

Unofficial translation



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

**Ministry of Communications, Transport
Post and Construction**

No.: 08908/MCTPC

**Regulation
on
Business Licenses for the Incorporation and
Operation of Building Survey-Design Businesses**

- Pursuant to the Law on Business, No. 03/94/NA, dated 18 July 1994;
- Pursuant to the Law on the Promotion of Domestic Investment No. 03/95, dated 8 March 1995;
- Pursuant to the Law on the Promotion and Management of Foreign Investment in the Lao PDR No. 01/94, dated 4 March 1994;
- Pursuant to the Prime Minister's Decree No. 66/PM, dated 20 May 1999 on the Organization and Operation of the Minister of Communications, Transport, Post and Construction.

**The Minister of Communications, Transport, Post, and Construction hereby issues a
Regulation:**

**CHAPTER I
General Regulations**

Article 1 Objective

This Regulation defines regulations on permission for the incorporation and operation of building survey-design businesses and the management and promotion of those business units to operate their businesses in accordance with the policy of the Lao People's Revolutionary Party and state laws and regulations in order to actively contribute to national socio-economic development.

Article 2 Building Survey-Design Businesses

"Building survey-design business" refers to a service business which includes survey-research of soil and construction materials, architectural and structural design, interior-exterior design, and management and inspection of housing and building service production businesses. Those services are collectively referred to as a "Building Survey-Design Company" and hereinafter referred to as a "BSDC."

Article 3 Building Survey-Design Business Operation

1. A sole-trader enterprise or a company may incorporate and operate a building survey-design business once it is duly permitted in accordance with the regulations and principles of the Division of Communications, Transport, Post, and Construction of the province, capital, or special administrative area in which the business will be incorporated.
2. All parties not obtaining permission to incorporate and operate a building survey-design business in accordance with the regulations and principles may not operate such a business, and persons, public organizations, and private organizations are prohibited from hiring or allowing a person without such permission to survey-design, manage, or inspect the construction of a project.

Article 4 Types of BSDC

1. A BSDC consists of three types: a soil and construction material survey-research company; a building design-decoration company; or a building construction consultancy company. Those types are classified based upon minimum registered capital and actual technical capability and must be written on a business license.
2. Each type of BSDC may operate its business countrywide within the following permitted scope of services:
 - A soil and construction material survey-research company is only allowed to conduct surveys of and research into areas, soil, and material sources, and to examine, test, and issue qualification certificates for soil and construction material;
 - A building design-decoration company is only allowed to carry out area surveys, architectural design, structure design-plans, interior-exterior design-decoration, and evaluation and monitoring of construction;
 - A building construction consultancy company is only allowed to carry out project studies, listing of documents, drawing up of technical standards for design and construction, preparation of bidding documents, drafting contracts, construction management (supervision and monitoring of construction), inspection, and issuance of qualitative certificates for the structure and other components of a building.

CHAPTER II

Regulations on the Issuance of Licenses for Incorporation and Operation of Building Survey-Design Businesses

Article 5 Conditions for a BSDC

1. Financial conditions:

Each type of BSDC must have a stable and sufficient financial position for its operations. Total capital must be based upon a total value of fixed assets and existing working capital or based upon the balance sheet of the company as audited by a

competent authority or independent auditor licensed to conduct auditing work under applicable laws and regulations.

2. Technical conditions:

- An applicant, who is a director of the company, must be a specialist with building construction knowledge at vocational education level or above;
- The BSDC must be ready in terms of personnel with at least two persons being specialists with building construction knowledge at vocational education level and firsthand working experience; provided that those personnel are not civil servants or specialists of other companies, and have never been ordered by a court to cease working in this field;
- The BSDC must have vehicles, machines, and tools to service the survey-design, management, and inspection of construction in accordance with the list and numbers stipulated for its type of business.

3. Legal conditions:

- The BSDC must be registered with the commerce and tourism authority and have its articles of association and enterprise registration certificate licensing the company to conduct the survey and research of construction materials or building design-decoration or construction consultancy. For foreign investment in the business, an investment license is also required;
- A company or a person applying for a license must not fall within the list of persons or companies ordered by a court or a competent authority to cease or suspend their business operations;
- After the Association of Lao Architects and Civil Engineers has been officially incorporated and is in operation, a director and a specialist must be members of the association.

4. Other conditions:

- The BSDC must have a permanent office with the enterprise name sign (whether a sole trader enterprise or a company), enterprise registration, and contact number. In case of office address change, a new office address must be notified to the relevant authorities;
- The detailed financial and technical conditions and office equipment for each type of BSDC is enclosed herewith in Appendix 1.

Article 6 Approval of Licenses

1. A sole-trader enterprise or company that is qualified in accordance with Article 5 above and wishes to apply for permission to operate one or more types of building survey-design business must prepare an application and required documents and submit them to the Division of Communications, Transport, Post, and Construction for consideration in accordance with laws and regulations (a building construction

consultancy company may apply for permission to add a business activity of types 1 or 2 or both to the enterprise registration certificate, whereas a building survey-design company of types 1 or 2 may not apply for permission to add a business activity of type 3 to its enterprise registration certificate);

2. Preparation of required documents must be carried out in accordance with the printed forms, approved by a competent authority, and detail the actual circumstances (a detailed list of documents and forms can be found in Appendix 2);
3. An applicant will be liable for the accuracy of submitted information or documents in accordance with the laws and regulations.

Article 7 Issuance of License

1. Upon receiving an application for permission, the relevant Division of Communications, Transport, Post, and Construction will consider it and respond to the applicant in writing within 30 days. If the applicant is qualified in accordance with Article 5, a license will be officially issued to the applicant.
2. A person licensed to conduct a building survey-design business must pay an official fee for the issuance of each license in an amount stipulated by a relevant authority from time to time (the official fee for each type of BSDC shall initially comply with Appendix 1).

Article 8 Use of License

1. A business license for building survey-design may only be used by a person so licensed. They shall not transfer or assign it to others to use.
2. Each business license shall be valid for 12 months from the date of issuance. If the business operator wishes to continue operating the business, they shall submit an application for renewal at least 30 days prior to the expiry date. During that time, the BSDC may operate its business normally until receiving a response from the relevant authority and follow up on such response.
3. In case of necessity to temporarily suspend its business (not exceeding one valid period), the BSDC must submit a request for temporary suspension with clear reasons to the Division of Communications, Transport, Post, and Construction that supervises the company for acknowledgement and issuance of a certificate as evidence.
4. In case of the necessity to suspend its business for more than one valid period, the BSDC must obtain the approval of a commerce authority prior to suspending its business; otherwise, the company will have to prepare and submit an application and required documents to the commerce authority for a second time in order to re-operate its business.

CHAPTER III Principles for Operation of BSDCs

Article 9 Scope of Business Operations

1. A BSDC which is duly licensed to operate its business in accordance with laws and regulations must operate its business in accordance with the policy of the Lao People's Revolutionary Party and state laws and regulations, and shall be under the supervision and inspection of relevant authorities.
2. The operation of each type of BSDC must be within a licensed scope, sector, and purpose of business. If a survey-design or management of building construction project includes tasks of other types of BSDC or of other sectors, the BSDC granted a project may accept those tasks provided that the total value of those tasks combined does not exceed 20% of the total project value.
3. The BSDC must have a professional ethic, perform its duties in an active manner for the benefit of society and must not carry out any act which damages other BSDCs or its own honor, integrity, and reputation.
4. The BSDC is prohibited from disclosing confidential information on its project or assigned work without the consent of the project owner.
5. The BSDC is prohibited from copying or using other persons' designs without permission, or issuing a research, test, or inspection result certificate or approving a design or drawing which has not prepared by the BSDC.

Article 10 Bidding for Projects

1. All licensed BSDCs may, in accordance with laws and regulations, submit a bidding instrument or offer a price for the project based upon the licensed business activity for its type.
2. For the bidding, the offering of a bid for the survey-design or construction management project must be made in good faith and with reason and fairness; the act of conspiring to set a price or to carry out any acts to facilitate itself or another BSDC to win the bidding is prohibited.
3. After obtaining a survey-design or construction management project, the BSDC must sign a contract with an employer or a project owner, the contract must be notarized in accordance with applicable laws and regulations, and it must not neglect its assigned work without any reasonable grounds.
4. The BSDC is prohibited from using the same design or drawing to perform work or projects for other employers or project owners unless an employer or project owner of the project to which the design or drawing belongs allows the BSDC to do so.
5. The BSDC is prohibited from utilizing the same work or project for other employers or project owners in order to compare, bid, or compete unless the BSDC has already informed or received consent from a current employer or project owner.
6. The BSDC is prohibited from accepting the same work or project of, or subcontracted work from, another BSDC that has a contract for that work, unless it is in accordance with the purpose of the employer or the project owner and the employer or the project owner has already informed the other BSDC and obtained consent from it, or the

employer or the project owner has clear proof that the contract has been terminated or is null and void.

Article 11 Implementation of Obligations

1. After signing a contract with an employer or a project owner, the BSDC must strictly perform its contractual obligations. The survey-design or construction management must be in compliance with given technical standards and the basic objectives of the project.
2. All BSDCs must fully pay their business turnover tax, profit taxes, and personal income taxes to the state on a timely basis. For each occasion of renewing a business license, a tax payment certificate for the previous year must be submitted to the supervising authority.
3. All BSDCs have a duty to contribute to the promotion of the development of housing work and staff, in particular, to provide financial support, facilitate study tours at construction sites, or accept students for internship and pay appropriate wages to those students (for a company with a survey-design or construction management project).
4. All BSDCs must strictly comply with the state accounting and reporting regime regarding its business operations and report on the survey-design and construction management work, financial position, and use of labor to the Division of Communications, Transport, Post, and Construction that supervises the BSDC at least twice a year (at the end of June and December).

CHAPTER IV

Awards for Good Performance and Measures against Violators

Article 12 Awards for Good Performance

1. A BSDC that effectively and duly operates its business in accordance with laws and regulations and contributes to national socio-economic development shall be complimented and rewarded with rights and benefits as provided by the Law on the Promotion of Domestic Investment and the Law on the Promotion and Management of Foreign Investment in the Lao PDR.
2. A person who witnesses a BSDC or a person that violates this Regulation and reports the violation with proof shall be complimented and awarded 10% of the total fine for each violation.

Article 13 Education Measures and Fines

1. Any person who operates any type of building survey-design business without a proper business license (including the use of other persons' business license) shall be subject to an education measure and a 5% fine of the total value of the project or assigned work, and shall be ordered to cease the operation. The order for the cessation of operations shall not release the violator from their responsibilities under the contract (disputes or matters shall be reconciled or settled in accordance with the contract).

2. Any BSDC that leases or gives its business license to others to operate a business and accept building survey-design and construction management work shall be subject to education measures and fined 10 times the official fee for issuance of a business license.
3. Any BSDC that continues operating a building survey-design and construction management business when its business license has expired by up to three months shall be warned and instructed to renew its business license. If it exceeds such period, the BSDC will be subject to education measures and fined in accordance with item 1 of this Article.
4. Any BSDC that is late in requesting renewal of its business license but not by more than three months shall be warned and fined one time the official fee for issuance of a business license. If it exceeds such a period, the BSDC will be fined three times the official fee for issuance of a business license.
5. Any BSDC that provides false or falsified information or documents when submitting an application for renewal of a business license or violates Articles 9, 10, 11, or 12 of this Regulation shall be fined 10 times the official fee for issuance of a business license in addition to the penalty as provided in applicable laws and regulations.
6. Any BSDC that suspends its business without permission (no written approval) that is not exceeding one valid period shall be liable to retrospectively assessed taxes and a fine three times the official fee for issuance of a business license when it requests renewal of its business license.

Article 14 Suspension of Business

The provincial, capital, and special administrative area Divisions of Communication, Transport, Post, and Construction may suspend the building survey-design activity of any BSDC under their supervision when the BSDC is found to have violated this Regulation on consecutive occasions, has been subject to education measures and fines, but still continues violating this Regulation.

Article 15 Withdrawal of Business License

1. The provincial, capital, and special administrative area Divisions of Communications, Transport, Post, and Construction may withdraw the building survey-design business license of any BSDC under their supervision when it is found that:
 - There is a request to cease business operations due to personal reasons or the death of the owner;
 - The BSDC suspends its business without permission for more than one valid period;
 - The BSDC is ordered to cease its business operations due to serious violation of state laws and regulations or due to operations that violate policies of the Lao People's Revolutionary Party.
2. Prior to the withdrawal of the business license of any BSDC, the Communications, Transport, Post, and Construction Authority must thoroughly and reasonably review the case, and after withdrawing the business license, it must notify a commerce authority to withdraw the BSDC's enterprise registration certificate.

3. A person whose business license is withdrawn may apply for a new business license after a period of three years.

CHAPTER V

Final Provisions

Article 16 Implementation

1. The Housing and Urban Planning Department is assigned to issue regulations and technical principles as standard for the management of building survey-design business units on a uniform basis countrywide, and to monitor and inspect the management of those business units to be orderly and effective.
2. The provincial, capital, and special administrative area Divisions of Communications, Transport, Post, and Construction are assigned to coordinate with relevant authorities to effectively implement this Regulation, and pay strict attention to the inspection of the actual operations of any BSDC.
3. Any BSDC that was licensed to operate a building survey-design business prior to the effective date of this Regulation may continue its business until its business license expires. When the BSDC applies for renewal of the business license, it shall comply with this Regulation.

Article 17 Effectiveness

This Regulation is effective from the date of signature until it is amended. All provisions, regulations, and decisions of the Ministry and the Divisions of Communication, Transport, Post, and Construction that contradict with this Regulation shall be canceled.

Vientiane, date 24 May 2002

Minister of Communication, Transport, Post, and Construction

[Signature and seal]

Bouathong VONGLOKHAM

Detailed Financial and Technical Conditions of BSDCs

| No. | Description | Unit | Survey-research | Survey-design | Construction consultancy | Remark |
|------------|---|---------|-----------------|---------------|--------------------------|---|
| I | | | | | | |
| 1 | Minimum registered capital | LAK | 200 million | 50 million | 100 million | |
| 2 | Fee for issuance of a license | LAK | 100,000 | 100,000 | 100,000 | |
| II | Personnel | | | | | |
| 1 | Minimum employees | Person | 10 | 5 | 7 | |
| 2 | Specialist with vocational education | Person | 2 | 2 | 2 | For design, an architect is required |
| 3 | Other employees or specialists | Person | 8 | 3 | 5 | |
| 4 | Experience of specialists | Year | 5 | 5 | 10 | At least |
| III | Vehicles, machines, and tools | | | | | |
| 1 | Cars or pickup truck | Car | 1 | 1 | 1 | |
| 2 | Soil survey-test vehicle | Vehicle | 1 | | | |
| 3 | Surveyor's telescope | Unit | 1 | 1 | | |
| 4 | Theodolite | Unit | 1 | 1 | | |
| 5 | Soil testing device | Set | 1 | | | |
| 6 | Concrete testing device | Set | 1 | | | |
| 7 | Cement testing device | Set | 1 | | | |
| 8 | Steel testing device/other materials | Set | 1 | | | |
| 9 | Concrete qualitative test device | Set | 1 | | | |
| 10 | Computer with design-assessment program | Device | 1 | | | |
| 11 | Printer for drawings | Device | 1 | | | At least A3 paper printable |
| | | | | | | |
| IV | Office stationery | | | | | Should have |
| 1 | Tea for guests | Set | 1 | 1 | 1 | |
| 2 | Typewriter or computer + printer | Set | 1 | 1 | 1 | |
| 3 | Table-chair for office/drawing | Set | 3 | 3 | 3 | |
| 4 | Table-chair for meeting | Set | 1 | 1 | 1 | |
| 5 | Telephone | Unit | 1 | 1 | 1 | Except where there is no telephone connection |