

11 ANNEXES

11.1 ANNEX 1: AUDIT LAW

This is the Audit Law of the Kingdom of Cambodia promulgated by Royal Kram No.CS/RKM/0300/10 dated 3 March 2000, together with the Law on Amendment of Audit Law promulgated by Royal Kram NS/RKM/1100/11 dated 24 November 2000 and by Royal Kram NS/RKM/0806/024 dated 30 August 2006.

CHAPTER 1 General Provisions

Article 1:

The purpose of this Law shall be to establish a National Audit Authority, which is independent in its operations. The National Audit Authority shall be responsible for executing the external audit function of the Royal Government. The Auditor-General shall be empowered to conduct audits on accounting records, accounts, management systems, operation controls and programs of government institutions in accordance with generally accepted auditing standards and Royal Government auditing standards.

This Law also established the internal audit function in government ministries, institutions and public enterprises.

Article 2:

The government institutions in the provisions of this Law shall include ministries, institutions, agencies, authorities, national bank, state financial institutions, state and private sector joint venture financial institutions, public enterprises, public establishments, municipal, provincial and local government offices, contractors, suppliers of goods and services to the Royal Government under contracts, and other organizations receiving financial assistance from the Royal Government in addition to their own equity and credits such as tax and duty exemptions and other concessions to non-profit organizations and private investment enterprises.

Article 3:

In this Law, external audit includes the implementation of the following types of audits:

- (a) Audit on Financial statements
- (b) Audit on the management of credit project financed by external sources
- (c) Audit on management systems and operations of all institutions
- (d) Audit on evaluation, efficiency and effectiveness of operations
- (e) Audit on non-profit organizations, associations, political parties and private investment enterprises as stated in article 2 of this Law
- (f) Audit upon the special request

Article 4:

External audit is an examination or review of the accounting records, operation management systems and the control of government institutions in compliance with generally accepted auditing standards and Royal Government standards of auditing to provide assurance that:

- (a) Financial and economic activities are fairly presented in statements and reports

- (b) These activities are in accordance with generally accepted accounting principles
- (c) Control of procedures and practices are in compliance with laws, regulations, agreements, management systems, contracts, programs and other criteria related to revenues, expenditures and usages of the Royal Government resources.

CHAPTER 2

Types of Audits

Article 5:

Audit on the financial statements and reports of ministries and institutions which constitutes the basis in preparing the consolidated financial statements of the Royal Government for the year ended which are prepared by the Ministry of Economy and Finance prior to submission to the legislative body.

Audit on the accuracy, completeness, authorization, validation and consistency of financial data appearing on the statements of ministries, institutions and the consolidated financial statements of the Royal Government.

Audit on the financial statements of public enterprises and authorities is comprised of balance sheet, profit and loss statement and notes to the accounts forming apart of the financial statements. This audit also includes the financial statements of the business enterprises of the ministries, institutions, provinces, municipalities, and local government offices.

Article 6:

Audit on the financial statements and other reports requested by international aid agencies and lenders under the external funded projects. This audit shall certify the accuracy and the appropriateness of the required documents to withdraw and make the payment on each project together with minutes showing the compliance with the terms and conditions of the credit and project agreements. The audit shall further evaluate the performances of the operation after their completion.

Article 7:

Audit on the control systems to form an opinion on the adequacy of controls in the management systems and processes established by management over activities and operations.

Article 8:

Audit on functions or ongoing operations within government institutions to ensure that their operations are complied with applicable laws, regulations and principles. This audit includes public procurement, personnel payroll, contracts, public property management and mission.

Article 9:

Audit to evaluate the economy, efficiency, effectiveness of operations and outcomes of the Royal Government program. This audit includes the review of operations of public institutions either financial or non-financial institutions.

Article 10:

Audit on compliance with the defined provisions related to operations of non-profit organizations, associations and political parties which have received financial assistance from the Royal Government in form of exemptions from customs duties, salary tax, other taxes as well as privileges and immunities not provided by the law. The objective of this audit is to ensure that the Royal Government would not lose of revenue associated with the tax exemptions and ensure that the relevant institution operates within the pre-defined framework of its purpose.

Article 11:

Audit on compliance of private investment enterprises that have received exemptions and concessions from the Royal Government of Cambodia to exploit the natural resources in the Kingdom of Cambodia. This audit focuses on compliance with the agreements, the terms and conditions of the Royal Government approvals.

Article 12:

Audit at the request of the Finance and Banking Commission of the National Assembly, National Assembly, Senate, ministries, institutions or authorities for a special review on part or the entire audit operation raised by request party. The performance of the audit mentioned in this article shall be at the discretion of the Auditor-General.

Article 13:

The audits covered in the article 5 to 12 shall be undertaken by the National Audit Authority.

CHAPTER 3 **The National Audit Authority (NAA)**

Article 14:

The National Audit Authority is an independent public entity and shall report directly to the National Assembly, Senate and the Royal Government for information purpose. The National Audit Authority shall be led by one Auditor-General and have two Deputy Auditor-Generals.

Article 15:

To perform its mission and implement this Law, the National Audit Authority is empowered to issue decisions, regulations, circulars, and other instructions.

Article 16:

The officials of the National Audit Authority shall have its own separate statute.

Article 17:

The National Audit Authority shall have its own separate budget provided by the national budget. The revenues and expenditures of the National Audit Authority shall be governed by the financial system law.

CHAPTER 4

The appointment of the Auditor-General And Deputy Auditor-Generals

Article 18 (New):

The Auditor-General and the Deputy Auditor-Generals shall be appointed by royal decree on the recommendation of the Royal Government and approved by a majority-plus-one of all members of the National Assembly.

The Auditor-General and the Deputy Auditor-Generals shall be appointed for a term of five (5) years and may be reappointed for another five (5) year term only upon the completion of the first term.

In case of the Auditor-General or the Deputy Auditor-General(s) die(s), resign(s), disable(s) or commit(s) serious mistake, a new Auditor-General or Deputy Auditor-General(s) shall be appointed under the terms and conditions stated in this Law.

The Auditor-General shall have rank and privileges equivalent to a Senior Minister and the Deputy Auditor-General shall have rank and privileges equivalent to a Minister.

Article 19:

The candidates for the Auditor-General and Deputy Auditor-General positions shall be dignitaries having:

- Cambodian nationality at birth
- Degree in higher education or equivalent degree in accounting or economics or finance or law or commerce with proper certification
- Professional or working experiences for at least 10 (ten) years
- No position in the governing body of any political party.

Article 20:

The Auditor-General shall have the responsibilities to lead the National Audit Authority, be in charge of the implementation of policies, goals and objectives of the National Audit Authority and have authority to act in all matters stipulated in this Law.

Article 21:

The Auditor-General shall have the power to appoint, replace, apply sanctions and determine salaries, benefits and bonus of official and staff of the National Audit Authority.

CHAPTER 5

Audit Reports

Article 22:

The Royal Government shall submit the yearly statements of the budget settlements to the National Assembly and Senate for debate and vote. At the same time, the Royal Government must also submit these statements to the National Audit Authority for auditing. The National Audit Authority must certify these statements and issue the audit reports to the National Assembly and the Senate.

Article 23:

If the Royal Government fails to submit these budget settlement documents to the National Audit Authority within a period of 9 (nine) months after the end of the financial year. Auditor-General shall report this delay to the National Assembly and the Senate.

Article 24:

The Auditor-General shall issue report to the National Assembly, the Senate, the Council of Ministers, Ministry of Economy and Finance and relevant ministries with regard to the irregularities in the accounting records, monetary and asset management within any entity.

Article 25:

The Auditor-General shall issued reports and remarks on matters related to accounting records, moneys, assets and long-term liabilities in accordance with the provisions of this Law.

Article 26:

Notwithstanding any other provision that related to audit matters, the Auditor-General shall audit the accounting records of any authority or institution, certify the accounting records, and issue necessary reports to the head of those authorities or institutions and to the National Assembly, Senate and relevant ministries.

Article 27:

The Auditor-General shall regularly report to the National Assembly and the Senate any problem arising from the conduct of his/her duties or the usage of his/her powers as stipulated in this Law.

Article 28:

After preparing a performance audit report of any institution, the Auditor-General shall send a copy of this proposed report to the head of this institution. If the head of the institution gives the written comments to the Auditor-General within twenty-eight (28) days after receiving the proposed report, the Auditor-General must consider those comments before preparing a final report. Otherwise, if the head of the institution has not replied within the time period specified above, the proposed report shall be considered valid.

Article 29:

The reports issued by the Auditor-General shall be deemed to be public documents.

CHAPTER 6

Power of Gathering Information

Article 30:

The Auditor-General may require by written notice to the head or representative of the relevant institution to:

- (a) Provide the Auditor-General or authorized official with necessary information. An authorized official is an official who is authorized in writing by the Auditor-General to perform the functions in Chapter 6 of this Law
- (b) Cooperate and provide any evidence to the Auditor-General or an authorized official
- (c) Provide any related documents under control of the head or representative of the relevant ministries to the Auditor-General or an authorized official.

Article 31:

The Auditor-General may direct that:

- (a) The information shall be provided verbally or in writing and be certified that is legally accurate.
- (b) The Auditor-General has the right to verify the accuracy of the information and evidences provided.

Article 32:

The Auditor-General or the authorized official:

- (a) May during working hours enter and remain on the auditee's premises
- (b) Is entitled to fully and freely access to documents, reports or properties belonging to government ministries/institutions
- (c) May examine, make copies or extract documents from any report.

Article 33:

An authorized official entitled to enter or remain on auditee's premises must show the written authorization letter signed by the Auditor-General. After seeing the authorization letter, the auditee shall facilitate the authorized official in his/her audit work.

Article 34:

It is prohibited for the information provider to make false statements either verbally or in writing.

CHAPTER 7

Confidentiality of Information

Article 35:

Any authorized official who obtains the information directly or indirectly during the fulfillment of his/her work stipulated in this Law, such official must not disclose, divulge or leak that information to the public except for the internal use in performing the function of the National Audit Authority.

Article 36:

The prohibition in article 35 of this Law has no impact on disclosing, divulging or providing information in the report, containing the conclusion, remarks or observations of the Auditor-General.

Article 37:

The Auditor-General shall not include detailed information in the public report to be released for the public if:

- (a) The Auditor-General believes that the disclosure of the information would be contrary to the public interest for any of the reasons setting out in article 38 of this Law
- (b) The Royal Government has issued a certificate to the Auditor-General stating that disclosure of the information would be contrary to the public interest for any of the reasons setting out in article 38 of this Law.

Article 38:

For the purpose of the article 37 of this Law, the following reasons shall be treated as information that would be contrary to the public interest:

- (a) It would prejudice the security, defense, sovereignty, or international relations of the Kingdom of Cambodia
- (b) It would prejudice the commercial interest of any legal entity or person.

Article 39:

In reference to the article 37 of this Law, the Auditor-General decides:

- (a) Not to prepare the report to be released for the public
- (b) To withhold the detailed information in the report to be released for the public.

However, the Auditor-General shall include the detailed information in the article 37 of this Law in the report to be submitted to the National Assembly, the Senate or other relevant ministries.

CHAPTER 8

Audit on the National Audit Authority

Article 40 (New):

In case of necessity, on the proposition of the Permanent Committee of the National Assembly, the National Assembly may decide to establish a special commission to review the activities and operations of the National Audit Authority.

CHAPTER 9

The Establishment of Internal Audit

Article 41:

An internal audit shall be established within each institution, ministry and public enterprise. The internal audit shall report to the head of each institution, ministry and public enterprise and shall submit its report and conclusion to the National Audit Authority. The procedures for the organizing and functioning of the internal audit shall be determined by sub-decree.

Article 42:

The function of internal audit is to independently examine and evaluate the effectiveness on the implementation of the internal control system within institutions, ministries and public enterprises.

Article 43:

An internal control system is the means of the Royal Government established by the management of the institutions, ministries and public enterprises in order to provide reasonable assurances which regard to the following:

- (a) Effectiveness of operations
- (b) Reliability of financial reports
- (c) Compliance with the applicable laws, regulations, policies, procedures and implementation arrangements.

CHAPTER 10 Penalties

Article 44:

Regardless of other possible penalties, any person who violates the article 31 or 33 of this Law shall be liable to a fine from 1,000,000 (one million) Riels to 5,000,000 (five million) Riels or be imprisoned for a term from 1 (one) to 3 (three) months or be liable to both fine and imprisonment.

Article 45:

Regardless of other possible penalties, any person who violates an article 34 of this Law shall be liable to a fine up to 5,000,000 (five million) Riels or more or be imprisoned for a term from 1 (one) to 5 (five) years or be liable to both fine and imprisonment.

CHAPTER 11 Final Provisions

Article 46:

Any provision contrary to this Law shall be abrogated.

Article 47:

This Law is promulgated urgently.