



# Challenges of PP Law of Cambodia

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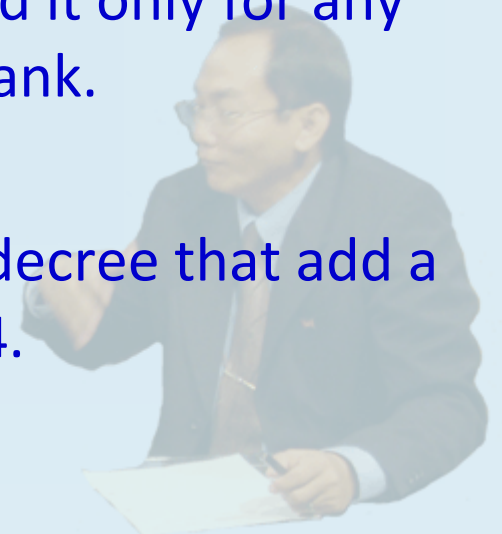
# Background

- ✧ Since Pol Pot regime, Cambodia was ruled under communist regime.
- ✧ In 1993, Cambodia changed to adopt the principle of liberal democracy and constitutional monarchy.
- ✧ So, Cambodia needs to be reformed and restructured in accordance with the principles of liberal democracy.
- ✧ In order to achieve these goals, Cambodia accepted technical assistance from many foreign countries in order to prepare and advise on how to rebuild administrative system and rule of law.



# Background

- ✧ In 1994 and 1995, with technical assistance from the Asian Development Bank, Cambodia has developed a number of rules and regulation for implementing the public procurement effectively and can help the implementation of public procurement of the government with transparent, efficiency and in international standards.
- ✧ At first, the Cambodian Royal Government used it only for any project funded from the Asian Development Bank.
- ✧ They were changed many times and
- ✧ In 1995, the Council of Ministers issued a sub-decree that add a number of articles to the Financial Law of 1994.



# Background

- ✧ On 16 July 2004, Prime Minister announced that the procurement must be implemented efficiently and agree that the public procurement reform is an important part of the Rectangular Strategy.
- ✧ Finally, a law on Public Procurement has been passed in January 2012.



# Procurement Systems

✳ Procurement under Procurement Guideline by International Partners for Project under fund of WB and ADB.

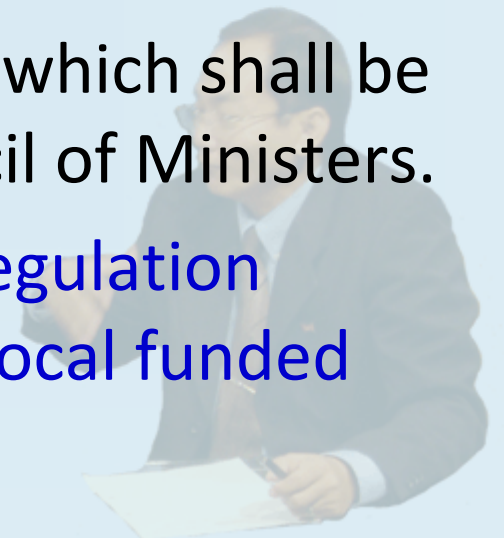


✳ **Public Procurement** under regulations adopted by Ministry of Finance and Economic for all Public Institutions.

✳ **Procurement for National Defense** which shall be decided by Prime Minister or Council of Ministers.



✳ **Local Procurement system** under regulation adopted by Ministry of Interior for local funded projects.



# Points to be concerned



# Amendment of Regulations

- ✧ Because the Public Procurement allows the MEF, MOI, MND and International Partners to amend the procurement regulations, CSOs concern much on their amendment power.
- ✧ If the amendment will not open for public opinion, CSOs concern that the amendment may not be in positive way and may not be in accordance with democratic way.



# Transparent Bidding

- ✧ Even though, the new procurement law (Art.46) states that the bids shall be opened in public by the procurement unit immediately after the deadline for receipt and the important details of each bid shall be read aloud, recorded, and published,
- ✧ but it does not state clearly how the public participate in the procurement process.





# Prequalification

- ❖ Pre-qualification is selecting qualified bidders without considering their bidding proposal or documents first.
- ❖ It is existed only in National and Local Procurement systems only, not applied in Special Procurement System supported by the International partners.
- ❖ CSOs concerns that this pre-qualification can be used for nepotism.



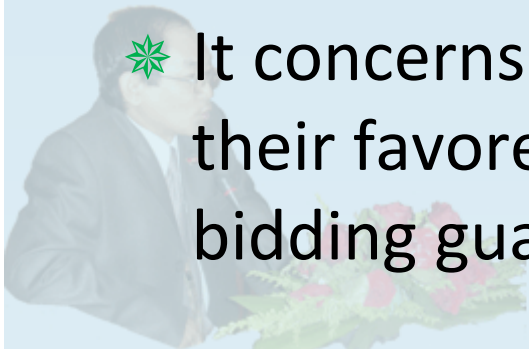
# Centralization

- ✧ According to CISA research, they found that most procurement for provincial level were done by Ministry of Economic and Finance.
- ✧ It concerns that it will be very hard for control and easy for corruption.
- ✧ On another hand, it is against the decentralization policy of the government.



# Deposit for Bidding Guarantee

- ✧ For joining the competition bidding and in order to ensure that the bidding companies or contractors are competent and capable enough, they are obliged to put deposit for their bidding guarantee which is not less than 2% of the total bidding cost (Bid Security and Bid Security Declaration).
- ✧ The bidding losers can take this deposit back but they must participate the bidding in whole process.
- ✧ It concerns that the Bidding Committee can allow their favored companies do not really deposit for bidding guarantee.



# Which one is enforcer?

- ✧ The public is perceiving there are a lot of corruption and irregularities in Public Procurement,
- ✧ But there is not corruption case relating to public procurement.
- ✧ It means there is no corruption?
- ✧ The problem is which institution has duty to enforce the law relating to public procurement.
- ✧ Police, Ministry of Economic and Finance or National Anti-corruption Authority?





**Thanks for your attention**

