

FREQUENTLY ASKED QUESTIONS: GVN PROJECT APPROVAL AND VAT REFUND PROCESS

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PROJECT APPROVAL



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1

What are the benefits of project approval?

Project approval serves not only to comply with the Official Development Assistance (ODA) rule of Vietnam. It eliminates significant tax liabilities and provides benefits including (i) entitlement to tax exemptions such as personal income tax for expatriates, corporate income tax, or contractor withholding tax; (ii) no need for a work permit for expatriates; (iii) perception as legitimate operations, which help build partnership and programs with Vietnamese counterparts; and (iv) no risk of administrative fines for unlawful (unapproved) operations in Vietnam.

2

What is most important in seeking project approval?

Developing a good working relationship and partnership with the counterpart that hosts the Activity – also known as the Managing Agency (MA) – is the key to speedy and successful project approval. This will require (i) understanding the MA, its incentives, challenges, and personalities; (ii) a constructive and developmental approach to overcoming problems and differences; and (iii) transparency, mutual trust, and respect.

3

How should I start the project approval process and connect with the MA?

After the award, you should begin thinking about project approval. The first step is to contact your Agreement or Contract Officer's Representative at USAID, obtain his/her advice, and arrange a meeting between USAID, you, and the MA. In the meantime, you should research the MA, its mandates, leadership, and key challenges.

4

What should I ask during the introductory meeting with the MA?

USAID will introduce you to the MA and lead the meeting. You and USAID may want to (i) request a technical person and department that will work with you on the Project Document (PD); (ii) set a timeline for the development of the PD; (iii) clarify work procedures between MA, USAID, and you; (iv) establish what you plan to achieve in the Activity; and (v) agree on USAID's way of implementing the activity and any constraints you want the MA to know. You should be prepared to introduce the DCOP who should work closely with the person assigned by the MA on the PD. You may want to consult with USAID on what USAID will say and what information will be communicated by you.

5

How should I develop the PD?

The PD is the core document needed for project approval. It represents the agreement between the donor (USAID) and the Government of Vietnam (GVN) on a project. A template for the PD is available in the GVN Project Approval Process Report and Decree 56. You should work with the department and person assigned by the MA to develop this. Often, they will need to consult with other departments and agencies in developing the PD.

What if the MA wants something that is not included in the contract with USAID?

You should work with USAID to address any requests that were not envisaged during activity design and award. Implementation is often different from the design, and sensible requests should be accepted. If for some reason, you cannot do a certain thing, this should be communicated clearly and constructively to the MA.



Should I consult and meet with agencies and parties that are not part of the MA?

You should, but you should do it transparently and constructively in an effort to enhance the effectiveness and efficiency of the activity. You may want to have the MA point person joining you where appropriate. You should not commit anything unless and until USAID and the MA agree.



Who should take the lead in working on the PD with the MA?

The COP is the one that is responsible, but the DCOP (a Vietnamese staff member) should be the technical lead in working with the point person at the MA on developing the PD. The DCOP should be the senior relationship manager with the Vietnamese counterparts of the activity. He or she should build a good working relationship with the MA.

VALUE-ADDED TAX (VAT) REFUND



Where and how should I start the VAT refund process?

You should study the process during project approval. The PD needs to include the language that (i) the US-Vietnam Bilateral Agreement for Technical and Economic Assistance (BILAT) will be followed; (ii) the project is eligible for VAT refunds per the Law on VAT of Vietnam; and (iii) the MA and other agencies will assist the project in obtaining VAT refunds.



What should I do after the project has been approved?

You should contact your local tax office and send them a request for guidance with all the approved documents, including (i) approved PD; (ii) BILAT; (iii) request for treatment of taxes including VAT, personal income tax, contractor withholding tax, etc. In the meantime, begin the seal-making process with the local Public Security Department if the MA is provincial or with the Ministry of Public Security if the MA is a central agency.



How do I register a tax code?

You should fill out the application form 01-ĐK-TCT for a tax code and follow the normal procedures. Once you have a tax code, all invoices must include the tax code, your full name (Project Office name), and address.



What should I do after I obtain a tax code?

You should fill out the first request for a VAT refund. The tax office will send a team to review everything before they start refunding the VAT. The COP and DCOP need to meet with the tax team and reiterate your effort to comply with all the tax rules, no interest in hiding any tax, and no tolerance for corruption. You may explain the nature of the project, who will benefit from it, and that any refunded VAT will go toward programs in Vietnam instead of back to USAID.



What should I do if the local tax office asks for a paper that is not required by law?

You should see if the requirement is reasonable or not. If it is not and is not required by law, you may want to check if it is legal for the local tax office to require that. You may want to check the rulings in similar cases and see if the same document is needed. If not, you can check with the General Department of Taxation at the MOF which will provide an answer to your written request.



What happens to VAT prior to the issuance of the tax code?

VAT incurred prior to the issuance of the tax code is very hard to claim and usually not refundable.