact with developers, investors, constructors, lenders and other consultants. In addition, the EPD has the power

- to sign other documents whereby power has been devolved by the MEM minister.
- 3.2 to invite developers, investors, consultants, contractual parties of the governments, international organizations to present, provide information, report on project documents, to discuss and negotiate agreements when deemed necessary . To follow up contractual parties in relation to the agreement implementation and operation and provide progress report on the projects. To advise the government of Laos as party to the agreements on dispute resolution and to proceed to termination process as set forth in the agreements.
- 3.3 to encourage the developers of different projects to coordinate with each other in order to optimally achieve efficiency and at the same time to minimize negative environmental and social impact.
- 3.4 to coordinate with international cooperation agencies such as: ASEAN and MRC.
- 3.5 to directly report on various issues to MEM minister for his guidance and approvals.
- 3.6 to undertake other works as assigned by the MEM minister.
- 3.7 to report to the minister on the cases of incompliance with public servants' code and other regulations of energy promotion and development of the EPD's staff.
- 3.8 to provide reformatory actions , capacity building, to manage the EPD's civil servants. To monitor and appreciate staff for the excellent performance and to discipline those who disobey rules.
- 3.9 to sign witness of agreements whereby power and authority has been devolved by Minister of Energy and Mines

Section III Organizational structure and staffing

Article 4: Staffing Composition

- 4.1 The EPD is headed by Director General which is appointed or dismissed by the Prime Minister subject to proposal of the Personnel Committee of the Central Party with a concurrence of the MEM minister.

The Director General assumes direct liability to the minister for the success and deficiency in performing his duties as defined in Article 2 and Article 3 of this decision.

The Director General is authorized to sign all documents on behalf of the EPD, in case of unavailability the Director General may delegate his power to one of his Deputy Directors to act on his behalf.

- 4.2 The EPD is also assisted by a number of Deputy Directors General, who are appointed and dismissed by the MEM Minister subject to the proposal of the Department of Organisation and Personnel and pursuant to an agreement with the Personnel Committee of the Central Party and the Director General.

Deputy Directors General are accountable for providing assistance to the Director General in directing and leading general management of the EPD, running specific activities as assigned by the Director General.

Article 5: Organizational Structure

The EPD is composed of four divisions as below:

- 5.1 Logistics and Project Support Division
- 5.2 Database and Project Promotion Division
- 5.3 Negotiation and Contract Management Division
- 5.4 Project Development and Monitoring Division

Article 6: Duties of Divisions

6.1 Logistics and Project Support Division

- 1) to prepare EPD's annual budget and submit to MEM cabinet office for endorsement.
- 2) to procure, manage office supplies and office equipments, and maintain an inventory list.
- 3) to arrange venues for public consultations, roundtable meetings, functions and seminars designated to the EPD.
- 4) to prepare agenda staff meeting, staff meeting report, prepare weekly, monthly, and annually report, and prepare the EPD monthly minutes of the staff meeting.
- 5) to handle traveling logistics such as: visa, air ticket, transportation for the Lao high ranking official(s) going to and returning from negotiation and meeting.
- 6) to file incoming documents/correspondences, filing, and be responsible for working schedules of the EPD.
- 7) to communicate and coordinate with local authorities in order to facilitate executives, officials from other ministries, interested IPP developers and interested construction contractors for their site visits.
- 8) to facilitate, assist and advise investors, developers or contractors in obtaining permission and certification of the importation of machineries, equipment and labors with line ministries), government units, provinces and local authorities as

deemed necessary.

- 9) to be responsible for human resource development and management within the EPD in accordance with public servants' code and policies as defined by the higher authority.

6.2 Database and Project Promotion Division

- 1) to construct database of financial, technical and other information relating the energy sector development. To post such information on the EPD's website for the purpose of information disclosure and distribution to the interested developers or the interested participants in the development of energy projects in Lao PDR; and to provide guidance on the procedures of the development of the energy projects in Lao PDR to potential developers who visit and call on the EPD.
- 2) to store database for strategic development plan, demand and energy tariff of neighboring countries and other related information as may be used for negotiation by relevant committee. .
- 3) to carry financial and economic analysis in respect of direct and indirect benefits to be received by the Government of Laos and use such analysis as target at technical negotiation the final outcomes of which shall be reported onto higher management. The EPD shall explain the analysis result to the participants involved in the meeting. In addition the EPD shall study and review all assumptions, project cost, loan interest, capital structure and the total project cost that have been presented by the investors.
- 4) to review and adequately locate tax rates, fees, levies imposts including incentive packages aiming at promoting and stimulating investment in energy sector as to meet the demand for energy from time to time.
- 5) to coordinate and be prepared to work with international cooperation organizations such as: ASEAN, MRC or similar organizations involved in the cooperation, trade and investment in energy sector.
- 6) to participate in the negotiation with Negotiation and Contract Management Division; and to provide comments on the Project analysis result for the negotiation as designated by the Director General.

6.3 Negotiation and Contract Management Division

- 1) to compile laws, decrees on implementation of laws, Government Resolutions, Government Decisions, Government Orders, edicts and regulations of Lao PDR. To familiarize with laws, rules, and standards in energy sector, business sector, finance sector, banking sector and administration procedure in the neighboring countries and international communities in order to use as references to create legal binding agreements with foreign investors, contractors, consultants, and off takers.
- 2) to draft Memorandum of Understanding (MOU), Project Development Agreement (PDA), Concession Agreement (CA), and other legal binding

documents and agreements taking the benefits of the Lao Government into account .

- 3) to draft invitation letter to be signed by the General Director to invite developers to present on project documents, negotiate and conclude agreement. To draft invitation letter to stakeholders such as investor, off-taker, and others involved in the negotiation.
- 4) to summarize and review all agreements before presenting to the Lao negotiation team, to prepare agreement's summary, including stand points and counter-arguments for the negotiation with investors. To prepare relevant documents, hand-outs, information memorandum and supporting documents to be distributed to the Lao internal meeting(s) and meeting(s) with investors.
- 5) agreements to which the Lao Government is party:
 - i. In close cooperation with other Divisions, to support the General Director in the negotiation with the developer (s) and investor(s). To share draft agreements with other parties after the results of each negotiation and modification have been made to such draft.
 - ii. After concluding the negotiation, the EPD shall report to its higher relevant authorities for final approval for signing within a timely fashion
 - iii. If the agreements require the approval, grant of exemption from the National Assembly or other relevant ministries, the EPD shall prepare report for the concerned authorities, and follow up the process of such approval(s) .
- 6) For agreements for which the Lao Government is not party:
 - i. To be actively involved in approaching, consulting and discussing with potential power off-taker, financiers, international financial institutions, consulting firms, contractors and independent monitoring agencies related to the projects as the case may be.
 - ii. After each round of negotiation, the EPD shall keep its relevant authorities informed of progress for guidance for next round or for approval as the case maybe.
- 7) to review cross-references and compliance of the agreements that were signed by the Lao Government with other agreements such as: Power Purchase Agreement (PPA), EPC Contract and other Financing Agreement prior to request for GoL's endorsement.
- 8) to follow up the implementation of the agreements and the interpretation of the signed agreements so as to advise to higher authority to consider extension, giving notices, re-negotiation and rectification of the default or termination as the case maybe.

- 9) to process legal works, contractual arrangements and other legal procedure under the direction of the Director General.

6.4 Project Development and Monitoring Division

- 1) In close collaboration with the Department of Electricity and other relevant governmental bodies to follow up at the project sites process of Feasibility Studies and also the Environment and Social Impact Assessment studies .
- 2) to understand the Concession Agreements, Shareholder Agreements, Engineering Procurement Construction contracts(EPC contract), Power Purchase Agreements and other important project documents as to ensure smooth coordination and monitoring the projects in all aspects during the construction as well as operation .
- 3) In close collaboration with project companies and other relevant units to make project information disclosed the public , local community and project affected people and other stakeholders.
- 4) to regularly convene meetings amongst project participators including contractors in order to streamline convenience and smooth out difficulties encountered during project implementation by referring to the provisions of the agreements or good faith of relevant authorities.
- 5) to collaborate with line ministries and the relevant local authorities aiming at expediting the project implementation to be completed as scheduled.
- 6) to liaise with the GOL advisors in preparing progress reports including findings and recommendations to higher management for their guidance.
- 7) to work with foreign project stakeholders including non-governmental organizations for monitoring their involvements in the projects and keep higher management informed of regularly.
- 8) to coordinate with other relevant governmental authorities in monitoring the construction, environmental and social mitigation measures and the resettlement of the affected population during the construction of the project.
- 9) After the project construction has been completed, to gather grievance and complaints from project affected people for further consideration to be made by relevant units.
- 10) to complete monthly, bi-annual and annual report on the implementation of the projects.
- 11) to participate in the negotiation of agreements as assigned by the Director General.

Section IV Working Regime

Article 7: Working Regime

- 7.1 to apply the principle of sole directorship overarching the department hierarchy that lays on the basis of centralized majority and leadership with top-down specific assignment as per job description of individual position.
- 7.2 To act and function in accordance with the Party's directive policy and MEM's sector strategic plan by elaborating into a detailed plan for each specific project, setting target of achievement and drawing lessons .
- 7.3 to follow regime of reporting, consultation, regularly monitoring, debriefing and seeking guidance from higher authority.
- 7.4 to coordinate with other departments of within the Ministry of Energy and Mines and other authorities concerned in accordance with EPD's power and authorities as to ensure the energy sector development program be effectively implemented.
- 7.5 to organize monthly staff meeting and to debrief on its achievement to the Ministry regularly .

Section V General Provisions

- Article 8:** The EPD has its own seal for official use.
- Article 9:** The EPD and other parties concerned acknowledge and strictly comply with this Decision.
- Article 10: This Decision shall become effective from the date of its signature and supersede other decisions or orders that contradicts the provisions of this Decision.

Minister of Ministry of Energy and Mines

Dr. Bosaykham VONGDARA