



On approval of the rules and criteria for selection of projects

Unofficial translation

Order of the Minister of Industry and Infrastructural Development of the Republic of Kazakhstan dated July 31, 2019 no. 599. Registered with the Ministry of Justice of the Republic of Kazakhstan on August 2, 2019 no. 19187.

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In accordance with sub-clause 17) of article 11 of the Law of the Republic of Kazakhstan dated April 3, 2019 "On special economic and industrial zones" I HEREBY ORDER:

1. To approve the attached:

- 1) Rules for selection of projects according to Annex 1 to this order;
- 2) Criteria for selection of projects according to Annex 2 to this order.

2. To recognize as invalid:

1) order of the acting Minister of Investment and Development of the Republic of Kazakhstan dated December 31, 2015 no. 1293 "On approval of the rules and criteria for selection of projects" (registered with the Register of State Registration of Regulatory Legal Acts as no. 12965, published in "Adilet" legal-information system on February 29, 2016);

2) order of the Minister of Investment and Development of the Republic of Kazakhstan dated April 19, 2017 no. 223 "On amendments to the order of the acting Minister of Investment and Development of the Republic of Kazakhstan dated December 31, 2015 no. 1293 "On approval of the rules and criteria for selection of projects" (registered with the Register of State Registration of Regulatory Legal Acts as no. 15133, published in the Reference Control Bank of Regulatory Legal Acts of the Republic of Kazakhstan in the electronic form dated May 26, 2017).

3. The Committee of Industrial Development and Industrial Safety of the Ministry of Industry and Infrastructural Development of the Republic of Kazakhstan in accordance with the procedure established by the legislation shall ensure:

1) state registration of this order with the Ministry of Justice of the Republic of Kazakhstan;

2) within ten calendar days from the date of state registration of this order, direction of it in the Kazakh and Russian languages to the Republican State Enterprise on the Right of Economic Management "Institute of Legislation and Legal Information of the Republic of Kazakhstan" of the Ministry of Justice of the Republic of Kazakhstan for official publication and inclusion to the Reference Control Bank of Regulatory Legal Acts of the Republic of Kazakhstan;

3) Placement of this order on the Internet resource of the Ministry of Industry and Infrastructural Development of the Republic of Kazakhstan;

4. Control over execution of this order shall be entrusted to the supervising Vice-Minister of Industry and Infrastructural Development of the Republic of Kazakhstan.

5. This order shall come into force upon expiry of ten calendar days from the date of its first official publication.

*Minister of Industry and Infrastructural
Development of the Republic of Kazakhstan*

R. Sklyar

Annex 1
to the Order of the Minister of
Industry and Infrastructural Development of
the
Republic of Kazakhstan
dated July 31, 2019 no. 599

Rules for selection of projects

Chapter 1. General provisions

1. These Rules for selection of projects (hereinafter referred to as the Rules) have been developed in accordance with sub-clause 17) of article 11 of the Law of the Republic of Kazakhstan dated April 3, 2019 "On special economic and industrial zones" (hereinafter referred to as the Law) and shall determine the procedure of selection of projects of applicants for performance of activities as a participant of a special economic or industrial zone.

2. Basic definitions used in these Rules:

1) special economic zone – a part of the territory of the Republic of Kazakhstan with precisely defined boundaries, which has a special legal regime of a special economic zone for performance of priority types of activities;

2) management company of the special economic zone – a legal entity, established or determined in accordance with the Law and the Law of the Republic of Kazakhstan dated June 10, 2014 " On innovation cluster " Park of innovative technologies " to ensure the functioning of the special economic zone;

3) Priority types of activities – types of activities, defined by the authorized body, which are subject to a special legal regime of the special economic zone;

4) uniform coordination center – a legal entity carrying out the coordination of activities of special economic and industrial zones.

5) project – a complex of measures providing for creation of modern high-productive, competitive productions and services for implementation of priority types of activities by the potential participant, applicant or participant in the special economic zone as well as for implementation of the entrepreneurial activities by the potential participant, applicant or participants in the industrial zone;

6) industrial zone – territory equipped with engineering and communication infrastructure provided to private enterprises for the placement and operation of business facilities, including in the field of industry, agriculture, tourism industry, transport logistics, waste management, in accordance with the procedure prescribed by the legislation of the Republic of Kazakhstan;

7) Industrial zone management company – a legal entity established or determined in accordance with the Law to ensure the functioning of the industrial zone;

8) a contract on activities – an agreement, concluded between a participant or several participants in a special economic or industrial zone and the management company of a special economic or industrial zone, establishing the conditions for carrying out activities in the territory of a special economic or industrial zone and (or) in their legal regime, rights, duties and responsibilities of the parties;

9) an applicant – a person submitted an application to the management company of a special economic zone to carry out priority or auxiliary types of activities or an application to the management company of an industrial zone to carry out business activities as a participants in the industrial zone;

10) authorized body – central executive body carrying out state regulation in creation, operation and abolition of special economic and industrial zones.

Chapter 2. Procedure for selection of projects of applicants to carry out activities as a participant in the special economic zone

2. For the purposes of selection of projects of the applicants to carry out activities as a participant in the special economic zone, the applicant shall submit to the management company of a special economic zone an application for carrying out activities as a participant in the special economic zone as well as documents, stipulated by clauses 3 and 4 of article 18 of the Law.

In case if a legal entity at the time of submission of documents is not a resident of the Republic of Kazakhstan and is not registered as a taxpayer of the Republic of Kazakhstan, then a copy of the certificate of the absence of state registration as a taxpayer with the state revenues bodies shall be submitted.

Foreign legal entities shall submit legalized documents, indicated in sub-clauses 2), 4) and 5) of clause 3 of article 18 of the Law, legalized extract from the trade register or other legalized document, certifying that the foreign legal entity is a legal entity under the legislation of a foreign state, with notarized translation into the Kazakh and Russian languages.

3. Upon submission of an application by the applicant for carrying out activities as a participant in the special economic zone, the management company of the special economic

zone shall register the application in the application registration book and shall place it on the Internet resource of the uniform coordination center on the day it is submitted.

4. The management company of the special economic zone shall check the completeness of the package of submitted documents, indicated in clauses 3 and 4 of article 18 of the Law.

5. During selection of projects of applicants to carry out activities as a participant in the special economic zone, the applicants that meet main criteria, stipulated by clause 1 and at least one of additional criteria, stipulated by clause 2 of the Criteria for selection of projects shall have advantage in concluding a contract on activities.

In case if two and more applicants meet the main and additional Criteria, the applicants that meet the greater number of additional criteria shall have advantage in concluding the contract on activities.

6. Compliance with the main criteria shall be the necessary condition for conclusion of the contract on activities.

7. In case of compliance of the declared types of activities including the types of activities under the uniform technological process, goals of establishment of the special economic zone, priority types of activities, selection criteria for the projects of applicants and submitted documents with the requirements, set forth by clause 3 or 4 of article 18 of the Law, the management company of the special economic zone within ten working days from the date of submission of an application to carry out activities as a participant in the special economic zone, shall sign the contract on activities.

8. The management company of the special economic zone shall refuse the applicant to conclude the contract on activities in cases of non-compliance of the declared type of activity, including activities within the framework of a uniform technological process, the goals of creating a special economic zone, priority activities, selection criteria for the projects of applicants and (or) submitted documents to the requirements stipulated by clause 3 or 4 of article 18 of the Law.

The management company of the special economic zone shall send the decision to refuse to conclude the contract on activities with the justification for its adoption to the applicant in writing and shall place it on the Internet resource of the single coordination center within ten working days from the date of submission of an application to carry out activities as a participant in the special economic zone.

9. The management company of the special economic zone no later than the next working day from the date of conclusion of the contract on activities shall send a copy of the contract on activities to the single coordination center and state revenue authorities and post information on the conclusion of the contract on activities on the Internet resource of the uniform coordination center.

10. Based on the concluded contract on activities, the participant in the special economic zone, if the necessary infrastructure and facilities are available in the territory of the special economic zone for the implementation of priority types of activity, shall cease the activity of

its separate structural units outside the special economic zone, except for representative offices.

For participants in the special economic zone in the field of information and communication technologies and innovative technologies, activities outside the territory of the special economic zone shall be allowed, unless otherwise provided by the Law.

Chapter 3. Rules for selection of projects of applicants for activities as a participant in the industrial zone of the republican or regional significance

11. For the purposes of selection of the projects of applicants to carry out activities as a participant in an industrial zone of republican or regional significance, the applicant shall submit to the industrial zone management company of republican or regional significance an application to carry out activities as a participant in the industrial zone of republican or regional significance attached with the following documents:

- 1) an application form in the form approved by the authorized body;
- 2) a certificate of state registration (re-registration) of a legal entity;
- 3) a copy of an identity document of the first head of the applicant;
- 4) a copy of the charter of a legal entity;
- 5) A copy of the financial statements at the last reporting date, signed by the first head of the applicant or the person replacing him, as well as the chief accountant (accountant);
- 6) project feasibility study that meets the requirements, established by the authorized body ;
- 7) statement of the servicing bank on the cash flow in the applicant's bank accounts and a credit report from the credit bureau;
- 8) certificate of the state revenues body at the place of registration of the presence or absence of arrears of taxes and other obligatory payments to the budget.

If the legal entity at the time of submission of documents is not a resident of the Republic of Kazakhstan and is not registered as a taxpayer of the Republic of Kazakhstan, then a copy of the certificate of the absence of state registration as a taxpayer in state revenue authorities is presented.

Foreign legal entities shall submit the following legalized documents:

- 1) certificate of state registration (re-registration) of a legal entity;
- 2) a copy of the charter of the legal entity;
- 3) legalized extract from the trade register or other legalized document certifying that the foreign legal entity is a legal entity under the laws of a foreign country, with a notarized translation into the Kazakh and Russian languages.

12. When the applicant submits an application for carrying out activities as a participant in the industrial zone of republican or regional significance, the industrial zone management company of republican or regional significance shall carry out the registration of the application in the application registration book.

13. The industrial zone management company of republican or regional significance shall check the completeness of the package of submitted documents indicated in clause 11 of these Rules.

14. When selecting projects of applicants for activities as a participant in the industrial zone of republican or regional significance, applicants that meet basic criteria, stipulated by clause 1 and at least one of additional criteria, stipulated by clause 2 of the Criteria for selection of projects shall have the advantage in concluding the contract on activities.

In case if two and more applicants meet the main and additional Criteria, the applicants that meet the greater number of additional criteria shall have advantage in concluding the contract on activities.

15. Compliance with the main criteria shall be the necessary condition for conclusion of the contract on activities.

The industrial zone management company of republican or regional significance shall conclude contracts on activities with potential participants subject to positive decision on admission of such persons to the industrial zone by the relevant coordination board.

16. If the applicant's project meets the criteria for selection of the applicant's projects and the submitted documents to the requirements established by clause 11 of these Rules, as well as subject to a positive decision of the relevant regional coordination board for the applicant's admission to the industrial zone, the industrial zone management company of republican or regional significance within ten working days from the date of submission of an application to carry out activities as a participant in the industrial zone of republican or regional significance, shall sign a contract on activities.

17. The industrial zone management company of the republican or regional significance shall refuse the applicant to conclude the contract on activities in cases of non-compliance of the project with the criteria of selection of projects of applicants and (or) submitted documents with the requirements, stipulated by clause 11 of these Rules, as well as subject to the negative decision of the relevant regional coordination board on admission of the applicant to the industrial zone.

The decision on refusal to conclude the contract on activities with the justification for its adoption by the industrial zone management company of republican or regional significance shall be sent in writing to the applicant within ten working days from the date of filing an application to carry out activities as a participant in the industrial zone of republican or regional significance.

Annex 2
to the Order of the
Minister of Industry and Infrastructural
Development of the Republic of Kazakhstan
dated July 31, 2019 no. 599

Criteria for selection of projects

1. Selection of projects of applicants for activities as a participant in the special economic or industrial zone shall be made based on the following main criteria:

1) absence of overdue debts on bank loans, confirmed by an extract from the servicing bank on the movement of money in the applicant's bank accounts (absence of a card file) and a credit report from a credit bureau containing information on full or partial information available in the credit history;

2) absence of tax debts and other payments to the budget, confirmed by information from the state revenue authority at the place of registration of the presence or absence of tax debts and other obligatory payments to the budget.

2. Selection of projects of applicants for activities as a participant in the special economic or industrial zone shall be made based on the following additional criteria:

1) promotion of similar projects in regions not being the regions of project implementation;

2) import-substituting or export-oriented orientation of the project;

3) implementation of an industrial and innovative project.