

LAW FOR INCORPORATION OF INVESTMENT SUPPORT AND PROMOTION AGENCY OF TURKEY

Law Number: 5523

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OBJECT AND INCORPORATION

Article 1-

(1) The object of this Law is to set out functions, tasks, powers and organization of Investment Support and Promotion Agency of Turkey which is incorporated for determination and implementation of investment support and promotion strategies aimed to encourage and increase number of investments in Turkey that are required for economic development of the country.

(2) Investment Support and Promotion Agency of Turkey is incorporated, in association with Prime Ministry, as a legal entity with administrative and financial autonomy to ensure implementation of this Law and to undertake the functions vested upon it by this Law.

(3) Whenever necessary, the Prime Minister may assign any Minister to exercise the managerial powers vested on him with regard to Agency.

(4) The Agency is subject to the provisions of private law for the issues not covered by this Law.

(5) The Agency's principal office is in Ankara.

DEFINITIONS

Article 2-

(1) The terms used in this Law shall have the following meanings;

- a) Agency: Investment Support and Promotion Agency,
- b) President: President of the Investment and Support Agency of Turkey
- c) Board: Consultancy Board
- ç) Investment: Domestic capital investments and foreign direct investments.

AGENCY'S FUNCTIONS

Article 3-

(1) Agency's major functions are as follows;

a) To designate and to implement, in cooperation with development agencies and relevant other institutions, investment support and promotion strategies at international level.

b) To coordinate and to support investment and promotion activities carried out at international level by the public institutions and corporations, development agencies and private-sector organizations.

c) To undertake planning and presentation of information and guidance for investors; to provide, in cooperation with development agencies, information and guidance services that may be required by the investors during pre/current/post investment stages.

ç) To follow up transactions executed before the relevant institutions and corporations, and development agencies as a support to applications made to obtain license and approval for investment projects.

d) To perform and conclude license and approval formalities before the relevant institutions and corporations, and development agencies investments, which are designated according to the criteria set out, differently or samely, for domestic capital investments and foreign direct investments, such as type, place, capital amount of investment, or offered job-opportunities.

e) To predict the impediments and problems likely to be encountered by the investors and to make attempts before the relevant authorities for solution of problems.

f) To develop or to collect from relevant institutions and corporations all kinds of information and data which will contribute to increase of investment in Turkey, and to arrange updating and distribution of such information, and to cooperate with national and international organizations on this subject.

g) To make attempts before the relevant authorities to provide designation of necessary policies which will higher the level of effectiveness of investment support and promotion activities.

ğ) To contribute to reform process aimed to improvement of investment climate, and to launch offers within this scope.

h) To provide technical and financial support to national and international conventions, seminars and similar other meetings on the subjects relating to its functions, and to ensure continued participation in such organizations.

ı) To issue and to support issuance of printed matters and electronic publications in Turkish and other foreign languages providing details on the Agency's tasks.

i) To perform other duties vested upon it by the laws.

ORGANIZATION

Article 4-

(1) Agency's organization comprises; Consultancy Board, major service units and other advisory and ancillary services.

BOARD AND ITS DUTIES

Article 5-

(1) Consultancy Board comprises Ministries assigned by the Prime Minister and representatives from private sector. President is a member as of right.

(2) The Prime Minister chairs the Board.

(3) Depending on the necessity and according to the nature and characteristics of the subjects to be discussed in the Board meeting, the Prime Minister may decide to invite representatives from other public institutions and corporations, and non-governmental organizations to attend the meeting.

(4) The Board convenes at least once in a year upon call of the Prime Minister. Agency undertakes the secretarial work for the Board.

(5) Board's functions are as follows;

a) To develop projects/proposals on investment support and promotion strategies.

b) To make recommendations in order to higher the level of effectiveness of activities carried out by the Agency.

c) To undertake assessment of the Agency's annual activity plan.

ç) To designate the contribution level of the relevant institutions and corporations on the subjects included in the Agency's annual activity plan.

PRESIDENT

Article 6-

(1) The President, as the top executive of the Agency, is responsible for the general management and representation of the Agency.

(2) The President, is appointed by the Prime Minister among the individuals who are graduated from institutions providing at least four years higher education, or any other foreign institution, of which equivalency is acceptable by High Education Board, and who is awarded at least (80) points in Foreign Language Level Determination Exam for Public Personnel, or holding an equal certificate issued by internationally recognized institution and possessing adequate professional knowledge and experience, and at least five years work experience in relevant public or private sector.

(3) The President is responsible towards the Prime Minister for providing exercise of Agency services in compliance with the relevant legislation, general economic policies of the Government, and recommendations of Consultancy Board, and establishment of cooperation with the other public institutions and corporations on the subjects within Agency's field of activity.

(4) The President's functions and powers are as follows;

a) To submit for the Prime Minister, investment support and promotion strategies, annual activity plan and budget required for operation of the Agency, and to ensure implementation of the same.

b) To prepare the annual activity plan and the activity plan for the following year at least 15 days before the meeting of the Consultancy Board for assessment by the Consultancy Board.

c) To submit the issues relating to employment of personnel for the Agency, and relevant other matters for the approval of Prime Minister.

ç) To establish necessary cooperation and coordination with the other public institutions and corporations on the subjects within Agency's field of activity.

d) To enforce regulatory requirements relating to Agency's functions.

e) To ensure operation of service units in harmony, efficient and disciplined, and orderly manner.

f) To represent the Agency before official and private institutions.

(5) The executives of the Agency from every level are responsible towards their superiors for performance and conduct of services or duties undertaken by them, in compliance with the instructions and directives of the President, legislation, plans and programs.

(6) The President and Agency's executives from every level may delegate part of their powers to their subordinates by clearly specifying the limits of authority in writing. Transfer of authority may not be construed as release of responsibilities by the transferring superior.

MAJOR SERVICE UNITS

Article 7-

(1) Following are the major service units of the Agency;

(a) Directorate of Investment Promotion Services,

(b) Directorate of Investor Services

(2) Directorate of Promotion Services is assigned to undertake programming, conduct of all kinds of domestic and foreign activities, and to provide information and guidance to the investors about investment climate and investment opportunities within the country, and to perform other tasks delegated to them by the President.

(3) Directorate of Investor Services is assigned to project, conduct miscellaneous support services that may be required by the investors in pre/current/post investment stages, and to perform other tasks delegated to them by the President.

CONSULTANCY AND ANCILLARY SERVICES

Article 8-

(1) Agency's Consultancy Unit comprises Legal Department, whereas Ancillary Services Unit from Human Resources and Support Services Department.

(2) Legal Department;

The Head of Legal Department is responsible for;

a) Declaration of opinion on the laws, regulations and bills, and other legal matters notified to him by the Agency's units and other public institutions and corporations;

b) Taking preventive legal measures for protection of Agency's interests and prevention of disputes, and execution of agreements and contracts in compliance with these principles;

c) Preparation of necessary information during judicial proceedings; representation of Agency in civil and administrative actions where the Agency stands as a party; or pursuit and follow up of lawsuits which require representation of the Agency as the purchaser of the services;

c) Performance of other duties to be delegated by the President.

(3) Human Resources and Ancillary Services Department;

The major functions of this department are as follows;

a) To undertake studies on Agency's labor force strategies and plans, to make offers and to execute employee transactions;

b) To built necessary infrastructure for establishment, operation and development of information technologies in the Agency;

c) To conduct all kinds of administrative and financial services required by the Agency, such as construction, supply, lease, repair and maintenance, archive-keeping, health and similar others;

c) To keep the records of Agency's movable and immovable properties;

d) To perform other duties to be delegated by the President.

BUDGET AND AUDITING

Article 9-

(1) The Agency's budget consists of following sources;

a) Income gained from various services rendered by the Agency against payment.

b) Appropriations allocated from the general budget for the Prime Ministry's budget.

c) Aid funds and donations granted by real and legal entities.

(2) The procedures and principles relating to income, expenditure and accounting of Agency's budget, and services provided by Agency against payment, are set out in a regulation to be issued by the Agency. The accounting period for the Agency is the fiscal year. The Agency shall notify, at least six months before each fiscal year, the amount requested to be allocated from the Prime Minister's budget as a provision against the expenditures projected for the next year.

(3) As a basic principle, Agency's income must equal to its expenditure. Agency's income is kept in the accounts to be opened in the banks approved by the President. The money that is left unspent at the end of the fiscal year from the deposited income is notified to the Ministry of Finance and transferred to the income account of the Agency for the following year.

The Agency's expenditure is to be met from the budget approved by the Prime Ministry.

(4) The financial transactions of the Agency are audited by the Turkish Court of Auditors. The audit report issued by the Court of Auditors is submitted to the Prime Minister's Office and Grand National Assembly of Turkey.

PROVISIONS RELATING TO PERSONNEL

Article 10-

(1)The Agency's activities are carried out by a staff comprising at most 30 specialists and support elements who are employed according to the provisions of labor law. The number of support elements undertaking secretarial work, public relations, archive-keeping, administrative, financial and employee affairs may not be more than twenty percent of the total number of Agency staff.

(2)The specialists are employed among the individuals who are graduated from institutions providing at least four years higher education, or any other foreign institution, of which equivalency is acceptable by High Education Board, and who is awarded at least (80) points in Foreign Language Level Determination Exam for Public Personnel, or holding an equal certificate issued by internationally recognized institution.

(3)The employees of public institutions and corporations, possessing the credentials set out in this Law, may be appointed as President, director or specialist upon their request and under the permission of the currently associated institution. The relationship between the employee and the institution is ceased immediately after signing of the new employment contract. The salary and other financial and social benefits to be granted to such personnel are stipulated in the employment contract. The personnel employed in this manner are re-appointed to a vacant position or post upon expiry of service period, within latest three months, by considering the years passed in the service and current title, and they are admitted to the work latest within one month without need to execute further transaction. However, the administrative title acquired in the previous institution may not be taken into account during their appointment. The services of these personnel during occupation in the Agency are assessed in terms of acquired rights, monthly compensation grade and level. In this case, they may not be entitled to receive severance pay and these periods are taken into consideration during calculation of post-retirement gratuity. The number of personnel to be employed in this way may not be more than thirty percent of the total number of Agency staff.

(4) The Agency personnel is subject to Social Insurance Law dated 17/7/1964 No. 506 for the issues related to retirement and social security.

(5) The personnel to be employed in the Agency, including the President is sought to meet the following requirements;

a) He/she must be Turkish citizen, and

b) Must not have been restricted from exercising public rights, and

c) Even if they are pardoned, they must not have been convicted of an infamous crime or offenses degrading honor and reputation such as crimes against the personality of the State,

embezzlement, defalcation, corruption, bribery, robbery, swindle, falsification, abuse of trust, fraudulent bankrupt, or excluding usufructuary and excise evasion, all kinds of smuggling, mischievous behavior in public tenders and procurements, including disclosure of State secrets.

(6) The cap for salaries and daily wages of President and other personnel, including other financial benefits, is determined by the Prime Minister.

(7) All the disputes involving Agency personnel are subject to the jurisdiction of the labor courts.

(8) Agency may employ domestic and foreign consultants and specialists by concluding work or service contract, or issuing mandate for the provisional tasks that may require expert knowledge and specialized experience.

(9) The procedures and principles stating, which one of the expenses made by the President and other personnel shall be met from the Agency's budget, are to be set out in a regulation.

(10) The President appoints an internal auditor possessing the credentials specified in the Public Finance Management and Control Act No. 5018.

CONTRACTING AND DELEGATION OF ENTITIES TO UNDERTAKE RESEARCH, FEASIBILITY, PROJECT STUDIES

Article 11-

(1) The Agency may assign real persons and legal entities, both among the Turkish citizens and foreigners, to undertake research, feasibility and project studies and other processes relating to the activities within the scope of the Agency, by concluding contracts according to the principles set out in the relevant regulation.

REQUEST FOR INFORMATION AND COMPLIANCE WITH CONFIDENTIALITY

Article 12-

(1) The Agency is authorized to request, from the public institutions and corporation, all kinds of information required for performance of research and analysis activities as part of tasks assigned to the Agency under this Law. The institutions and corporations receiving such request are liable to give response to the inquiry and to render necessary assistance. The information of secret nature acquired in this way may neither be disclosed nor be used by the Agency personnel for its own and others benefit.

REGULATIONS

Article 13-

(1) The regulations setting out procedures and principles relating to implementation of this Law are to be prepared and enforced by the Agency within six months by obtaining the opinion of the relevant institutions and corporations.

INAPPLICABLE PROVISIONS

Article 14-

(1) The provisions of Public Finance Management and Control Law No. 5018, Public Procurement Law No 4734 and Travel Allowance Law No 6245 may not be applied during implementation of this Law.

EFFECTIVENESS

Article 15-

(1) This Law enters into force on the date of its publication.

ENFORCEMENT

Article 16-

The provisions of this Law are enforced by the Ministers Council.