

Regulations on Government Investment of the PRC

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Chapter I — General Provisions

Article 1 — These Regulations are formulated to give full play to the role of government investment, improve the efficiency of government investment, standardize government investment activities, and stimulate the vitality of social investment.

Article 2 — For the purposes of these Regulations, "government investment" means fixed-asset investment and construction activities carried out within the territory of China using funds arranged in the budget, including new construction, expansion, reconstruction and technological renovation.

Article 3 — Government investment funds shall be directed to projects in public sectors where the market cannot effectively allocate resources, such as public welfare services, public infrastructure, agriculture and

rural areas, ecological and environmental protection, major scientific and technological progress, social administration and national security, mainly to non-operating projects.

The state shall improve the relevant policy measures, give play to the guiding and driving role of government investment funds, and encourage social funds to be invested in the sectors specified in the preceding paragraph.

The state shall establish a mechanism for the regular assessment and adjustment of the scope of government investment, and continuously optimize the direction and structure of government investment.

Article 4 — Government investment shall follow the principles of scientific decision-making, standardized administration, performance orientation, openness and transparency.

Article 5 — Government investment shall be commensurate with the level of economic and social development and the fiscal revenue and expenditure situation.

The state shall strengthen budgetary constraints on government investment funds. The government and its relevant departments shall not borrow debts in violation of laws and regulations to raise government investment funds.

Article 6 — Government investment funds shall be arranged by project, mainly through direct investment; with respect to operating projects that genuinely need support, the method of capital injection shall be mainly adopted, and methods such as investment subsidies and loan interest subsidies may also be appropriately adopted.

The arrangement of government investment funds shall conform to the relevant requirements for advancing the reform of the division of fiscal powers and expenditure responsibilities between the central and local governments, and shall treat all types of investors equally, without setting discriminatory conditions.

The state shall, by means such as establishing project databases, strengthen the reserve of projects using government investment funds.

Article 7 — The investment department under the State Council shall, in accordance with these Regulations and the provisions of the State Council, perform the duties of comprehensive administration of government investment. Other relevant departments under the State Council shall, in accordance with these Regulations and the division of duties prescribed by the State Council, perform the corresponding government investment administration duties.

The investment departments and other relevant departments of the local people's governments at or above the county level shall, in accordance with these Regulations and the division of duties prescribed by the people's government at the same level, perform the corresponding government investment administration duties.

Chapter II — Government Investment Decision-making

Article 8 — The people's governments at or above the county level shall, in accordance with the national economic and social development plan, the medium-term fiscal plan and the state's macro-control policies, and in light of the fiscal revenue and expenditure situation, make overall arrangements for projects using government investment funds and standardize the use of all types of government investment funds.

Article 9 — With respect to projects in which the government invests by means of direct investment or capital injection (hereinafter collectively referred to as "government investment projects"), the project unit shall prepare a project proposal, a feasibility study report and preliminary design, and submit them to the investment department or other relevant departments for approval in accordance with the government investment administration powers and the prescribed procedures.

The project unit shall strengthen the preliminary work on government investment projects, ensure that the depth of the preliminary work meets the prescribed requirements, and be responsible for the authenticity of the project proposal, the feasibility study report, the preliminary design and other documents that shall be attached in accordance with law.

Article 10 — Except for projects involving state secrets, the investment department and other relevant departments shall handle the approval procedures for government investment projects through the online project approval and supervision platform (hereinafter referred to as the "online platform"), using the project codes generated by the online platform.

The investment department and other relevant departments shall, through the online platform, list the plans, industrial policies and the like related to government investment, make public the procedures and time limits for the approval of government investment projects, and provide relevant consulting services to project units.

Article 11 — The investment department or other relevant departments shall, in accordance with the national economic and social development plan, the special plans for the relevant sectors, industrial policies and the like, examine a government investment project from the following aspects and make a decision on whether to approve it:

- (1) the necessity of the project construction proposed in the project proposal;
- (2) the technical and economic feasibility and social benefits of the project as analyzed in the feasibility study report, and the implementation of major construction conditions such as project funds;
- (3) whether the preliminary design and the investment estimate proposed therein conform to the approval of the feasibility study report and the requirements of the relevant national standards and specifications; and
- (4) other matters that shall be examined in accordance with laws, administrative regulations and the relevant state provisions.

Where the investment department or other relevant departments refuse to approve a government investment project, they shall notify the project unit in writing and state the reasons.

With respect to government investment projects that have a major impact on economic and social development or the public interest, or that involve a relatively large investment scale, the investment department or other relevant departments shall make the decision on whether to approve on the basis of assessment by intermediary service agencies, public participation, expert evaluation and risk assessment.

Article 12 — The investment estimate verified by the investment department or other relevant departments shall be the basis for controlling the total investment of a government investment project.

Where the investment estimate proposed in the preliminary design exceeds the investment estimation proposed in the approved feasibility study report by 10 percent, the project unit shall report to the investment department or other relevant departments, and the investment department or other relevant departments may require the project unit to resubmit the feasibility study report.

Article 13 — With respect to the following government investment projects, the documents requiring submission for approval and the approval procedures may be simplified in accordance with the relevant state provisions:

- (1) projects already specified in the relevant plans;
- (2) certain expansion and reconstruction projects;
- (3) projects with single construction contents, a relatively small investment scale and simple technical schemes; and

(4) projects that need to be constructed urgently to respond to emergencies such as natural disasters, accidental disasters, public health incidents and public security incidents.

The specific scope of the projects listed in item (3) of the preceding paragraph shall be prescribed by the investment department under the State Council in conjunction with other relevant departments under the State Council.

Article 14 — Where government investment funds are arranged by means of investment subsidies, loan interest subsidies or the like, the project unit shall handle the procedures in accordance with the relevant state provisions.

Chapter III — Annual Government Investment Plans

Article 15 — The investment department under the State Council shall prepare an annual government investment plan for the government investment it is responsible for arranging, and other relevant departments under the State Council shall prepare annual government investment plans for the government investment in their respective industries and sectors that they are responsible for arranging.

The relevant departments of the local people's governments at or above the county level shall prepare annual government investment plans in accordance with the provisions of the people's government at the same level.

Article 16 — An annual government investment plan shall specify such matters as the project name, construction contents and scale, construction period, total project investment, annual investment amount and sources of funds.

Article 17 — Projects included in an annual government investment plan shall meet the following conditions:

- (1) with respect to projects using the method of direct investment or capital injection, the feasibility study report has been approved or the investment estimate has been verified;
- (2) with respect to projects using methods such as investment subsidies and loan interest subsidies, the procedures have been handled in accordance with the relevant state provisions; and
- (3) other conditions prescribed by the relevant departments of the people's governments at or above the county level.

Article 18 — The annual government investment plan shall be connected with the budget at the same level.

Article 19 — The finance departments shall, in accordance with the approved budget and the relevant provisions of laws, administrative regulations and treasury administration, handle the allocation of government investment funds in a timely and full manner.

Chapter IV — Implementation of Government Investment Projects

Article 20 — The commencement of construction of a government investment project shall conform to the construction conditions prescribed by these Regulations and the relevant laws and administrative regulations; construction shall not be commenced where the prescribed construction conditions are not met.

With respect to major government investment projects for which the State Council prescribes that a commencement report shall be approved, construction may be commenced only after the approval procedures for the commencement report have been handled in accordance with the provisions.

Article 21 — A government investment project shall be implemented in accordance with the construction site, construction scale and construction contents approved by the investment department or other relevant departments; where the construction site is to be changed or major changes are to be made to the construction scale, construction contents or the like, the matter shall be submitted to the original approving department for approval in accordance with the prescribed procedures.

Article 22 — The funds required for a government investment project shall be ensured to be put in place in accordance with the relevant state provisions.

A government investment project shall not be constructed with the construction unit advancing funds.

Article 23 — The construction investment of a government investment project shall in principle not exceed the verified investment estimate.

Where the investment estimate genuinely needs to be increased due to reasons such as adjustments to state policies, price increases or major changes in geological conditions, the project unit shall propose an adjustment scheme and the sources of funds, and submit them to the original preliminary design approving department or the investment estimate verifying department for verification in accordance with the prescribed procedures; where the adjustment or reallocation of the budget is involved, the matter shall be handled in accordance with the laws and administrative regulations on the budget and the relevant state provisions.

Article 24 — The construction period of a government investment project shall be reasonably determined and strictly observed in accordance with the relevant state provisions, and no unit or individual may illegally interfere.

Article 25 — After a government investment project is completed, completion acceptance shall be carried out in accordance with the relevant state provisions, and the final financial accounts upon completion shall be handled in a timely manner after the completion acceptance is passed.

Surplus fiscal funds of a government investment project shall be turned over to the state treasury in accordance with the relevant state provisions.

Article 26 — The investment department or other relevant departments shall, in accordance with the relevant state provisions, select representative completed government investment projects and entrust intermediary service agencies with the post-evaluation of the selected projects. The post-evaluation shall, based on the actual effects after the completion of the projects, comprehensively evaluate the project approval and implementation and put forward clear opinions.

Chapter V — Supervision and Administration

Article 27 — The investment department and other departments that have supervisory and administrative duties over government investment projects in accordance with law shall, by means of online monitoring, on-site verification and the like, strengthen supervision and inspection of the implementation of government investment projects.

The project unit shall truthfully report, through the online platform, the basic information on the commencement of construction, construction progress and completion of the government investment project.

Article 28 — The investment department and other departments that have supervisory and administrative duties over government investment projects in accordance with law shall establish an information sharing mechanism for government investment projects and realize information sharing through the online platform.

Article 29 — The project unit shall, in accordance with the relevant state provisions, strengthen the archive management of government investment projects and file the relevant documents and materials from the process of project approval and implementation for future reference.

Article 30 — Information on the annual government investment plans, the approval and implementation of government investment projects, and the supervision and inspection shall be made public in accordance with law.

Article 31 — Matters such as the performance management, construction project quality management and work safety management of government investment projects shall be carried out in accordance with the relevant laws, administrative regulations and state provisions.

Chapter VI — Legal Liability

Article 32 — Under any of the following circumstances, rectification shall be ordered, and the responsible leading personnel and directly responsible personnel shall be given sanctions in accordance with law:

- (1) approving a government investment project beyond the approval powers;
- (2) approving a government investment project that does not conform to the provisions;
- (3) failing to verify or adjust the investment estimate of a government investment project in accordance with the provisions;
- (4) arranging government investment funds such as investment subsidies and loan interest subsidies for projects that do not conform to the provisions; or
- (5) other circumstances of neglecting duties, abusing powers or engaging in malpractices for personal gain in performing government investment administration duties.

Article 33 — Under any of the following circumstances, legal liability shall be pursued in accordance with the laws and administrative regulations on the budget and the relevant state provisions:

- (1) the government and its relevant departments borrow debts in violation of laws and regulations to raise government investment funds;
- (2) failing to handle the allocation of government investment funds in a timely and full manner in accordance with the provisions; or
- (3) transferring, embezzling or misappropriating government investment funds.

Article 34 — Under any of the following circumstances on the part of the project unit, rectification shall be ordered, and, depending on the specific circumstances, the allocation of funds shall be suspended or stopped, the allocated funds shall be recovered, the construction activities shall be suspended or stopped, and the responsible leading personnel and directly responsible personnel shall be given sanctions in accordance with law:

- (1) commencing construction of a government investment project without approval or without meeting the prescribed construction conditions;
- (2) obtaining, by fraud, the approval of a government investment project or government investment funds such as investment subsidies and loan interest subsidies;
- (3) changing the construction site of a government investment project, or making major changes to the construction scale, construction contents or the like, without approval;
- (4) increasing the investment estimate without authorization;
- (5) requiring the construction unit to advance funds for the construction of a government investment project; or
- (6) failing to implement an approved government investment project without justifiable reasons, or failing to implement it in accordance with the construction period.

Article 35 — Where the project unit fails to file for future reference the relevant documents and materials from the process of approval and implementation of a government investment project in accordance with the provisions, or transfers, conceals, tampers with or destroys the documents and materials related to the project, rectification shall be ordered, and the responsible leading personnel and directly responsible personnel shall be given sanctions in accordance with law.

Article 36 — Where a violation of these Regulations constitutes a crime, criminal liability shall be pursued in accordance with law.

Chapter VII — Supplementary Provisions

Article 37 — Measures for the administration of government investment in the national defense science and technology industry shall be separately formulated by the national defense science and technology industry administration department under the State Council in accordance with the principles prescribed in these Regulations.

Article 38 — The administration of fixed-asset investment by the Chinese People's Liberation Army and the Chinese People's Armed Police Force shall be carried out in accordance with the provisions of the Central Military Commission.

Article 39 — These Regulations shall take effect as of July 1, 2019.

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