

Unofficial translation

LAO PEOPLE'S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

Ministry of Finance
No.1159/MOF
Vientiane Capital
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Guideline
On the Management of Authorized Economic Operator

- Pursuant to the Customs Law, No. 04/NA, dated 20 December 2011;
- Pursuant to the Prime Minister's Decree on the organization and operation of the Ministry of Finance, No. 144/PM, dated 8 May 2017;
- According to the report of the Customs Department No. 01513/LCD, dated 26 February 2019

The Minister of Finance issued the following instructions

1. Objective

This guideline sets out the principles, regulations, conditions, measures, mechanisms, and procedures for the management of AEO to ensure the rights, fairness, and transparency for facilitating the import and export of goods and services to the Authorized Economic Operator. Ensuring trade security and strongly enhancing the implementation of laws and regulations.

2. Scope

This guideline applies to the implementation of the Authorized Economic Operator Program, which allows entrepreneurs engaged in the business of import and export such as commodity importers/exporters, manufacturers, freighters, freight suppliers, warehouse suppliers, tax service providers, and other relevant to this program.

3. Definitions

- Entrepreneur or Economic Operator refers to a company or organization that conducts business related to the import and export of commodities, international transit such as importers, exporters, manufacturers, freight forwarders, warehouse service suppliers, port and other agencies.
- Authorized Economic Operator (AEO) refers to an operator who has been officially approved by the Customs Administration and will have the privilege of performing the customs declaration and clearance procedures as mentioned in this guideline.

- Authorized Economic Operator Program refers to the work plan which is created by the Customs Administration and aims to encourage qualified operators to the uniform implementation of the program in terms of principles, regulations, mechanisms, procedures, conditions, criteria, measures, and methods as mentioned in this guideline.
- AEO Agreement refers to the commitment between the Customs Administration and the AEO Operators to define the rights, obligations, rules, and responsibilities of each party in the implementation of the AEO Program.
- AEO Certificate refers to an approval certificate of the status of an AEO Operator that is issued by the Director General of the Department of Customs.

4. Principles

The implementation of the AEO Program's principles must follow:

- Shall ensure to implement relevant laws and regulations. Increasing facilitations for the Operators to operate properly and take strict measures against violators;
- Shall comply with international principles and methods, in particular security measures and international trade facilitation measures of the World Customs Organization (WCO Framework of Standard), WTO Trade Facilitation Agreement, and other international agreements which Lao PDR is a party
- The principle of participating in the AEO Program shall be implemented voluntarily. The Operators who have completed the conditions by the standards can apply to participate in or not participate in this program.
- In facilitating conditions for encouraging qualified Operators to participate in this program. This aims for enhancing cooperation between the Customs Administration and the Operators on the implementation of laws and regulations correctly and strictly.

5. Conditions and standards of AEO Operators

Operators who will participate in the AEO Program shall have the following conditions and criteria:

- 1) Shall be a registered company and a registered as a taxpayer in accordance with the laws and regulations.
- 2) Shall have business activities related to the import and export of commodities for at least three years and have to process the tax declaration in detail at least 250 (two hundred and fifty) sets per year. If the company is a subsidiary or representative of a foreign-invested company that has been certified as an AEO Operator overseas, this will be considered on a case-by-case as basis.
- 3) Shall have a history of the proper implementation of tax laws and other regulations related to tax declaration and at least 98% (ninety-eight percent) of completing all the tax declarations.

- 4) Shall not have been subject to tax proceedings and/or penalties for tax offenses for three years before applying for the AEO Program.
- 5) The accounting system by the accounting laws and regulations that shall be used to record and store information and documents related to business operations such as import, export, storage, packaging, transportation, and customs declarations that are accurate, clear, and verifiable;
- 6) Shall be a business unit that holds an account under the value-added tax obligation system;
- 7) Shall have financial liquidity, and be able to pay taxes and other obligations accurately, completely, and timely. There is no debt coverage, long-term arrears which will affect the fulfillment of tax obligations and other obligations in the future;
- 8) There shall be a security system for company information to prevent unauthorized persons or parties from accessing company information. The Operators need to use information technology systems to record and store information securely. There shall be a specific place for storing documents which are related to customs declarations and import and export permits and preventing the lost of goods as well as only authorized person can access to the platform;
- 9) There shall be a system to protect the safety of goods and packaging by ensuring the package is correct, standardized, and safe. Trade labels and customs stamps must be properly labeled, containers must be locked, and inspected around the containers (walls, sides, backs, floors, and ceilings);
- 10) There shall be a safety system for the transportation of goods by using comprehensive inspection measures of transport vehicles to prevent the concealment of illegal objects during the transportation of goods;
- 11) The office building shall have a security system and be constructed of high-quality materials, especially: walls, gates, fences, entrances, and exits of buildings. Security guards are required with a system to track the entry and exit of people and vehicles; There must have a CCTV system, adequate lighting system, a no-entry zone, and an alarm system in case of intruders
- 12) There shall be a system to protect the safety of employees. The background of the probation officer is checked to ensure that he/she has never committed any security measures, tax offenses, or criminal offenses. There must have employees' cards with a clear picture and ID. Establishing boundaries and locations that are accessible to staff at all levels; In the case of an employee leaving the company, the employee card must be canceled immediately.
- 13) There shall be a system to ensure the security of business partners. The AEO Operators shall evaluate the implementation of security measures for the business partners, such as raw material suppliers, product suppliers, service providers, and customers. Contracts with business partners must clearly define security measures and have strict enforcement mechanisms in place;
- 14) There shall be an emergency alert and response system. Manual guidelines need to be ready to deal with unforeseen disasters such as fires, floods, and terrorism. Evacuation drills are

required in the event of an emergency. Alarm equipment and basic safety equipment must be installed.

6. Responsibilities of AEO Operators

Companies participating in the AEO Program have the following responsibilities:

- 1) Ensuring the strict implementation of customs duties, customs laws, regulations, policies, and other sub-laws related to the import-export of goods;
- 2) Assign an individual or unit to respond for liaising and coordinating with the tax authorities, especially the collection of information about the company, goods, import-export of goods, etc.;
- 3) Shall provide the training to employees within the company on the delivery process, the risk of moving goods, doing business with trading partners, tax declaration, etc.;
- 4) Shall cooperate with the tax authorities in inspecting the company's premises such as offices, warehouses, security systems, etc.;
- 5) Shall cooperate with the customs authorities in the collection of information and documents for the inspection of the import and export of goods.

7. Rights of the AEO Operators

AEO Operators have the right to request the customs authorities to facilitate the inspection of their goods in the following special cases:

- 1) The right to request the Customs Administration to inspect and approve the customs declaration documents within 7 days before the goods arrive at the checkpoint as stipulated in Article 29 on Customs Law;
- 2) The right to request the customs administration to inspect the actual goods at their warehouse to reduce the control of inspections at border customs checkpoints;
- 3) The right to request the tax administration to consider providing services after business working hours in case of urgency;
- 4) The right to request the tax authorities to improve procedures, mechanisms, and methods to increase trade facilitation by-laws, and domestic and international regulations.

8. Responsibilities of the custom administration

The tax administration shall implement specific measures to facilitate AEO Operators such as:

- 1) The AEO Operators' application shall be prioritized by providing a special service to receive and inspect their documents before forwarding them to the general customs declaration documents;
- 2) The risk profile of customs declaration of AEO Operators shall be set to the lowest risk value to inspect the actual product as a limitation. In case there is a need to inspect the actual goods due to there being a high-risk notification must prioritize the inspection of the AEO Operators' goods before other operators. Furthermore, allowing inspections to be performed at the own AEO Operators' warehouse;

- 3) In case the AEO Operators conducted the customs declaration before the goods arrive at the checkpoints, the customs officer shall inspect the documents, confirm the declaration and receive the tax and other obligations before the goods have arrived. When the goods arrive at the checkpoint, the goods should be inspected and released immediately;
- 4) In the case of AEO Operators request the inspection service over time, the customs authorities must consider the proposal based on the availability of tools and personnel to ensure the efficiency of operations;
- 5) AEO unit must be set up at the Customs Department to monitor, inspect and resolve issues related to the implementation of tax declaration procedures for AEO Operators. This unit shall be under the direct guidance of the Director General of the Customs Department.

9. Procedures for AEO Operator certify

Operators who intend to participate in the AEO program must follow the steps below:

- 1) Must do a self-assessment according to the form prescribed by the Department of Customs (this form can be downloaded from the Department of Customs' website). Operators can seek further clarification from the Department of Customs about filling out the forms and requirements for applying to the AEO Operators Program;
- 2) Submitting a letter to the Director General of the Department of Customs to inform the intention of the company in applying to be a volunteer AEO Operator, with an attachment of the self-assessment form and related documents.

10. Procedures for inspecting the conditions and criteria of AEO Operators

- 1) After receiving the request letter from an Operator, the Department of Customs must complete the inspection of information and documents within 5 working days and notify the results of the Operator as detailed below:
 - If the Operator has the conditions and criteria by this regulation, the Department of Customs must notify the operator to inspect the actual location within 5 days after the notification.
 - If an Operator does not meet the conditions and criteria, the Department of Customs must notify the Operator and provide suggestions for improvement by the conditions and criteria.
- 2) After completing the actual site inspection, the Department of Customs shall take the following actions:
 - If the results of the actual site inspection found that the Operator has all the conditions and criteria, the Department of Customs must issue a certificate for the AEO Operator within 5 working days.
 - If the results of the actual site inspection found that the Operator has not met the condition and criteria, the Department of Customs must notify the company and provide suggestions for improvement.

- 3) The Operator who has been approved by the Department of Customs as the conditions and criteria must sign a contract with the Department of Customs within 5 days after receiving the certificate.

11. Approval

The Director General of the Department of Customs will approve the AEO Operator Certificate, which is valid for three years. The Department of Customs must evaluate the activities of the AEO Operator, if it is found that the activity is by the laws and regulations, the certificate will be extended.

12. Signing the AEO Agreement

The AEO Operators must sign a written guarantee agreement with the Customs Department to ensure proper operation by regulations. The AEO Draft Agreement form as Annex 1.

13. AEO Logo

The Department of Customs will design and approve the AEO Logo. The AEO Logo must reflect the national character, modernity, standardization, and international integration. The AEO Operators can use this cap to advertise their business, such as banners, business cards, stickers, brochures, etc.

14. Post Clearance Audit

The Department of Customs shall make a plan and conduct post clearance audit of AEO as a priority to ensure that the AEO Operators are following the functions of the Customs Law (Part 1, Section X) and the relevant regulations.

15. Confidentiality

All collected information between the Customs Administration and the AEO Operator must be kept confidential. If an AEO Operator wishes to disclose information on regulatory measures and the approvals of the Customs Administration that must be approved by the Director General of the Department of Customs.

16. Measures against violators

The Department of Customs must closely regularly monitor and evaluate the activities of AEO Operators from time to time. In case of violation of the agreement and regulations, the Department of Customs shall be instructed to take the following measures: warning, temporary suspension, permanent suspension, and other measures by the law.

17. Implementation

- The Department of Customs is assigned to conduct the implementation of this guideline and disseminate it to the authorities, operators, and society.

- The first pilot of the AEO Operators Program by selecting operators who are importers and exporters of goods. After a year of implementation, a re-evaluation shall be made. If it is found to be effective, it shall be extended to other countries businesses according to the actual conditions.
- This instruction is effective after the signing and after the entry of the official memorandum for fifteen days.

Minister of Ministry of Finance
Somdy Douangdee