

Regulations on the Management of Foreign-funded Urban Planning Service Enterprises

Decree of the Ministry of Construction and the Ministry of Foreign Trade and Economic Cooperation, No 116 The Regulations on the Management of Foreign-funded Urban Planning Service Enterprises, deliberated and ratified at the 65th executive meeting of the Ministry of Construction on December 13th, 2002 and the 2nd working meeting of the minister of Foreign Trade and Economic Cooperation on January 30th, 2003, is hereby promulgated for implementation as of May 1st, 2003.

Wang Guangtao, Minister of Construction

Shi Guangsheng, Minister of Foreign Trade and Economic Cooperation

February 13th, 2003

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Article 1 Pursuant to the Law of the People's Republic of China on Foreign-funded Enterprises, the Law of the People's Republic of China on Sino-foreign Equity Joint Ventures, the Law of the People's Republic of China on Sino-foreign cooperative Joint Ventures, and the Law of the People's Republic of China on Urban Planning, the current Regulations is hereby formulated to expand the scope of opening to the outside; regulate foreign companies, enterprises and other economic entities or individuals investing in enterprises providing services to urban planning; and strengthen management of the activities of urban planning services provided by foreign-funded urban planning service enterprises.

Article 2 The Regulations applies to those setting up foreign-funded urban planning service enterprises within the boundary of the People's Republic of China and applying for the Certificate of Qualification of Foreign-funded Enterprises for Urban Planning Services, and to the supervision and management of foreign-funded urban planning service enterprises.

Article 3 The foreign-funded urban planning service enterprises as referred to in the current Regulations include Sino-foreign equity joint ventures, Sino-foreign cooperative joint ventures, and ventures with exclusive foreign investment that are set up in the People's Republic of China in accordance with law to provide services to urban planning.

The term 'urban planning service' as used in the current Regulations refers to provide drawing and consulting services to urban development plans other than general planning.

Article 4 All foreign companies, enterprises, other economic entities or individuals engaged in urban planning services in China shall set up Sino-foreign equity joint ventures, Sino-foreign cooperative joint ventures, or ventures with exclusive foreign investment and apply for the Certificate of Qualification of Foreign-funded Enterprises for Urban Planning Services.

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Those have not been granted the Certificate of Qualification of Foreign-funded Enterprises for Urban Planning Services shall not take up the business of urban planning services.

Article 5 The department responsible for the management of foreign trade and economic cooperation under the State Council shall take charge of management of establishment of foreign-funded urban planning service enterprises, while the department responsible for construction under the State Council shall take charge of management of qualification of foreign-funded urban planning service enterprises.

The departments responsible for foreign trade and economic cooperation under the people's governments at the provincial, autonomous regional and municipal governments under the direct leadership of the central government shall take charge of preliminary examination of establishment of foreign-funded urban planning service enterprises in their respective administrative areas, and departments responsible for urban planning under people's governments at and above the county level shall take charge of supervision and management of the urban planning service activities carried out by foreign-funded urban planning service enterprises in their respective administrative areas.

Article 6 Apart from meeting requirements set in relevant Chinese laws and regulations on foreign-funded enterprises, the following requirements shall be met for the establishment of foreign-funded urban planning service enterprises:

1. The foreign party shall be an enterprise or professional specializing in urban planning services in its resident country or region.
2. The applicant shall own more than 20 employees specializing in urban planning, architecture, road transportation, gardening and related disciplines, with foreign specialists accounting for no less than 25 percent of the total, and have at least one foreign technician specializing in urban planning, architecture, road transportation, and gardening respectively.
3. The applicant shall have technical apparatus and fixed working site as stipulated by the State.

Article 7 Those applying for establishing foreign-funded urban planning service enterprises shall apply, in accordance with law, to the State Administration of Industry and Commerce or local administrations of industry and commerce with authorization from the State Administration of Industry and Commerce for examination and approving the titles of the foreign-funded enterprises they plan to set up.

Article 8 After passing examination and receiving approval of the titles of the foreign-funded enterprises it plans to set up, the applicant shall apply to the departments of the provincial, autonomous regional or people's municipal government under the direct leadership of the central government in charge of foreign trade and economic cooperation in the region where the enterprise is to be located for the establishment. it shall submit the following documents:

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1. The application for the establishment of a foreign-funded enterprise signed by the legal representative of the investing party.
2. The feasibility study report, project proposal and plan on the establishment of the enterprise (including staffing of specialists, plan on technical equipment, and area of the working site) produced or approved by the investing party.
3. The contract and rules of the foreign-funded enterprise signed by the legal representative of the investing party (or rules only, in the case of an enterprise with exclusive foreign investment).
4. Notice of pre-approval on the title of the enterprise to be set up.
5. Certificate of legal person registration of the investing party and certificate of the credit provided by the bank of the investing party.
6. Documents and certificates of appointment of the chairman, board members, managers, and leading engineers or technicians to be appointed by the investing party.
7. The balance sheets and statements of loss and gain of the investing party during the latest three years as audited by a chartered accountant or an accountant firm.
8. Certificate of registration and certificate of bank credit of the urban planning service enterprise(s) run by the foreign investing party in its country or region.
9. Certificates of experiences and achievements of the foreign investing party in urban planning services produced by responsible government departments or associations, societies, or notary organs in the residential country or region of the said party.

Article 9 The department under provincial, autonomous regional or people's municipal governments under the direct leadership of central government in charge of foreign trade and economic cooperation shall complete preliminary examination within 30 days after receiving an application and submit its approval to the State Council department in charge of foreign trade and economic cooperation.

Article 10 The State Council department in charge of foreign trade and economic cooperation shall submit the application documents that have passed preliminary examination and approval to the State Council department in charge of construction for soliciting the comments within 10 days. The State Council department in charge of construction shall put forward its opinion within 30 days after receiving the application documents. Within 30 days after receiving the written opinion of the State Council department in charge of construction, the State Council department in charge of foreign trade and economic cooperation shall make a decision of approval or disapproval. In the case of approval, a certificate of approval shall be issued; and in the case of disapproval, a written explanation shall be given.

Article 11 After receiving the Certificate of Approval of Foreign-funded Enterprise, the applicant shall register with an administration of industry and commerce in accordance with law to get a business license.

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Article 12 After receiving a legal person business license, the applicant shall apply to the State Council department in charge of construction for the Certificate of Qualification for Urban Planning Services for Foreign-funded Enterprises.

Article 13 The following documents shall be supplied for application for the Certificate of Qualification for Urban Planning Services for Foreign-funded Enterprises:

1. Form of Application for the Certificate of Qualification for Urban Planning Services for Foreign-funded Enterprises;
2. Certificate of Approval of Foreign-funded Enterprise;
3. Business license for enterprise legal person;
4. Contract of employment of technicians and specialists and certificates of technical qualifications of these people put on file in labor and personnel departments;
5. Documents about the technical equipment of the enterprise.

Article 14 The foreign-funded urban planning service enterprise shall report, within 30 days after receiving the Certificate of Qualification for Urban Planning Services for Foreign-funded Enterprises, to the urban planning administration in the city or county of its registered for the record.

Article 15 The foreign-funded urban planning service enterprise that contracts for urban planning services in areas other than that of its registration shall report to the urban planning administrations of these areas for the record.

Article 16 All the documents submitted by the applicant shall be written in Chinese. If any document of certification is written in a foreign language, a Chinese version shall be supplied.

Article 17 Foreign-funded urban planning service enterprises shall abide themselves by pertinent Chinese laws, regulations, and technical standards and norms when providing urban planning services.

Article 18 The foreign technicians employed by foreign-funded urban planning service enterprises shall stay in China for a total length of no less than 6 months per person a year.

Article 19 The State Council department in charge of construction shall carry out annual checks to the foreign-funded urban planning service enterprises that have received the Certificate of Qualification for Urban Planning Services for Foreign-funded Enterprises. Those found unqualified shall have their Certificate of Qualification for Urban Planning Services for Foreign-funded Enterprises revoked.

Article 20 Chinese units that have received the Certificate of Qualification for Compilation of

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Urban Planning shall hand in the Certificate when they are restructured into Sino-foreign equity or cooperative joint ventures specializing in urban planning services.

Article 21 Foreign-funded urban planning service enterprises shall hand in their Certificate of Qualification for Urban Planning Services for Foreign-funded Enterprises when they stop operations or are disbanded or terminated.

Article 22 It is strictly forbidden to entrust any businesses of urban planning services to foreign-funded enterprises that have not granted the Certificate of Qualification for Urban Planning Services for Foreign-funded Enterprises.

It is strictly forbidden to entrust any businesses of service to general urban planning to foreign-funded enterprises.

Article 23 Those that contract for urban planning services without the Certificate of Qualification for Urban Planning Services for Foreign-funded Enterprises shall be ordered by the construction administrations of people's governments at or above the county level to stop their illegal activities, together with a penalty above RMB10,000 yuan and below RMB30,000 yuan. Their achievements shall not be acknowledged by any department.

Article 24 Those foreign-funded urban planning service enterprises that provide services to compilation of general urban planning in violation of the current Regulations shall be ordered by the construction administrations of people's government at or above the county level to mend themselves. Those involved in severe cases shall have their Certificate of Qualification for Urban Planning Services for Foreign-funded Enterprises withdrawn by the original issuer.

Those foreign-funded urban planning service enterprises that obtain the Certificate of Qualification for Urban Planning Services for Foreign-funded Enterprises through fraud and deception shall have their Certificate withdrawn by the issuer.

After withdrawing a Certificate, the issuer shall inform the registration department concerned of the case. The enterprise whose certificate has been withdrawn shall apply to the original department of registration for cancellation of its registration. Those that refuse to go through cancellation formalities shall be handled by registration departments in accordance with law.

Article 25 Those that entrust urban planning services or general urban planning services to foreign-funded enterprises that have not got the Certificate of Qualification for Urban Planning Services for Foreign-funded Enterprises in violation of the current Regulations shall be corrected by their senior departments, with administrative responsibilities to be affixed upon the person responsible in accordance with law. If a crime is committed, criminal responsibilities shall be found out in accordance with law.

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Article 26 The current Regulations shall be interpreted by the State Council department in charge of construction and the State Council department in charge of foreign trade and economic cooperation according to their respective functions.

Article 27 Investors from the Hong Kong Special Administrative Zone, the Macao Special Administrative Zone, and Taiwan area coming to run urban planning service enterprises on the mainland shall be handled with reference to the current Regulations.

Article 28 The current Regulations shall take effect as of May 1, 2003.



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