

Regulations for Enforcement of the Act on Promotion of Private Finance Initiative

(Cabinet Office Order No. 65 of November 28, 2011)

Pursuant to the provisions of the Act on Promotion of Private Finance Initiative (Act No. 117 of July 30, 1999), these Regulation for Enforcement of the Act on Promotion of Private Finance Initiative are provided as follows.

(Attached Documents of Proposals for Formulation of the Implementation Policy)

Article 1 The documents specified by Cabinet Office Order provided in Article 6, paragraph (1) of the Act on Promotion of Private Finance Initiative (hereinafter referred to as the "Act") are to be the documents that indicate the process and method of the evaluation of the effectiveness and efficiency of the qualified project.

(Publication of the Prospect of Formulation of the Implementation Policy)

Article 2 (1) The administrator, etc. of the public facility, etc. must publicize the matters on the prospect of the following items regarding the implementation policy that is expected to be formulated for that fiscal year (excluding the matters for which the acts of the administrator, etc. of the public facility, etc. need to be kept secret) without delay after April 1 (if the budget for that fiscal year has not been approved, the day of approval of the budget) of each fiscal year:

- (i) the name, period and outline of the qualified project;
 - (ii) the location of the public facility, etc.; and
 - (iii) the timing to formulate the implementation policy.
- (2) the publication under the provisions of the preceding paragraph must be made by any of the following methods:
- (i) publicizing in the Official Gazette or daily newspapers which publish matters on current affairs; or
 - (ii) displaying at a place where it is easily seen by the public or making it available for inspection by the public.
- (3) Inspection by the public under item (ii) of the preceding paragraph must be made available by method of establishing an inspection room or by using internet.
- (4) When publication is made by the method set forth in paragraph (2), item (ii), it must be displayed or made available for inspection until March 31 of that fiscal year.

- (5) The administrator, etc. of the public facility, etc. must review the matters on the prospect of formulation of the implementation policy publicized pursuant to the provisions of paragraph (1) at least once every fiscal year, around October 1, and if any change is made to any matter, the administrator, etc. must publicize that matter after the change.

Article 3 The provisions of paragraphs (2) through (4) of the preceding Article apply mutatis mutandis to the method of publication of the matters on the prospect of formulation of the implementation policy after change.

(Publication of the Contents of the Project Contract)

Article 4 (1) The matters specified by Cabinet Office Order as provided in Article 15, paragraph (3) of the Act are to be the following matters:

- (i) contract amount (excluding the case where the contract amount does not exist); and
 - (ii) the matters relating to the measures at the time of termination of the contract.
- (2) When an administrator, etc. of the public facility, etc. enters into a project contract on the qualified project, it must publicize the contents of that project contract (excluding the contents relating to the national security or diplomatic secret or criminal investigations) by the method of displaying them at a place where they are easily seen by the public or making them available for inspection by the public for each of the qualified projects.
- (3) The provisions of Article 2, paragraph (3) apply mutatis mutandis to the inspection by the public under the preceding paragraph.
- (4) When an administrator, etc. of the public facility, etc. changes the project contract resulting in a change of the contract amount regarding the qualified project in paragraph (2), the administrator, etc. must publicize the contents of the project contract after change and the reasons for the change. In this case, the provisions of the preceding two paragraphs apply mutatis mutandis.
- (5) For any matter publicized pursuant to the provisions of paragraph (2) or the preceding paragraph, it must be displayed or made available for inspection until at least one full year has passed from the immediately following day of the date of publication.

(Matters Provided in the Agreement on the Operation Rights of the Public Facility)

Article 5 (1) Any other matters necessary for causing a dispatched official to be engaged in the business provided under Article 22, paragraph (1), item (iv) of the Act are to include the conclusion of an agreement which provides working conditions, including compensation of the individual dispatched official at the

operating right holder of the public facility, etc., and the business to be performed and the period for which that business is to be performed by the dispatched official at the operating right holder of the public facility, etc. and other matters necessary for causing the dispatched official to be engaged in the business between the operating right holder, etc. of the public facility, etc. and an appointer or a person delegated thereby under Article 78, paragraph (1) or Article 79, paragraph (1) of the Act.

- (2) Compensation of an individual dispatched official at the operating right holder of the public facility, etc. provided in the preceding paragraph must be based on the amount of salary that the person will receive on the date on which the person retires in response to the request under Article 78, paragraph (1) or Article 79, paragraph (1) of the Act.
- (3) The business to be performed by an individual dispatched official at the operating right holder of the public facility, etc. to be specified by the agreement under paragraph (1) must be primarily the business that requires specialized knowledge and skills regarding operation, etc. of the public facility, etc.
- (4) The period for which an individual dispatched official is to perform the business at the operating right holder of the public facility, etc. specified by the agreement under paragraph (1) must be within the scope that does not exceed three years from the date following the date of retirement in response to the request under Article 78, paragraph (1) or Article 79, paragraph (1) of the Act.

Article 6 The matters specified by Cabinet Office Order as provided in Article 22, paragraph (1), item (v) of the Act are to be the following matters:

- (i) when collecting expenses pursuant to the provisions of Article 20 of the Act, that effect and the amount or method to decide that amount;
- (ii) the matters relating to the measures at the time of termination of the contract; and
- (iii) the matters regarding the change to the agreement on the operation rights of the public facility, etc.

(Publication of the Contents of the Agreement on the Operation Rights of the Public Facility)

Article 7 (1) The matters specified by Cabinet Office Order as provided under Article 22, paragraph (2) of the Act are to be the matters set forth in the items (i) and (ii) of the preceding Article (for matters set forth in the item (i) of that Article, excluding the matters that are likely to damage the rights, competitive position and other legitimate interests of the operating right holder of the public facility, etc., if they are made public).

- (2) When an administrator, etc. of the public facility, etc. enters into an

agreement on the operation rights of the public facility, etc., on the public facility, etc. operating project the administrator, etc. must publicize the contents of the agreement on the operation rights of the public facility, etc. by the method of displaying them at a place where they are easily seen by the public or make them available for inspection by the public for each of the public facility, etc., operating project.

(3) The provisions of Article 2, paragraph (3) apply mutatis mutandis to the inspection by the public under the preceding paragraph.

(4) The provisions of Article 4, paragraph (5) apply mutatis mutandis to the publication under paragraph (2).

(Matters to be Provided in the Municipal Ordinance on the Implementation Policy for Usage Fees)

Article 8 The matters specified by Cabinet Office Order as provided in Article 23, paragraph (3) of the Act are to be the following matters:

(i) the method of calculating the usage fees; and

(ii) the method of announcing the usage fees.

(Minutes)

Article 9 (1) Creation of the minutes under Article 48, paragraph (8) of the Act is to be pursuant to the provisions of this Article.

(2) Minutes must be created in writing or by electronic or magnetic record (meaning the electronic or magnetic record provided in Article 48, paragraph (9) of the Act; the same applies hereinafter.).

(3) Minutes must be of the contents that include the following matters:

(i) the date, time and venue that the committee for the support of the private finance initiative (hereinafter referred to as "committee" in this Article) was held (including the method of attendance if the committee member or an auditor who was not at the venue attended the committee);

(ii) the summary of the proceedings of the meeting of the committee and the results thereof;

(iii) if any committee member has a special interest in any matter that requires resolution, the name of that committee member; and

(iv) if any opinion has been stated at the committee pursuant to the provisions of Article 48, paragraph (6) of the Act, the summary of the contents of that opinion.

(Measures Replacing the Signature or Affixing the Name and Seal)

Article 10 The measures specified by Cabinet Office Order as provided under Article 48, paragraph (9) of the Act are to be the electronic signature (meaning the electronic signature in Article 2, paragraph (1) of the Act on Electronic

Signatures and Certification Business (Act No. 102 of 2000)).

(Method of Presenting Matters Recorded in Electronic or Magnetic Record)

Article 11 The method specified by Cabinet Office Order as provided under Article 49, paragraph (2), item (ii) of the Act is to be the method of presenting the matters recorded in the electronic or magnetic record on the paper or screen of the output devices.

(Special Provisions for Keeping and Inspection of the Minutes Created in Writing)

Article 12 (1) When the minutes provided under Article 48, paragraph (8) of the Act have been created in writing, Private Finance Initiative Promotion Corporation of Japan (hereinafter referred to as "corporation" in this Article) may keep electronic or magnetic record produced by scanning the matters stated on the paper with a scanner (including image reading measures equivalent thereto) in a file stored on a computer used by the corporation, or in a file prepared by a magnetic disc, CD-ROM, or any other equivalent method that can securely record certain information.

(2) The corporation may make the matters recorded in the electronic or magnetic record kept pursuant to the provisions of the preceding paragraph that are displayed on the paper or screen of the output devices available for inspection or copying at its head office.

(Identification Card)

Article 13 The identification card carried by an official who conducts an on-site inspection pursuant to the provisions of Article 63, paragraph (1) of the Act is to be in the appended form.

Supplementary Provisions

This Cabinet Office Order comes into effect as from the date of enforcement of the Act Partially Amending the Act on Promotion of Private Finance Initiative (Act No. 57 of 2011) (November 30, 2011).

Supplementary Provisions [Cabinet Office Order No. 56 of September 4, 2013]

This Cabinet Office Order comes into effect as from the date of enforcement of the Act Partially Amending the Act on Promotion of Private Finance Initiative (Act No. 34 of 2013) (September 5, 2013).

Supplementary Provisions [Cabinet Office Order No. 70 of December 1, 2015 Extract] [Extract]

(Effective Date)

(1) This Cabinet Office Order comes into effect as from the date of enforcement of the Act Partially Amending the Act on Promotion of Private Finance Initiative (Act No. 71 of 2015) (December 1, 2015).

Supplementary Provisions [Cabinet Office Order No. 48 of September 28, 2018]

This Cabinet Office Order comes into effect as from the date of enforcement of the Act Partially Amending the Act on Promotion of Private Finance Initiative (Act No. 60 of 2018) (October 1, 2018).

Appended Form (Related to Article 12)

<p>表 Face</p> <div style="border: 1px solid black; padding: 5px;"> <p>第 号 No. 民間資金等の活用による公共施設等の整備等の促進に関する法律第63条第2項 の立入検査をする職員の身分証明書 Identification Card of an official who conducts on-site inspections under Article 63, paragraph (2) of the Act on Promotion of Private Finance Initiative</p> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 10px;"> <div style="border: 1px solid black; width: 60px; height: 60px; display: flex; align-items: center; justify-content: center;"> <p>写真 Photo</p> </div> <div style="margin-left: 10px;"> <p>官職 Government position</p> <p>氏名 Name</p> <p>年 月 日生 Date of birth:</p> <p>年 月 日発行 Issued on:</p> <p>内閣総理大臣 印 Prime Minister seal (押出スタンプ) (extruded stamp)</p> </div> </div> </div>	<p>裏 Back</p> <div style="border: 1px solid black; padding: 5px;"> <p>民間資金等の活用による公共施設等の整備等の促進に関する法律 (抄) the Act on Promotion of Private Finance Initiative (Excerpt) (報告及び検査) (Report and Inspection)</p> <p>第63条内閣総理大臣は、この法律を施行するため必要があると認めるときは、機構からその業務に関し報告をさせ、又はその職員に、機構の営業所、事務所その他の事業場に立ち入り、帳簿、書類その他の物件を検査させることができる。</p> <p>Article 63 (1) If the Prime Minister finds it to be necessary for the enforcement of this Act, the Prime Minister may cause the corporation to report on its businesses or cause the officials to enter the corporation's place of business, including business office or office, to inspect any items, including books and documents of the corporation.</p> <p>2 前項の規定により立入検査をする職員は、その身分を示す証明書を携帯し、関係人にこれを提示しなければならない。</p> <p>(2) An official who conducts an on-site inspection pursuant to the provisions of the preceding paragraph must carry an identification card and present it to relevant persons.</p> <p>3 第1項の規定による立入検査の権限は、犯罪捜査のために認められたものと解してはならない。</p> <p>(3) The authority to conduct an on-site inspection under paragraph (1) must not be construed as being granted for criminal investigation purposes.</p> <p>第92条第63条第1項の規定による報告をせず、若しくは虚偽の報告をし、又は同項の規定による検査を拒み、妨げ、若しくは忌避した場合には、その違反行為をした機構の取締役、会計参与 (会計参与が法人であるときは、その職務を行うべき社員)、監査役又は職員は、50万円以下の罰金に処する。</p> <p>Article 92 If the corporation's director, accounting advisor (if the accounting advisor is a corporation, the employees who are to perform its duties), company auditor or employee fails to make a report under Article 63, paragraph (1), or makes a false report, or refuses, prevents, or evades an inspection under the provisions of that paragraph, the person who committed the illegal conduct is punished by a fine of not more than five hundred thousand yen.</p> </div>
---	---