

Directive on the Foreign Exchange Facility Recommendation for the Hydropower Projects 2014 (2071)

The Ministry of Energy has issued a directive titled " Directive on the Foreign Exchange Facility Recommendation for the Hydropower Projects 2014 (2071)" on December 11, 2014 on the recommendation for foreign exchange facility for the hydropower project. Read more.....

Background

The Ministry of Energy exercising its power pursuant to Rule 94A of Electricity Rules (2050) 1993 has issued a directive titled " Directive on the Foreign Exchange Facility Recommendation for the Hydropower Projects 2014 (2071)" on December 11, 2014 (2071/08/25 B.S.) on the recommendation for foreign exchange facility for the hydropower project (the '**Directive**').

Any company undertaking the survey and development of hydropower project or transmission lines (the "Company") is required to obtain recommendation from Department of Electricity Development (DOED) for any foreign currency payment to any service provider and contractor (the "DOED Recommendation").

As a matter of process, Nepal Rastra Bank, the Central Bank of Nepal (NRB) will grant the approval for transfer of such foreign currency payments only on the basis of the DOED Recommendation.

The Directive can be found in the DOED's official website at <http://www.doed.gov.np/procedure/Foreign-Currency-Exchange-Directive-2071.pdf>. The Directive is in Nepali language.

Scope of the Directive

The requirement to obtain DOED Recommendation is applicable only when the payment is made in foreign currency for-(A) consultancy fee (including audit fee), (B) procurement of goods, and (C) payment for repair and maintenance service.

- **Consultancy Fee**

The consultancy work/service has been divided into three categories; a) Survey work b) Project construction work c) Administration and Audit work. An application should be submitted to DOED along with the documents listed in Schedule of 1 of the Directive to obtain the facility of making payment for any of the consultancy services in foreign currency by the licensee for electricity generation, transmission and distribution for electricity project development.

- **Procurement of Goods**

An application should be submitted to DOED along with the documents listed in Schedule of 1 of the Directive to obtain the facility of making payment for the import of goods in foreign currency by the licensee for electricity generation, transmission and distribution, construction and repair and maintenance.

- **Payment for Repair and Maintenance Services**

An application should be submitted to DOED along with the documents listed in Schedule of 1 of the Directive to obtain the facility of making payment for the repair and maintenance service in foreign currency by the licensee for electricity generation, transmission and distribution, construction and repair and maintenance.

Declaration regarding the commitment not to misuse/abuse the foreign currency shall be made as per Schedule 2 of the Directive by the Company along with the documents required to be submitted.

In addition to the above, for providing the recommendation for the foreign exchange facility, the DOED can ask for other additional documents if it finds necessary. Such documents shall be submitted within 15 days to the DOED.

Documents to be submitted

i) Survey Work

S.N.	List of Documents
1.	Copy of the Survey license of the electricity generation, transmission and distribution
2.	Copy of the notarized Agreement for Survey
3.	Report of the work in progress as mentioned in the Agreement
4.	Payment Schedule
5.	Invoice
6.	Power of Attorney issued by the promoter of the Company in the name of a person asking for recommendation for foreign currency exchange facility
7.	Major documents mentioning the maximum amount required for foreign exchange as per the Agreement
8.	Record of the recently required and obtained foreign exchange facility as per schedule 3 of the Directive
9.	Proof of the recently obtained Foreign Exchange Facility
10.	Declaration that there won't be misuse of foreign currency as per Schedule 2 of the Directive

ii) Project Construction Work

S.N.	List of Documents
1.	Copy of the License to generate, transmit and distribute electricity
2.	Copy of the notarized Agreement for Consultancy of construction work
3.	Report of the work in progress as mentioned in the Agreement
4.	Payment Schedule
5.	Invoice
6.	Power of Attorney issued by the promoter of the Company in the name of a person asking for recommendation for foreign currency exchange facility
7.	Major documents mentioning the maximum amount required for foreign exchange as per the Agreement
8.	Record of the recently required and obtained foreign exchange facility as per schedule 3 of the Directive
9.	Proof of the recently obtained Foreign Exchange Facility
10.	Declaration that there won't be misuse of foreign currency as per Schedule 2 of the Directive.

iii) Administration and Audit Work

S.N.	List of Documents
1.	Copy of the notarized Agreement for Administration and Audit work
2.	Payment Schedule
3.	Report of the work in progress or of the completed work
4.	Invoice
5.	Power of Attorney issued by the promoter of the Company in the name of a person asking for recommendation for foreign currency exchange facility
6.	Major documents mentioning the maximum amount required for foreign exchange as per the Agreement
7.	Record of the recently required and obtained foreign exchange facility as per schedule 3 of the Directive
8.	Proof of the recently obtained Foreign Exchange Facility
9.	Declaration that there won't be misuse of foreign currency as per Schedule 2 of the Directive

iv) Procurement of Goods

S.N.	List of Documents
1.	Copy of Survey, Construction and Repair and Maintenance license to generate, transmit and distribute electricity
2.	Copy of the notarized Agreement related to procurement of goods and services
3.	Bill of Quantities
4.	Report of the work in progress
5.	Payment Schedule
6.	Invoice
7.	Power of Attorney issued by the promoter of the Company in the name of a person asking for recommendation for foreign currency exchange facility
8.	Major documents mentioning the maximum amount required for foreign exchange as per the Agreement
9.	Record of the recently required and obtained foreign exchange facility as per schedule 3 of the Directive
10.	Proof of the recently obtained Foreign Exchange Facility
11.	Declaration that there won't be misuse of foreign currency as per Schedule 2 of the Directive

v) Repair and Maintenance Services

S.N.	List of Documents
1.	Copy of the notarized Agreement related to everyday repair and maintenance of the project in operation
2.	Payment Schedule
3.	Report of the work in progress
4.	Invoice
5.	Power of Attorney issued by the promoter of the Company in the name of a person asking for recommendation for foreign currency exchange facility
6.	Major documents mentioning the maximum amount required for foreign exchange as per the Agreement
7.	Record of the recently required and obtained foreign exchange facility as per schedule 3 of the Directive
8.	Proof of the recently obtained Foreign Exchange Facility
9.	Declaration that there won't be misuse of foreign currency as per Schedule 2 of the Directive

Payments not Covered

The Directive has not provided the requirement to obtain the DOED Recommendation for payment or repatriation of the investment proceeds/returns to the foreign investor.

In view of this, though not specifically covered under the Directive and given the provisions of the Foreign Investment and Technology Transfer Act 1992 (2049) and Foreign Exchange Regulation Act 1962 (2019), the DOED Recommendation is not required for the repatriation of investment and investment proceeds to the foreign investor (for example, dividend, sale proceeds, loan, interest, etc.). In such a case, recommendation from Department of Industries (DOI) will be required.

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