



**Component 2.2 Report**

**Analysis and Reform of 30 High Priority Business Formalities**

**Technical Assistance for Business Regulation Review and Rationalization**

Vientiane Capital

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## 1. Introduction

This report summarizes the analysis and recommendations of 30 High Priority Business Formalities (“HPBFs”) that different government authorities of Lao PDR are currently enforcing. It corresponds to the deliverable of Component 2 of the Technical Assistance project to Business Regulation Review and Rationalization. The aims of the Component are to select 30 HPBFs and then review the same with the Reform Result Calculator (i.e. a measurement methodology based on the Standard Cost Model approach) to provide general and specific policy options for reform.

To organize the most objective selection of the HPBFs, the Consultant Team used a Triage™ prioritization approach developed by Jacobs, Cordova & Associates (JC&A). The final list of HPBFs compiled those formalities with the highest impact on business climate in Lao PDR according to five different criteria.

Based on this selection, the Consultant Team reviewed the actual compliance costs of the 30 HPBF imposed by regulation on businesspersons; measured systematically the compliance costs for business, and prepared recommendations to reduce the burdens.

This report summarizes the approach and results of the work on this Component started in 15 January 2018 and concluded in May 2018.

## 2. Selecting the High Priority Businesses Formalities

The first step of the Component was to select 30 HPBFs from the total inventory of 208 business formalities for in-depth study and proposed reform. For this step, the Consultant Team used the Triage Method.

The Triage™ method is a special prioritization technique developed by JC&A to use in business environment with little data and statistics on regulatory costs like the one existing in Lao PDR. Its final aim is to “negatively” select out of the total inventory (i.e. eliminate from that long list) business formalities that have low net economic benefits or importance for the business community through a series of consecutive rounds of expert discussion. This successive filtering helps the selection of those business formalities whose reform has the potential to produce the highest positive impact for the economy and society.

The Triage discussion was held during a full-day workshop on Thursday 18 January 2018 at the meeting room of the Department of Enterprise Registration and Management, Ministry of Industry and Commerce and finalized on 24 January with the validation from panel of experts via e-mail of the List of HPBFs.

### 2.1. Panel of experts on the Triage

Selected in close coordination and consultation with the National Implementing Unit (NIU) and the Department of Enterprise Registration and Management (DERM), Ministry of Industry and Commerce, the following experts participated in the Triage™ panel discussion (See name registry in Annex 1):

- 2 representatives from World Bank Group;
- 2 representatives from National Implementing Unit, Ministry of Industry and Commerce;

- 1 representative from regional law firm (DFDL Law Office);
- 1 representative from Department of Enterprise Registration and Management, Ministry of Industry and Commerce;
- 1 representative from Department of SME Promotion, Ministry of Industry and Commerce; and
- 1 representative from Department of Investment Promotion, Ministry of Planning and Investment.

## 2.2. Organization and function of the Triage

During the Triage, the panel of experts assessed each of the 208 business formalities established by the Consultant Team; gave a score to each formality; and eliminate those with the least impact on business climate based on the following criteria as agreed unanimously by the panel:

1. Impact on the competitiveness of Lao firms
2. Complexity in applying and obtaining approval
3. Frequency: number of application of the formality approved per year
4. Cost to undertake the formality
5. Time needed to get the formality

## 2.3. Final List of High Priority Business Formalities from the Triage

As a result, the Consultant Team presented for validation by DERM a list of 30 HPBFs which were selected.<sup>1</sup> See Annex 2 for the complete list. Some of the HPBS formalities are transversal for all business, meaning every kind of business must comply with them, such as the Enterprise Registration Certificate or the Certificate for the Annual Tax Payment. Yet, the list also includes formalities from the following sectors: financial; education; tourism and construction and others.

## 3. The measurement methodology

### 3.1. Reform Result Calculator - an adjusted Standard Cost Model

The Consultant Team used the Reform Result Calculator (RRC) for the measurement of the AS IS and TO BE situation of the HPBFs compliance process. The RRC is an adaptation of the Standard Cost Model (SCM) methodology. Incorporating some novel and user-friendly techniques, the RRC permits the SCM method to be customized and applied to circumstances of developing countries where evidence-based methods and hard data are rare, and the administrative procedures tend to vary significantly. (See Box 1)

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<sup>1</sup> A final online communication between panel of experts and the Consultant Team assisted in the finalization of the list of 30 HPBFs with 5 more alternatives

### **Box 1. The ReformResultsCalculator™**

The RRC is built around user-friendly Excel sheets into which data about each HPBF must be entered for analysis. It is based on the SCM approach but contains innovations and adaptation for the use of emerging countries. The SCM is a methodology developed in the late 1990s to find common systemic problems and to eliminate redundant or unnecessary formalities.

Like most of SCM approaches, the RRC multiplies the cost estimate of the time used by a normal businessperson to comply with a single HPBF by the frequency (i.e. the number of application processed). The RRC, however, adds the costs of initial application and subsequent renewal as well as an estimate of the 'opportunity cost' for businesses waiting for HPBFs. To estimate the costs of a given HPBF, the RRC decomposes the process along five simple dimensions and then multiplies that cost by the number of times per year the HPBF is filed:

1. The time spent gathering the information and the required documents, as well as filling out the application form for the HPBFs. This will be assessed for both the pre- and post-reform HPBF issuing process. The time is then multiplied by the average hourly salary of a medium level white-collar employee for SMEs, in case of micro businesses by averaged hourly revenue.
2. A standard cost of reproducing and certifying the documents that must be attached to a HPBF application package (as this is an important administrative burden in many countries).
3. The cost of waiting for the authority's reply. This estimate is calculated by multiplying the official waiting time with an estimate of opportunity cost of investing in the bank. The latter is based on macro variables: Gross Private Investment and Deposit Bank Rate.
4. The cost of the fees and stamps that are disbursed to start the license.
5. Other costs -- in particular the charges due to external help (notaries, lawyers, accountant, architects and other specialists)

### 3.2. RRC process for Lao PDR

To implement the RRC, the Consultant Team designed and applied the following 6 steps:

- Step 1: analyzing the information obligations required for each of the selected 30 HPBFs;
- Step 2: creating a "data sheet" corresponding to the legal and administrative information obligations and the business experiences of Lao PDR;
- Step 3: gathering information of business compliance costs (divided into the administrative cost from undertaking certain steps internally and externally to gather information and to get the targeted business formalities; and the monetary cost from the fees –informal and formal fees) for each 30 HPBF through a series of intensive interviews with at least 5 businesspersons for each HPBF<sup>2</sup>;
- Step 4: standardizing all the data entries and inputs provided for each of the interview for each selected HPBF and measuring the AS IS situation - to estimate the most accurate costs in time

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<sup>2</sup> The Consultant Team focused on business point of view (i.e. interviewees in owners/managers/administrative personnel) rather than on opinions by broker/intermediary on compliance times and costs.

and expenses spent by a normal / standard business for application of each of the HPBF and the general and total cost imposed on Lao economy as a whole;

- Step 5: grouping certain general problems or constraints that most of the businesspersons are facing in the application for the 30 HPBFs and developing a series of general recommendations based on the systematic problems, burdens and costs faced by business in Lao PDR; and
- Step 6: for each 30 HPBF, preparing and proposing recommendations for each HPBF to develop a TO BE situation and measure possible results in terms of burden reduction or saving after applying a series of recommendations based on evidence on the costs faced by businesses.

### 3.3. Data gathering nurturing the RRC Process

To obtain the information that constituted the basis of the RRC calculation for both the AS IS and TO BE situation of each HPBF, the Consultant Team undertook a series of in-depth interviews with businesses in the following sequences:

- Develop a generic interview guideline and RRC data sheet

The Consultant Team designed an interview guideline based on international best practices and the Lao context and adapted it after a series of tests and the team's experience. See Annex 4 for the example of the RRC Data sheets.

- Define the scope and interviewees

For each of the HPBFs, the Consultant Team identified at least 5 businesses who had applied for the corresponding HPBF. The Consultant Team selected the candidate for the interviewees from the list of businesspersons provided by the relevant government authorities issuing the relevant HPBFs and the National Enterprise Database of DERM.

The Consultant Team made the best effort to select a wide and diversified range of interviewees, in terms of size and nationality of the enterprises. However, due to time limitation; and constraints faced by the Consultant Team to extract the exact contact information of the selected candidates from the provided list, final list of candidates interviewed was restricted to only businessperson who operate is in Vientiane Capital and are willing to meet in the specific timeline defined.

In order to get the most accurate information from their first application to the relevant HPBFs, an additional criterion for selecting the interviewees was to focus on mostly newly established enterprises. The only exception concerned the License to Operate Tourism Business where there no new player in that field was willing to provide information. For this case the interviews focused on renewal process instead of the fist-time application process.

- Interviews

Based on the list of selected interview candidates, the Consultant Team undertook more than 160 interviews with businesspersons from February to May 2018. Nearly all were done through bilateral meetings and exceptionally through the phone. Occasionally, the Consultant Team conducted certain follow up calls and e-mails in case the information gathered and analyzed required clarification or validation, in particular during the standardization of the responses (see next).

After each interview, responses were recorded into an electronic database. The database served as the main input for the RRC.

#### 3.4. Analysis of information with the Regulatory Reform Calculator

The Regulatory Reform Calculator (RRC) provides a method to identify and estimate the time and monetary costs to comply with formalities in an AS IS (now) and a TO BE (future) situation - the latter based on the implementation of specific recommendations to reduce such costs. To do this measurement, the RRC follows 7 steps:

- The first step is the **standardization** of the data gathered during the interviews. The aim is to define from various responses, the most accurate estimate (the “**standard response**”) concerning time and resources spent by a ‘normal’ business’. In the case the responses on a special issue varied excessively, additional interviews were organized until a standard response emerges.
- Second, the standard responses obtained in time (hours, days, etc.) are monetized to obtain an estimated **cost of the time spent complying with a HPBF**. For this, the RRC monetizes all the time spent by a normal business to comply with the HPBF, starting from the activity of understanding the formalities; filling in the application form package; coordinating with the external person (i.e. chief of village or broker); submitting the application form to the authority offices; revising the application package; the inspection time; following up via call or meetings in person until the receipt of the HPBFs. The cost also included the travelling time and the queuing time that the investor spent as well even though in most of the times, these times despite its lengthy nature, being disregarded.
- Third, the Consultant Team aggregates all standard response for **monetary expenses**. For this, the RRC calculated all the money that the businesspersons paying to the relevant government authorities and other relevant stakeholders in the process of applying for these relevant HPBFs, including the formal fees (formalities fees and application fees) and informal fees (in particular the broker’s fees; the contributions and the inspection costs).
- Forth, the Consultant Team **standardized the days and fees** provided by businesses and used the information gathered for building the Inventory of the Business Formalities (See Component 2.1 to validate the final estimates. The exercise also helped to detect discrepancies of differences between the reality and legal requirements.
- The fifth step consisted in **categorizations of problems** raised by interviewees into a list of generic challenges confronted by businesses when dealing with HPBF. Those generic challenges are:
  1. Problem from the limited public information of the formality;
  2. Discretionary and substantial difference in the interpretation, application and enforcement of the regulatory framework that originates the formality;
  3. Inspections take place without any legal basis and imply inspections fees that are not legally established;
  4. Excessive waiting time to obtain the official response;
  5. Unjustifiable qualifications and unnecessary documents required;

6. Risky and High Initial Investment even before the formality application;
7. Unclear, unjustified or non-existence official fee;
8. Public officers are not investor-friendly and do not have the specific expertise and capacity;
9. Informal fees and speedy money are used;
10. Hire a broker is very common practice; and
11. Unnecessary formalities or duplicities.

These are analyzed in more detail in section 4.1 below.

- Step 6 consisted in estimating the **opportunity cost of a waiting** for an official response from the authorities. The basic assumption is that businesses incur costs and risks in terms of missed investment opportunities or not being able to engage in the activities because of the time spent waiting for a HPBF from an authority. To estimate this opportunity costs, we estimated the amount of return from investment in a bank saving account that would have been lost by businesses during an unproductive waiting day. To do this we assume the daily return on investment in Lao PDR - what would be the economic return generated though interests if a business would have deposit in a bank their economic assets. Assuming that this “daily opportunity return” shadows the “opportunity cost of waiting day” we then can multiply it with the estimated waiting time reported by businesses to obtain an indicator of the investments lost due to waiting for HPBFs issuance (See annex 3 for further details).
- Finally, based on the analysis of the problems and focusing on the biggest elements contributing to the cost of a HPBF, a series of **recommendations** were prepared together with a monetary estimate of the impacts in terms of reduction of time, expenses or frequency are developed. The latter corresponds to the TO BE situation.

#### 4. Key findings from the RRC of 30 HPBFs

Based on the interviews and measurement, a more detailed understanding of the compliance costs that the businesspersons actually confront and the challenges businesses need to face in the current business environment of HPBFs application emerged. The research also brought a new light on new aspects of the critical relationship between the public authorities and the business community. Below are some of the key findings.

##### 4.1. The transactional system when dealing with formalities

The first observation from RRC process is the businesses obtain the formalities after a one-on-one negotiation with an official – especially during pre-authorization inspections – rather than through a strict compliance with all the required objective criteria and following a non-discretionary administrative process as defined under the relevant legal framework. This aspect infuses the other problems listed below.

For instance, some interviewees mentioned that the amount of a formality’s fee – formally and informally set – is usually negotiated between the official and the businesses and those fees has a direct impact on the speed of the issuing of each formality. In other cases, businesses use brokers to negotiate the terms and time according to the level of access and predisposition. Underlining this



system, the system currently in place is opaque, rapidly changing (forms and templates specifying the information requirements vary frequently) at the discretion of the regulator/official in charge of delivering the formality.

The transactional system of the formalities is fostered by the lack of a clear set of rules, procedures, and standards in the application of a formality. This situation turns the process into a transaction between the applicant and the public officer leaving room for negotiation on the fees, requirements, waiting times and the general process.

## 4.2. Common Problems applicable to most of the HPBFs

The Consultant Team found that most of the 30 HPBFs shared a series of 11 common problems

### 4.2.1. Limited Public Information on the Formality

The authority does not disclose to investor the specific information obligations and administrative procedure required to comply with a HPBF: who should be applying for this, what are the process or steps, what is the official form, the required justification and qualifications; documents to accompany the form; and the fees. In particular, most application forms cannot be downloaded from the website.

Almost every business interviewed complained about the lack of public information to comply with the formality. Also, they noted no single source point of information that can easily access is available. They need to invest time efforts, hire brokers, require help from friends and relatives to obtain all information requirements, the justification documents to be annexed and the step-by-step procedure, fees and timing to obtain the public authority final decision on their application.

This creates legal uncertainty and investment risks to the investor; higher compliance costs; room for rent-seekers (i.e. broker and sometimes the public officer himself to exploit the situation); excessive discretion from public officers enforcing these formalities; and most of times, a high rate of non-compliance.

*Some examples are:*

In the case of the “Certificate to Confirm the Compliance of the Enterprise Accounting” (MOF-AD-13), many investors are not aware that they need to apply for this formality until they have been instructed by the inspector that they shall get this formality unless they will be subject to a penalty for the lack of compliance in previous years. The penalty is substantive: 20 million LAK although can be negotiated down to 1 million LAK. If the investor knew about the formality, most probably she/he would have complied on time.

For the “Certificate of the Capital Importation” (BoL-MPD-10), only 205 applications were issued in 2016 despite a much higher numbers of foreign-direct investors in Lao PDR. From the interviews with the foreign businesses, most investors did not know about this formality and therefore never applied for one.

In the case of the “Certificate for the Registration of Social Security” (MoLSW-NSSF0-1), only 76 applications were registered in 2016 despite the statutory requirements that every single enterprise registered in Lao PDR should apply for this formality. The reason reported by interviewees it that they were not aware about the obligation and there was no information about this Formality available.

For the “Licenses to Operate Domestic Transportation Business” (VCPG-PWTD-10) a small courier company claimed that they decided to apply for the formality even though their business model did not match the type of business subject to that formality, given that the lack of compliance meant too high risks and investment. The interviewed firm mentioned that if they had known better and had access to more information about the scope of this formality, they would have applied for the “License to Establish a Postal Service Business” (MoPT-PD-2) which seems to match their business model better.

#### 4.2.2. Discretion and substantial difference in the interpretation, application and enforcement of the regulatory framework that originates the formality

Authorities have quite significant discretion when interpreting the legal obligations including the required documents supporting evidence and the qualifications for the applicants for many formalities. Often the interpretation of the legal framework governing a HPBF tends to diverge between public officials within the same authority, among different authorities, and among different level of government, district, provincial or central.

Each public officer tends to apply dissimilar criterion on the application and interpretation of the legal framework governing a HPBF. The different level and location of public authorities also magnifies the interpretation divergence. At the end, investors face significant differences in time and costs to prepare, gather the required information and submission of the application until the receipt of the HPBFs.

Lack of a standardized administrative procedures and protocols among public officers and authorities, sometimes within the same unit and from one unit / one level to another, amplify this problem.

Businesses also reported that often some applicants are exempted to comply with a given formality thanks to the public authority’s discretion.

The lack of transparency and accountability intensifies the legal uncertainty for businesses and creates an unequal playing field since one business may be subject to comply with some business formalities at a high compliance costs while the other similar ones are not.

##### *Some examples are:*

For the “Permit to Install Advertisement Signage” (VCPG-PWTD-8), the authority under its own discretion requires some businesses to apply for this formality when other businesses are exempted.

In the case of the “Registration of Document” (MOF-SAMD-3), significant differences in time and costs exist between the registration at the provincial level (Vientiane Capital) and the registration at the Department level. Surprisingly, the procedure for this Formality in Vientiane Capital (provincial level) is lengthier and costlier than at the department level.

For the “License to Establish a Construction Business” (VCPG-PWTD-31), no standard in the application of the law, requirements, and criteria for issuance of the license is publicly available. In one case, when the public officer in charge of reviewing the procedure changed, the criteria to adjudicate the license were altered. This situation caused uncertainty for the investor and doubled the effort and costs.

For the “Permit to Install Advertisement Signage” (VCPG-PWTD-8), the authority – at his/her discretion - emitted observations and comments on signage installations that are beyond the legal requirements or specifications.

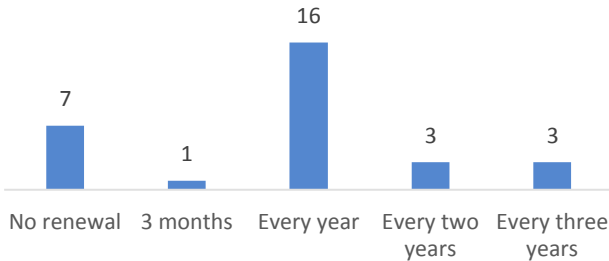
For the “License to Operate Medicine and Medical Device Import-Export Company” (MOPH-FDD-9), businesses reported different criteria and discrepancies in the review and issuance process at each level of authority. Although the Department of Foods and Drug is only empowered to issue this License, some businesses reported that competitors obtained this license from the district authority and those competitors were subject to easier and cheaper requirements when applying for it.

4.2.3. Unjustified short renewal period and its cost is almost the same as the first-time application

Only 7 HPBFs do not require a renewal.<sup>3</sup> For the other formalities, the validity varies but mostly they are valid for a year (See Figure 5). This compels businesses to re-apply for the same formality every year incurring each time a similar cost as the first-time application. The renewal requirement results in the situation where the businesses are required to pay the same compliance cost, not only for the first application but on an annual basis, therefore, the compliance cost for the formality application is not just a one-time cost incurred but a continuous operating cost incurred every year.

Also, most of the businesses opined that the validity period set is too short without any justifiable rationale. The businesses believe that a short validity period should relate directly to the risk to general public that such business operation or activity governed by such formality would impose but most of the formalities that have a one-year validity does not seem to have high risk or impact at all so the businessperson recommended that the validity period should be extended to 3 to 5 years.

Figure 1: Renewal requency



Some examples are:

One example the renewal for the “Approval of the Signage Content” (MoICT-MCD-23), is to be done each year, even when there is no change in the signage content. Another example of the burden imposed by the renewal is the “License to Operate Tourism Service Business” (MoICT-TMD-28) where every business mentioned they face the same constrains and requirements on an annual basis in the same manner and difficulties as the first-time application.

<sup>3</sup> These formalities are one-time applications such as the Certificate to confirm Land Ownership or the Notarization of Documents to confirm its Validity.

#### 4.2.4. Inspections take place without any legal basis and imply inspections fees that are not legally established

Under Lao PDR laws, no clear legal reference or foundation that empowers the government authority to conduct inspection of the business premises prior to the issuance of the business formality exist. Ex Ante inspections are predominantly based on customs and habits of the Lao public administration.

The inspection “fees” or “contributions” requested from businesses lack legal basis and are often used to extract informal payment or “speed money”. Moreover, since inspection contributions are “voluntary”, a business tends to pay different rate than others – some unbearably high (ten times higher than the formality fees). In practice the inspection “contribution” reported by business depended on how many inspectors participated to the visit – averaging around 100 USD per inspector. Inspectors do not issue receipts and the cash payment so untraceable.

In most circumstances, it was reported that an inspection also opened a room for informal negotiations between the public inspectors and the businesses to other informal “contribution”.

*Some examples are:*

In the case of the “License to Establish the Pre-School Educational Institute” (MoES-PSED-2), although the official formality’s fee is 200,000 LAK (according to the Presidential Edict No. 03/PR), the average inspection contribution to be payable to inspectors was reported to be around 2,600,000 LAK –the highest inspection contribution reported for this Formality was 8,000,000 LAK.

For the “License to Operate Medicine and Medical Device Import-Export Company” (MOPH-FDD-9) the averaged inspection contribution reported was 1,200,000 LAK. This amount is in addition to the official fee of 1,000,000 LAK.

For the “License to Operate a Hotel” (VCPG-ICTD-33) one investor reported to have paid over 11,000,000 LAK on inspections’ contributions even though they are a 1 or 2-star hotel that should only face an official fee of around 3,000,000 LAK.

It was reported that to obtain the “Certificate of Annual Tax Payment” (MoF-TD-9), investors settle with officials through a negotiation during the ex-ante inspection the amount of taxes to be paid to the government. For each inspection, a business is required to pay the inspection’s transport and other costs, which tend to mix informal amounts that can reduce the taxable amount according to the final inspector’s intake. At the end, substantially different amounts are paid from one business sector to another disregard incomes, size, etc. Although the official fee for most formalities are indicated in the Presidential Edict No. 03/PR is rather low – around 30,000 LAK per formality, at the end most investors are paying many times more.

It should also be noted that for many businesses, there is an evident relation between those business that pay for a broker and those who get an inspection - normally those businesses paying for a broker are less likely to have to pay for an inspection or even have to be inspected.

#### 4.2.5. Excessive waiting time to obtain the official response

Another complaint that most investors made concerns the abusive waiting time to get a response from public authorities.

In most cases, businesses complained about the lack of definite deadline or that public officers did not disclose, inform or commit to official timeframe. At the end, businesses are responsible to make follow up calls or visits the authority office every week with no certainty about when the formality will be finally issued.

Even when an explicit deadline for decision is given under the relevant law, most officials do not abide, and investors do not have access to independent complain or appeal against those delays and have no other option to wait or pay 'speed money'.

Interviewed businesses opined that in most cases, the excessive delays were caused by limited human and technical resources within the relevant authorities; lack of coordination among relevant authorities; or errors incurred by the relevant authority (loss of documents in the authority's possession). A usual justification for the delay reported is that high-ranking official (i.e. Minister or Director General) who needs to sign the formality is not in the office and no effective delegation mechanism exists.

This creates uncertainty for investors since they never know when the response will be issued and when they can start to operate so an evident opportunity cost and loss.

This situation also encourages the quite general custom of paying speed money to reduce the waiting times.

*Some examples are:*

For the "License to Operate Medicine and Medical Device Import-Export Company" (MOPH-FDD-9), changes among public officers within the department during an application process resulted in significant delays for granting the license. Also, because the Minister needs to personally sign the license, a huge time was spent between the submission and delivery of application documents from the district to provincial level to the department before it will reach the ministerial levels. In total, the averaged time to obtain the license is 4 months. In addition, according to the businesspersons, the application form will only be submitted by batches, so an individual application will need to wait for another 3 or 4 applications before the whole batch of document is being sent to the Minister for signature. No legal justification exists for such a procedure.

For the "License to Establish a Deposit-Taking Microfinance" (BOL-FISD-5) and the "License to provide ICT Installation and Reparation Service" (MoPT-ITTD-22), all businesses mentioned that the relevant authority has limited human resources (technical and the number of public officers), which caused excessive delays in the process.

For the "License to Operate Accounting Enterprise" (MOF-AD-11), lack of coordination between the authority and the Lao Chamber of Professional Accounting has creates delays in the process.

#### 4.2.6. Unjustifiable qualifications and unnecessary documents required

Some conditions, standards or qualifications; and some documents required in the application package required by the authority are difficult, expensive or even infeasible to meet by some applicants, especially SMEs.

Some conditions or qualifications do not seem to match the business model or business operation that investors are proposing. Many of these qualifications cannot reasonably be justified.

Also, documents to justify the qualifications and which need to be submitted together with the application do not seem necessary; are already in the possession of other authority; or sometimes means substantial cost to be incurred by the applicant.

For instance, many formalities, as part of a feasibility annex to the formality, require applicants to estimate business revenues which at the best is illusory and very subjective. At the end, business need to hire brokers (most of times being the public authority or the insiders) to prepare those feasibility for them that imposed time consuming and expensive cost, as well as unreal feasibility studies to apply for formalities.

Another common document often required in most business formalities is the Address Confirmation Document signed by the chief of village. In this case the real justification required documents is the significant fee collected by the chief. Moreover, this fees' rate varies form one village to another, from one business to another and sometimes is bigger than the official formality fee itself.

*Some examples are:*

In the case of the “Certificate to Confirm the Compliance of the Enterprise Accounting” (MoF-AD-13), some of the accounting requirements are inapplicable for small and medium enterprises yet the lack of compliance with those requirements generated penalty fees so there is potentially high rate of non-compliance with these unjustified qualifications.

For the “License to Establish a Construction Business” (VCPG-PWTD-31), some of the requirements are not feasible to reach and/or not applicable for smaller business operation, for instance requiring very high registered capital requirements or having all fixed assets transferred to the company. The latter means very high costs for investors given the transaction fees (in particular for land transfers) and limited flexibility or cash flow for the investors.

For the “License to Establish a Vocational Education Institute” (MOES-VED-6), there is no template for prepare the feasibility studies, so in most of the cases, investors need to hire a broker to prepare one which usually costs 1,000 USD.

#### 4.2.7. Risky and High Initial Investment even before the formality application

One of the common requirement or qualification for the businesses when applying many formalities is that they need to show a “fixed and permanent office location”. That is, the applicant needs to justify a proper location before applying for the formality; a location which later on be inspected prior to the issuance of the formality. This requirement creates uncertainty for the investor since she/he refrain from buying or renting if there is no security to get the license in case the authority rejects the application.

At the end, many start up investors require investing on fixed or permanent office location and even undertake the construction or acquisition of other fixed assets and the hiring of human resources even before ensuring that the business will be formally approved.

*Some examples are:*

For the “License to Operate a Money Exchange Business” (BOL-MPD-1) and the “License to Establish a Deposit-Taking Microfinance” (BOL-FISD-5) the authority requested that the investor owns a location before applying for the license. But the authority's criteria for the location is unclear, making the investor to assume an unnecessary risk if the authority's criteria are not met.

Also, for the “License to Establish a Deposit-Taking Microfinance” (BOL-FISD-5), the investor needs to make a considerable investment (initial capital, location, equipment, hiring employees, etc.) prior to applying for this Formality with no certainty of getting the application approved nor knowing the criteria used by the authority to approve it.

For the “License to Establish a Vocational Education Institute” (MOES-VED-6), the investor had to complete the construction of all facilities and buildings before applying for the formality. Then in some cases, the construction had to be modified later to comply with the authority’s observations in order to obtain the license.

For the “Permit to Install Advertisement Signage” (VCPG-PWTD-8), the criteria for the advertisement signage is not disclosed by the authority prior to the application. The investor will have to build the advertisement structure before applying for the permit, assuming the risk of a possible denial of the permit and losing the initial investment.

#### 4.2.8. Unclear, unjustified or non-existence official fee

Because the application fees and the official formality fees are not publicly disclosed, many businesses will not be able to estimate the total cost of the formality. Also, in most cases, the final fees will be negotiated and linked to non-official contributions. Therefore, the total official fee that the investor paying will vary from one applicant to another and from one location to another (i.e. central to provincial to district and from one district to another).

According to some interviewees, the official fee does not correspond to the level of effort the authority needed to spend enforcing/validating the application (i.e. based on a cross recovery rule). In other word, the fees correspond more to an “out of budget” tax.

On the other hand, interviewees reported that they were willing to pay higher officials fees rather than being subject to negotiated and informal contributions or excessive and unpredictable waiting time.

*Some examples are:*

To obtain a “Permit to Install Advertisement Signage” (VCPG-PWTD-8), business have no access to a clear and precise formula to calculate the official fee. The authority discretionally sets the fee and the investor has no choice but to pay the amount instructed in order to obtain the permit or negotiate for the less.

For “Approval of the Signage Content” (MOICT-MCD-23) the amount of the fee is not calculated through a clear formula. For instance, there is no criterion on what is defined as the advertising area. Therefore, the fees vary according to the discretion of each public officer inspecting the site.

For the “License to provide ICT Installation and Reparation Service” (MOPT-ITTD-22), the fees are different between the provincial and the national department levels.

#### 4.2.9. Public officers are not investor-friendly and have limited specific expertise and capacity.

Inefficient communication and unfriendly interactions between public officers and businesspersons prevail during the procedures to get a HPBF. Most businesses opined that the application process would be better and easier if the public officers were more cooperative and more investor-friendly when giving information, explaining the process, or answering any queries.

Sometimes, the problem is that public officers providing the information (i.e. selling application form) is not the officer issuing the formality. Lack of proper competencies or knowledge on specific issues of the application from the former makes many efforts of the investor useless and duplicative.

Face-to-face communication is the only way that the public officers' deals with the businesses. This implies excessive number of visits by businesses to public premises and incentivizes the hiring of "connected" brokers despite its high cost.

*Some examples are:*

For the "License to Operate Tourism Service Business" (MoICT-TMD-28), the authority officials are difficult to reach by phone. So, many businesses need to visit more than once to the authority premises to gather pieces of information and validate them.

For the "License to Operate Medicine and Medical Device Import-Export Company" (MOPH-FDD-9) and the "License to provide ICT Installation and Reparation Service" (MoPT-ITTD-22), the lack of experience and knowledge of responsible officers make the whole procedures unpredictable and risky for investors.

#### 4.2.10. Informal contributions and speed money are prevalent.

During the interviews, a significant number of businesses admitted that the responsible public officers clearly requested informal contributions to speed the formality issuing procedure.

Investors prefer to pay an extra amount of money to reduce the risk of non-approval or excessive waiting time. For many formalities, the obligatory informal contribution has become the norm and is well known by businesses: failure to pay the contribution would imply that the formality will not be issued or that with this contribution, their application can skip the queue at expedited rate.

Also, there is a sense that some procedures have been designed to be complex to urge investors to propose "speed" money.

Through the interviews, the consultant team evidenced that for 22 out of the HPBFs applicants paid informal contributions (see also next section on Informal Contributions and Figure 5 below).

*Some examples are:*

For the "License to Establish the Pre-School Educational Institute" (MoES-PSED-2) the official formality fee is only 50,000 LAK, although according to interviewees, the averaged informal contribution can go beyond 250,000 LAK. Because investors are not aware of the official fee set by the government (and have little access to that information), they just pay the instructed "informal" contribution in place or in addition to the official fee.

For the "License to operate accounting enterprise" (MOF-AD-11), one investor interviewed mentioned he had paid 8,000,000 LAK in informal contribution.

For the "Certificate for Enterprise Registration of Company Limited" (MOIC-ERMD-2) one investor paid 16,600,000 for informal contribution to the officer that received the application, who acted at the same time as a broker.



#### 4.2.11. Hiring a broker is a common practice.

It is very common for businesses to hire a broker who claims to know the information requirements, the fees and informal contributions, and the process (i.e. a middleman, a lawyer, an expert or even a public officer) to get a formality quickly. As mentioned, a key reason is that formalities' information is not publicly available and decision criteria by inspectors and officers are discretionary. As well, many brokers claim to be 'insiders' as they used to be public officer in charge of the formality or they know personally the current responsible one.

Hiring a broker results in reducing many problems and risks listed in this section. In most cases, it guarantees getting a favorable and expedient treatment when applying for a formality under a certain amount of time and economic expense.

According to the interviews, only when they knew a person working at the formality's authority (relative, friend, acquaintance, etc.), an investor avoided using a broker in obtaining the formality.

Unfortunately, business reported that the use of brokers was not totally risk-free: some interviewees reported being deceived by brokers. In such cases, the investor lost money and was obliged to hire a second broker to get or finalized the needed formality.

*Some examples are:*

For the "License to Establish a Vocational Education Institute" (MOES-VED-6), an investor reported to have hired a former public officer from VED as a permanent consultant who served as a broker to obtain the formality. Though the broker charged 7,000 USD for the work, the process was much simpler, quicker and safer than trying to undertake the formality directly.

In the case of the "License to Operate Accounting Enterprise" (MOF-AD-11), some public officers, acting as brokers, were reported to charge applicants to provide "advice".

There are cases when brokers defraud investors charging them and disappearing in the middle of the procedures. For instance, an investor paid a broker to obtain the "License to Operate Medicine and Medical Device Import-Export Company" (MOPH-FDD-9), but the broker was not able to get the formality and so the investor was obliged to engage a new broker despite the risk of being deceived again.

It is well known by the business community that to obtain a "Business Visa for Work (LA-B2)" (MoFA-CD-4), an investor requires a broker. Using a broker is easier, takes less time and is cheaper for the investor than doing it by themselves.

#### 4.2.12. Unnecessary or duplicative formalities

According to interviewees, some HPBFs are duplicative and unnecessary making the compliance costs and time required to comply a waste and deadweight burden for businesses.

*Some examples are:*

The "Approval of the Signage Content" (MOICT-MCD-23) and the "Permit to Install Advertisement Signage" (VCPG-PWTD-8) share the similar objective of preventing any potential negative impact on society regarding the installation of signage. Since the requirements and obligations are so similar, most businesses opined that these two formalities should be either merged or one of them should be eliminated.

The “Certificate to Confirm the Compliance of the Enterprise Accounting” (MOF-AD-23) is a pre-requisite document for the application of the “Certificate of Annual Tax Payment” (MoF-TD-9) however, both formalities require the same documents and the same information without any evident rationale for requesting two formalities – resulting in double costing from the preparation, the official fee and the inspection costs. Therefore, the businesses do not see a clear justification of having to apply and obtain 2 formalities from the same process and for the same objective.

The “Registration of Document” (MOF-SAMD-3) and the “Notarization of Documents to confirm its Validity” (MoJ-NT-2) have the same purpose and require the same information to be presented to two different authorities so it should potentially be merged or one of them should be eliminated.

The “Business Visa for Work (LA-B2)” (MoFA-CD-4) requires presenting many formalities issued by several authorities (i.e. Foreign Labor Quota, importation of the foreign labor, work permit and stay permit), but with similar JDs and data. The process could be streamlined if all those formalities could be merged into one single process.

#### 4.3. The “AS IS” situation of the 30 HPBFs

The RRC allowed the measurement and monetization of the costs incurred for the application of all 30 HPBFs based on data gathered through over 160 interviews. Given some gaps and weaknesses in the inputs, additional assumptions were used to fill the missing information (mostly on the frequency for certain formalities).<sup>4</sup>

##### 4.3.1. The compliance costs to obtain each HPBF

To estimate all the aggregated cost for all businesses spent to obtain a HPBF, the Consultant Team compiled and measured the compliance costs according to the three main components:

- The monetary value of the ***time spent to complete*** all administrative activities
- ***Expenditures*** corresponding to the formality official fees, required inspections contributions, and other expenditures to get a formality approved
- ***Opportunity cost of waiting*** for responses from the authority.

Table 1 shows the “As Is” measurement of all HPBFs aggregated cost in USD order by the total cost, from the highest to the lowest. It aggregates the total compliance cost incurred by Lao businesses per formality. It is calculated by having the individual cost of complying with one formality multiplied by the total number of formalities being issued per year (i.e. yearly frequency of the formality). Finally, it shows the calculated cost per application.

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<sup>4</sup> The assumptions have been noted in the datasheet of each HPBF.

Table 1: “As is” situation for a year

Code	Name	Monetary value of the time (USD)	Fees, inspections and other expenses (USD)	Opportunity cost (USD)	Frequency	Total cost per application (USD)
MoFA-CD-4	Business Visa for Work (LA-B2)	1,406,000	42,276,000	132,954,000	70,000	2,520
MoF-TD-9	Certificate of Annual Tax Payment	3,757,000	18,751,000	0	143,740	160
MoIC-ERMD-2	Enterprise registration certificate	200,000	6,516,000	9,531,000	5,018	3,240
MoIC-IHD-8	License to Operate a Industrial and Handicraft Processing Plant	106,000	2,738,000	10,655,000	5,610	2,410
MoNRE-LMD-4	Registration of Land-related Transactions	96,000	218,000	11,195,000	6,000	1,920
MoNRE-LMD-3	Certificate to confirm Land Ownership	33,000	4,696,000	5,224,000	6,000	1,660
VCPG-PWTD-7	Permit to Construct a Building Structure	20,000	1,129,000	3,541,000	949	4,940
BoL-MPD-1	License to Operate a Money Exchange Business	9,000	13,000	2,256,000	403	5,650
VCPG-ICTD-33	License to Operate Hotel and Guesthouse Business	8,000	318,000	1,774,000	317	6,620
MoICT-TMD-28	License to Operate Tourism Service Business	22,000	205,000	1,521,000	815	2,140
BoL-FISD-5	License to Establish a Deposit-Taking Microfinance	14,000	495,000	1,003,000	88	17,180
MoICT-TMD-26	License to Operate Restaurant and Pub Business	4,000	269,000	924,000	495	2,420
MoF-AD-13	Certificate to Confirm the Compliance of the Enterprise Accounting	4,000	723,000	0	297	2,450

Code	Name	Monetary value of the time (USD)	Fees, inspections and other expenses (USD)	Opportunity cost (USD)	Frequency	Total cost per application (USD)
VCPG-PWTD-31	License to Establish a Construction Business	4,000	34,000	549,000	147	3,990
MoES-PSED-2	License to Establish the Pre-School Educational Institute	9,000	25,000	386,000	69	6,090
MoES-VED-6	Licenses to Establish a Vocational Education Institute	2,000	47,000	324,000	14	26,640
MoPT-ITTD-22	License to provide ICT Installation and Reparation Service	4,000	32,000	291,000	223	1,470
VCPG-PWTD-22	License to Operate Car Rental Business	4,000	32,000	291,000	223	1,470
MoPH-FDD-9	License to Operate Medicine and Medical Device Import-Export Company	9,000	33,000	228,000	120	2,250
MoAF-DPF-25	License to Operate Agriculture and Forestry Business	1,000	45,000	188,000	101	2,320
VCPG-PWTD-10	Licenses to Operate Domestic Transportation Business	1,000	44,000	172,000	46	4,720
MoJ-NT-2	Notarization of Documents to confirm its Validity	20,000	193,000	0	6,382	30
MoF-SAMD-3	Registration of Document	22,000	109,000	0	3,940	30
BoL-MPD-10	Certificate of the Capital Importation	2,000	87,000	0	205	430
VCPG-PWTD-8	Permit to Install Advertisement Signage	1,000	50,000	0	278	190
MoICT-MCD-23	Approval of the Signage Content	5,000	42,000	0	854	60

Code	Name	Monetary value of the time (USD)	Fees, inspections and other expenses (USD)	Opportunity cost (USD)	Frequency	Total cost per application (USD)
MoPWT-CAD-9	License to Operate Air Ticket Sale and Reservation Agents	340	2,000	17,000	19	980
MoF-AD-11	License to Operate Accounting Enterprise	100	4,000	11,000	6	2,490
VCPG-PWTD-12	License to Operate Freight Forwarder Business	150	1,000	7,000	16	490
MoLSW-NSSFO-1	Certificate for the Registration of Social Security	1,000	0	0	76	10

Note: There are 8 formalities that did not have an opportunity cost. This is because those formalities do not restrain the business to start or operate while waiting for the response. A further explanation on the opportunity cost is on Annex 3.

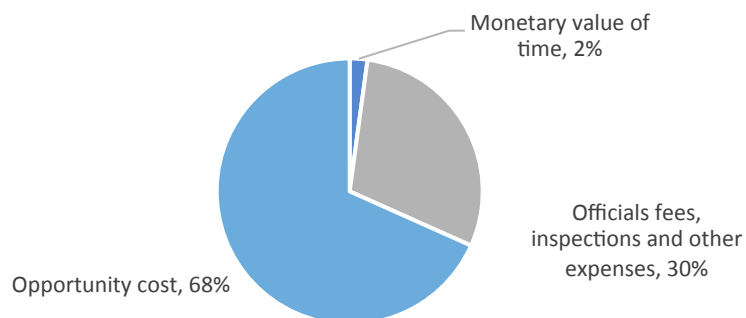
Note 2: All calculations do not include informal expenses, which involve contribution and speed money, gifts and other illegal or “below the counter” expenses business incur (or need to incur) to get an application.

#### 4.3.2. The aggregate costs of complying with HPBFs

Multiplying the compliance cost of each HPBF by the number of application per year (see frequency numbers below) the RRC estimated that the total cost to comply in 2017 with the 30 HPBFs would then be 2.2 billion LAK (267.9 million USD per year).

This amount would be distributed unevenly as Figure 1 shows. It should be noted that the highest costs to businesses are in the opportunity cost of waiting followed by the monetary expenditures related to the official fees, inspections contributions and other expenses. Administrative costs are not as significant as in other countries.

Figure 2: Distribution of the cost of the HPBFs



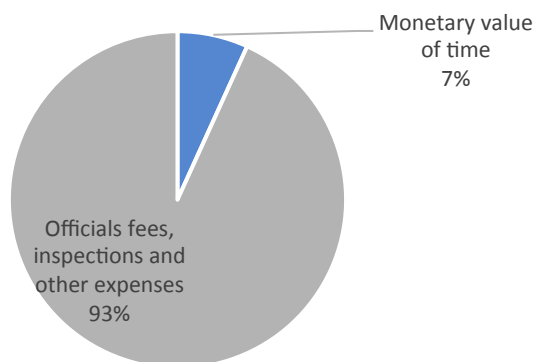
#### 4.3.3. The compliance costs without opportunity costs

Given the fragility in the measurement of the “opportunity cost of waiting” (see Box below and Annex 3), it is worth detailing the administrative cost directly related to what the businesses informed about the time spent and money disbursed by business to get their HPBF. Overall, the total administrative cost, without taking into consideration the “opportunity cost of waiting” to the Lao economy of the 30 HPBFs is 761.6 billion LAK (84.8 million USD).

Out of the total cost incurred, 7% of the cost caused by the time spent by businesses preparing and getting the formality accounts. The other 93% of the cost corresponds to paying officials fees, inspections contributions and other expenses.

It should be noted that many interviews indicated that at the end, these administrative activities costs are often transferred to the broker.

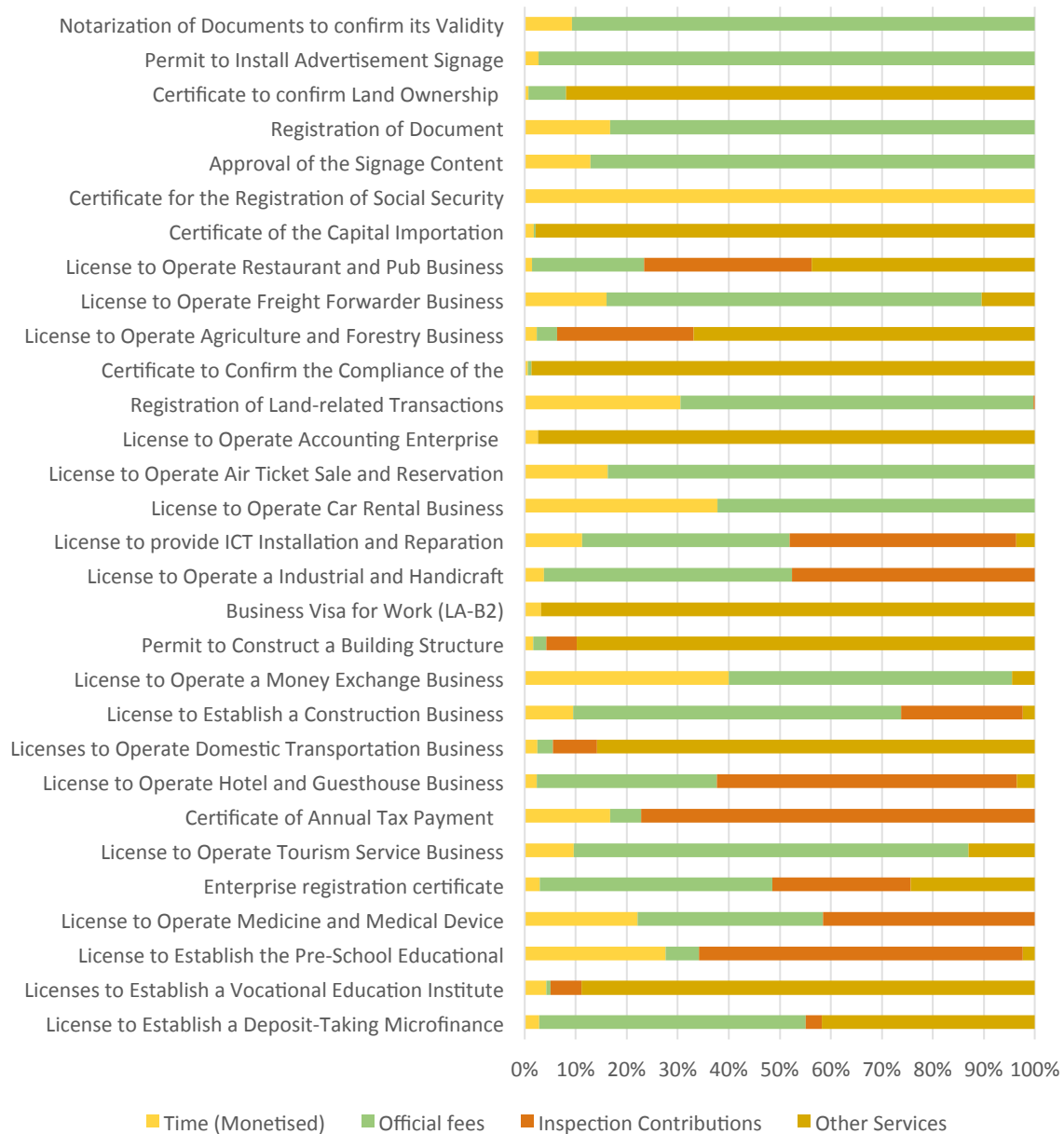
Figure 3: Distribution of the Administrative costs



#### 4.3.4. Components of the compliance cost of HPBFs

The distribution of the compliance cost is further detailed if the costs imposed by each formality is disaggregated in “time (monetized)”, “official fees”, “inspection contributions” and “other services”. Figure 3 clearly indicates that in general the time spent applying for a formality is minimal compared to the other components of the compliance costs. The graph also shows the importance of the inspection contributions and other services (outsourcing, notarization, chief of village confirmation, etc.) impact on businesses.

Figure 4: Component of the compliance cost of the HPBF



#### 4.3.5. Opportunity cost and waiting time for approval

Opportunity cost of waiting accounts for 1,515 million LAK (183 millions USD). The opportunity cost is directly linked to the waiting time a business incurs to obtain a response from the authority. Therefore, the waiting time for approval is the main input to calculate the opportunity cost.

## Box 2 Waiting time for approval

An important challenge in the current formality system is the need to wait – ranging from days, weeks and to even months to get a response from the relevant public authority issuing the formality. To capture this cost, the Consultant Team used two measurements.

First, we added a specific activity to the regular RRC list of activities required to get a formality: “monitoring the administrative procedure” to reflect the practice for investors to call or visit the officer’s office regularly just to get the feedback or update about their application. Based on the interviews, on average businesses spent one hour every week to monitor the process after the application was submitted and until the formality is obtained. We monetized this time using the salary information provided by businesses applying the formality. These measures were added to the “time costs”.

Secondly, we estimated the “opportunity cost of waiting” - time that was lost for society and not used to generate wealth for society. These measures were calculated separately under the “Opportunity costs of waiting”.<sup>5</sup> Based on this, for each waiting day, the Consultant Team assumed that would have produced USD 62 if the capital would have been put in the bank, instead of being unproductively waiting. This sum was then multiplied by the amount of waiting days reported by interviewees. (Annex 3 shows the calculations to obtain the opportunity cost).

Unfortunately, there is neither official deadline nor time commitment for authorities to respond to all 30 HPBF which creates uncertainty for investors.

Businesses responded that, on average, there are only 11 formalities that take less than 30 days to obtain a response from the authority and for 5 formalities the usual waiting time to obtain a response from the authority is higher than 90 days. Figure 3 lists those formalities with the longest reported waiting time, and therefore, the highest opportunity cost.

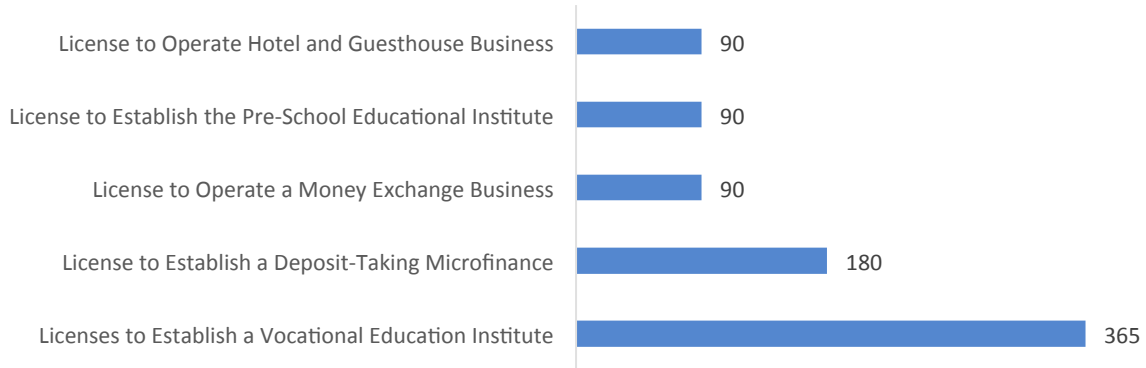
Using this very broad assumption and considering that businesses reported to wait on average of 49 days per formality, an opportunity cost per HPBF was calculated showing that 68% of the total burden of business is due to waiting responses.

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<sup>5</sup> As indicated previously, having to wait for a reply from the authorities carries an opportunity costs for business in terms of not carrying out their business operation - producing goods and services (given they do not have the permission granted by the formality) and of missing an investment opportunity. Calculating this opportunity cost for businesses is complicated as not every business is the same. To estimate the opportunity costs of waiting, the Consultant Team calculated the cost of a waiting day for an averaged entrepreneur in Lao PDR multiplied by the waiting average time. The former was constructed under the basic assumption that instead of waiting to invest on a business as soon as the authorization is provided, an entrepreneur would deposit its capital in a bank to earn a return through interest. In the simple system, we assumed that the capital to invest was equivalent to the national private investment and using the average rate of deposit interest to get the best assumption of the opportunity cost basis calculation.



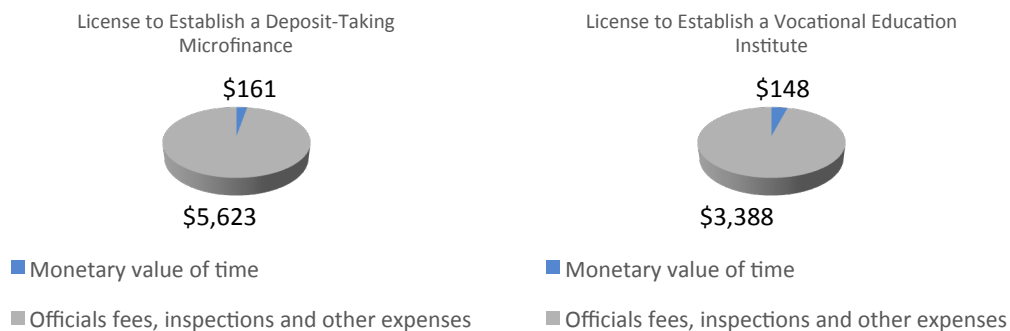
Figure 5: Formalities with the longest waiting time (days)

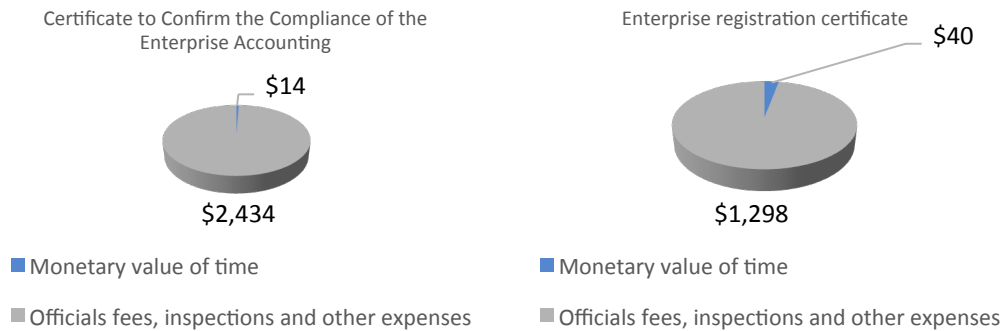


4.3.6. The compliance costs per individual application (without opportunity cost)

Each formality has a specific cost each time a business applied for it. It should be noted that although the cost of applying for a given formality can be significantly high, overall the impact on the whole economy will be small if only a few businesses apply for it each year. For instance, the cost of applying to obtain the License to Establish a Deposit-Taking Microfinance is \$5,784 USD and it's the costliest application for all 30 HPBFs, but due to the low frequency, it is not the costliest formality for the Lao PDR economy. The costliest formalities per application are the following (USD):

Figure 6: costliest formalities per application (administrative cost)





#### 4.3.7. Frequency (number of applications)

The frequency is the key data to obtain the aggregated impact of the costs in the whole economy. The frequency is the number of formality being issued per year for each of the 30 HPBFs. One of the greatest challenges for the Consultant Team was obtaining statistical information, mainly for the frequencies. For those formalities without a precise information on the frequency, the Consultant Team created different assumptions just to be able to come with a yearly frequency number.

The frequency number is very important for the measurement. Even if the cost of applying for a formality is low, the total administrative cost can be high if multiplied by a large frequency (i.e. many businesses applying a simple formality). Therefore, a high frequency generally implies an impact to the whole economy. For instance, the Certificate of Annual Tax Payment is not the most expensive application, but because of the high frequency has a relevant impact on the economy. The formalities with the highest frequencies are the Certificate of Annual Tax Payment (143,740 applications per year), the Business Visa for Work (LA-B2) (70,000 applications per year) and the Notarization of Documents to confirm its Validity (6,382 applications per year).

#### 4.3.8. Informal contributions

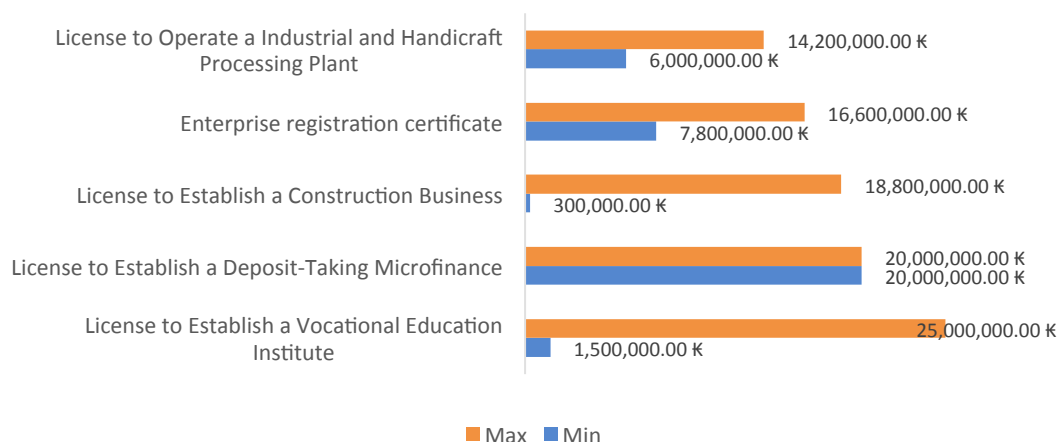
Informal contributions include any speed money, gifts and other illegal or “below the counter” expenses business incurred (or need to incur) to get a formality approved. Still, data gather efforts through in-depth interviews provided evidence illustrating the problem of informal contributions for every 30 HPBF.

The international SCM methodology does not take into consideration informal monetary expenses however, through the interviews the RRC tried to capture and measure them.

Overall in at least in 22 out of the 30 HPBFs, the investors paid informal contribution. These range from 100,000 LAK to 25,000,000 LAK.

The formalities with the highest informal contributions are indicated in Figure 5. The formality with the maximum amount for informal contributions paid by an investor was the License to Establish a Vocational Education Institute with 25,000,000 LAK.

## Informal contributions paid by businesses



## 5. Recommendations

### 5.1. General recommendations

This section will focus on policy options which shall reduce the compliance cost of formalities on businesses. Many of these are complementary. Some can be implemented sequentially. It is important to note some recommendations will have quicker impacts while other will need sometimes since the administrative culture and mindset of many authorities shall be shifted. Last some recommendations will need additional reforms beyond this project such as enforcing anti-corruption measures, ensuring better finance of local servants (to reduce the appeal of negotiated fees, “voluntary” contributions or substitute for public funds for the authority operation.

Likewise, some of the effects of the reforms will tend to reduce other problems mentioned by businesses without need of specific initiatives. For instance, as the reforms are implemented and the administrative costs of compliance with formalities start to descend, the need for brokers and other intermediaries will become less appealing.

As some formalities are simplified, re-engineered and integrated through e-Government tools, the waiting time, the lack of transparency and accountability will descend. A drastic reduction of compliance costs will also support any initiatives to integrate the huge informal sector into the system – reducing the high rate of non-compliance and therefore expanding rights to this vital economic area where so many jobs exist, and reducing unfair competition on the formal sector

Last, it is important to underline that these reforms should focus on the HPBFs however they can also be deployed for the other formalities listed in the total Inventory of Business Formalities (Component 2.1).

#### 5.1.1. Make all the necessary information about Business Formalities publicly available.

One of the most common practices for administrative simplification and an international best practice is ensuring general, free and user-friendly access to information obligations and on how to comply with the business formalities to the general public. The use of internet and technology has

in the past decade revolutionized this “right of access” given the new and economical mechanism to post accurate and updated information to the public at the lower cost and higher efficiency.

To address this issue, there are several strategies that the government can follow alone or in combination and shall result in a reduction of administrative burdens to businesses. They are:

- Post all information requirements regarding business formalities in a single official web portal – perhaps from the Ministry of Industry and Commerce (MOIC). This virtual one-stop-shop is considered international best practices. Additional benefits would be to ensure better accountability. Some countries have made the registering and updating of all the information requirements relating to business formalities mandatory for all authorities. In the case of Lao PRD, the inventory of the business formalities established in Component 2.1 of this project. To ensure higher compliance with updating the information, the inventory could be transformed into an official **Registry of Businesses Formalities** setting clear obligations on ministries and public authorities and providing rights to business during the application of formalities. This free and comprehensive (perhaps exhaustive) Registry should contain all the information requirements and justification documents as well as the official application form, a description of the administrative procedures and official fees payable.
- Launch specific reforms on key business formalities to reduce the enforcement cost for the authorities and the compliance burdens for businesses. For instance, the Ministry could start a rolling initiative to re-engineer the costlier HPBFs - individually or in aggregated terms.
- Set up a permanent consultation mechanism with relevant private stakeholders to discuss the user friendliness of the formalities or readability of the application forms.
- Given that Lao PDR is still in the process of building a modern regulatory state and is formalizing the relationship between the public administration and business, develop and enforce a mechanism to review and test the quality new business formalities to be imposed before they are included in the Registry.
- Draft a manual, guidebook or booklet explaining the process to apply for all formalities – or at least the mostly frequently used one - and make them freely available through the Registry or the authority’s web portal.
- Establish an information and help unit within each authority committed to provide information and assistance to applicants on how to comply with formalities;
- Set up coordination mechanisms and information sharing systems between formality-issuing authorities so that all the relevant organizations (in particular the focal authority for the investment and business registration – i.e. the Department of Investment Promotion, Ministry of Planning and Investment, or the Department of Enterprise Registration and Management, Ministry of Industry and Commerce) apply uniformly the administrative procedures and criteria to approve formalities. These mechanisms should also expand the ways and means for sharing the most updated information about their business formalities among them. Better exchange information systems should also reduce the cost of verification, and maximize the information already submitted by businesses (see Recommendation below).

- Make mandatory the use of official application forms (i.e. templates to apply of a formality) and control – through external oversight – that the information required, supporting documents to be attached, amount of official fee and mandatory response time by public authorities are approved by higher level authorities and not subject to discretion of individual officer. Ensure the user-friendliness of the forms.

#### 5.1.2. Establish clear standards on administrative procedure for each Business Formality.

When administrative procedures are not stated explicitly in accessible legal document, public officials tend to exert excessive discretion and use different and changing interpretations when enforcing them. Therefore, the establishment of clear standards and guideline on the administrative procedure relating to each business formality in the subordinated legal documents accessible and transparent to the general public would leave no room for discretion and misinterpretations.

This policy option will require to:

- Map out as precisely as possible the process to be followed by authorities and applicants. Then, state and display such map in an efficient and investor-friendly way in a subordinated legal document disclosed publicly in a transparent way. Both the public authority and the private applicant shall get access to the legal document in which the administrative procedure is stated. This mitigates not only discretions and interpretations but also grants legal certainty to the applicant.
- Train officials on the administrative procedure to be followed at all levels of government.
- Once a clear standard on administrative procedure has been established and made available to the general public establish complain, grievance and appeal mechanism managed by an organization independent from the authorities enforcing the formalities. This body should have powers to redress in case of any non-compliance with the defined administrative procedure is found.

#### 5.1.3. Eliminate pre-operation inspections and create an ex-post verification system

Too many preliminary inspections are part of the pre-requisite condition for the issuance of the business formality in Lao PDR, even though there is neither legal basis nor a risk-based justification. On the contrary, the interviews and consultations provided evidence that these preliminary inspections propitiate corruption and add an extra cost to business, in particular because of the payment of inspection cost and the informal charges requested during the inspection.

This policy option would require:

- Eliminate – probably through law – all Ex Ante inspections for most HPBFs except in the case of large investments or risky activities to be clearly established. Then, rely on Ex Post inspection scheme to take place 6 to 12 months after the business commences its operations.
- Launch in parallel of the above recommendation, a major communication effort to modify the administrative habits and practices by emphasizing on the fact that inspections procedures are not even required in legal document.

- Develop Ex Post inspection system-based risks of non-compliance with the object of the regulation. According to international best practices, criteria for a quality inspection system are the following<sup>6</sup>:
  - maximizes compliance with clear government regulations;
  - minimizes uncertainty for businesses;
  - fights corruption;
  - minimizes costs to businesses and optimizes costs to governments.

#### 5.1.4. Establish a maximum response time for the authority and Assure Time Commitment

One of the highest costs identified in the study corresponds to the waiting time for businesses to receive an affirmative or negative response on their formality application. Reducing the waiting time is not only beneficial for the applicants, but for the public administration as well since this will help to prioritize and focus on application with potential risks and therefore improve the efficiency in their internal operation. To reduce this overall wasted time, the government should:

- Establish and enforce a maximum of 4 weeks deadline to respond until the issuance of the relevant business formalities except on specific cases and circumstances precisely established and publicly available.
- Adopt a policy of 'Silent is consent' and for riskier situation or cases a 'Silence is negation' mechanism in the administrative procedures.
- In parallel, set up a simple mechanism follow the internal document flow from one desk to another as well as the management dashboard for the supervision; and establish a clear protocol and mechanism to define what would happen if the authority fails to abide by the time established (i.e. after that period, the investor should appeal to superior and/or other independent organization).

#### 5.1.5. Eliminate the required supporting documents that are not justified or that are already in the possession of a public authority.

The public administration tends to use applicants as conveyors of documents from one public authority to another. The original or copies of a document tend to gather dust in files - in some case in the same department - year after year. As other countries have discovered, trusting businesses increase compliance and reduce the enforcement costs for the authorities without adding additional risks to society. It thus recommended to:

- Review all the supporting documents required by formalities' application package and assess their justification. In some cases, assess and ponder why other authority is requesting the same document and justify the reasons to request it again. If those reasons are not justifiable, and the mere reason is because there is no communication among authorities, then such document is a candidate to be eliminated.

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<sup>6</sup> World Bank. 2006. Good practices for business inspections: guidelines for reformers (English). Washington, DC: World Bank.

- Forbid authorities to request a document which is already in possession of another authority. Applicant will need to inform in detail (coordinate of the applicant, number of the appropriate folder/dossier, date of entry, etc.) which authority has the original copy in order to be retrieved. Then the authority's responsibility to contact from their peer officers and obtain if needed the requested documents or controlled remotely - by phone for instance – the accuracy and validity of the document. As the inter-agency contacts develop a better coordination mechanism should be developed among the different authorities supporting the development of a virtual depository of documentation.

#### 5.1.6. Eliminate required qualifications and technical standards that are not justified

As illustrated by interviews, many qualifications and/or technical standards are not economically feasible to reach and practicable to obtain before a business starts operation (and this explains a current high level of informality and non-compliance). Having so many qualifications and conditions prior to the application of the formality is part of an enforcement strategy called “command and control”, which may deteriorate investment and innovation by making it difficult the start-up process.

There are other mechanisms that can gradually increase qualification and compliance with the Law as business people gain economic momentum and experience. For instance, in some countries the first inspection during the first year of operation does not focus on sanctions but only on helping businesses to understand the standards and how they can reach them. Thus, it is recommended to:

- Review and eliminate unjustifiable qualifications and standards. Special attention should be bear on scrapping requirements such as having a location and any fixed assets or engaging the human resources prior to the submission of the application for non-risk activities. A consultation with the relevant stakeholders to gather their comments and recommendations from their business experience would be another good strategy that the Government should consider adopting.
- Develop more effective inspection based on risks of harm rather than paperwork gaps. A better inspection system based on risk and changing the culture from “command and control”, that sometime inhibits innovation and investment, to a “trust and verify” culture should be strengthened.

#### 5.1.7. Reassess formalities' fees based on 'cost recovery' principles and disclose the official fees.

The study showed that the rate of many formalities fees is not linked to the internationally accepted principle of “cost recovery”.<sup>7</sup> As a consequence, some fees are too high and represent real barriers to do business. Others are too low implying unneeded subsidies to the private sector. In the worst cases the fee is used as “out of budget” which only purpose can become the maintenance of public jobs. Some of the formality's expenses being collected are not even mentioned or prescribed under any legal documents and only being collected discretionarily by the public authorities.

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<sup>7</sup> A “cost recovery” amount should correspond to the costs, efforts and expenses needed to apply and enforce properly each formality's application.

Moreover, the interviews showed that in practice fees and contributions tend to fluctuate as they differ and change according to local or national authorities or are even part of a transactional negotiation between business and the official in charge of the application of the formality.

The most common international practices to deal with this problem include:

- Start a systematic “cost recovery” review of the most frequent formalities to evaluate the real resources needed by an authority to properly implement and enforce it. The review will in particular avoid using fees as taxes and incomes for public work as this tends to blur to main objective a formality (which is not taxation).
- Establish in Law all formalities’ official fees to make difficult to modify or negotiation by the public officials.
- Post all official fees on a web portal (or the Registry of Business Formalities) and at the fee collection desk at each relevant government authorities to make them easily accessible to all the businesses
- Launch a transparency and accountability information initiative on avoiding informal contributions, sanctioning public officers based on an appeal mechanism or other government audit mechanism.

#### 5.1.8. Extend the validity period of Business Formalities

Each time businesses must renew the business formalities; they face similar costs and burdens as the first-time application. As a common best practice, the renewal should be undertaken substantially easier and less costly than the first application since it is just the confirmation that the business is still in their operation and still comply with the relevant regulatory requirements.

In terms of validity, the international best practice suggest that to reduce regulatory burdens, authorities should extend the validity of their business formalities, releasing businesses from the costs and burdens of applying on a yearly basis, unless the risk criteria are altered or danger existing because of such business operation.

The most common international principles to deal with the validity period are:

- The validity term should be, as a rule, unlimited in terms of time, unless risk criteria prevents it.
- Set the validity term based on analysis and evidence of the risk mitigation.
- The validity term should be as long as to allow a normal performance of the activity authorized therein.

#### 5.2. The “TO BE” situation of the 30 HPBFs

Using the AS IS situation and an in-depth review on the problems, the Consultant Team proposed a series of reforms which would imply savings on administrative time spent, fees, contributions, and opportunity time of waiting. These recommendations are summarized in Table 2 below, and in the individual data sheets calculated in addendum.

According to the RRC, the total savings if recommendations are adopted would be a reduction of 82% in administrative costs or up to \$70 million USD a year.



Table 2 presents the summary of the savings for businesses in general if these recommendations were to be adopted by the Lao PDR authorities.

**Table 2: Estimated Overall Yearly Savings on Administrative Costs for businesses\***

		AS IS measurement (USD)		TO BE saving costs if recommendations are adopted (USD)			
Code	Name	Administrative activities costs	Fees, inspections and other expenses	Administrative activities costs	Fees, inspections and other expenses	% Savings	Reduction in burdens
BoL-FISD-5	License to Establish a Deposit-Taking Microfinance	14,189	494,794	6,119	79,720	83%	423,145
BoL-MPD-1	License to Operate a Money Exchange Business	8,762	13,143	3,376	10,709	36%	7,820
BoL-MPD-10	Certificate of the Capital Importation	1,542	87,036	946	371	99%	87,261
MoES-PSED-2	License to Establish the Pre-School Educational Institute	9,425	24,753	4,360	2,917	79%	26,901
MoAF-DPF-25	License to Operate Agriculture and Forestry Business	1,083	44,528	361	1,830	95%	43,420
MoES-VED-6	Licenses to Establish a Vocational Education Institute	2,070	47,433	605	22,406	54%	26,492
MoF-AD-11	License to Operate Accounting	96	3,624	46	308	90%	3,366

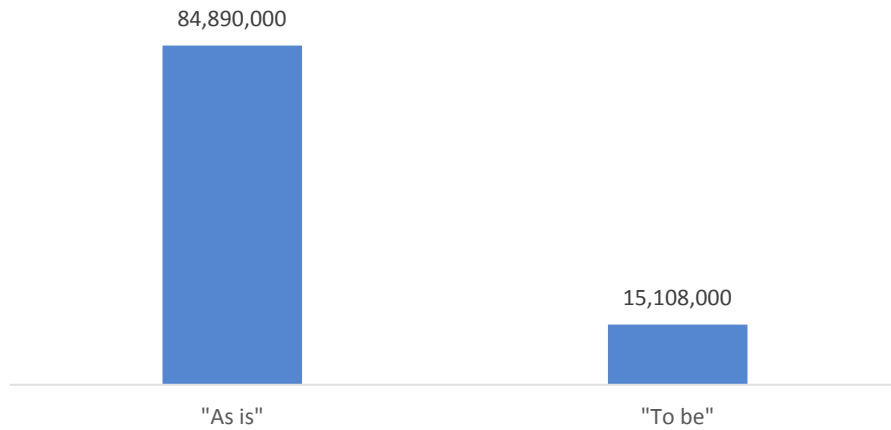
		AS IS measurement (USD)		TO BE saving costs if recommendations are adopted (USD)			
Code	Name	Administrative activities costs	Fees, inspections and other expenses	Administrative activities costs	Fees, inspections and other expenses	% Savings	Reduction in burdens
	Enterprise						
MoF-AD-13	Certificate to Confirm the Compliance of the Enterprise Accounting	4,280	722,859	1,321	3,587	99%	722,231
MoF-SAMD-3	Registration of Document	21,928	109,458	17,021	14,277	76%	100,088
MoF-TD-9	Certificate of Annual Tax Payment	3,756,964	18,750,960	1,639,948	520,860	90%	20,347,117
MoFA-CD-4	Business Visa for Work (LA-B2)	1,406,420	42,275,637	934,216	5,073,076	86%	37,674,764
MoIC-ERMD-2	Enterprise registration certificate	199,714	6,515,702	92,887	3,848,810	41%	2,773,719
MoIC-IHD-8	License to Operate a Industrial and Handicraft Processing Plant	106,311	2,737,577	43,692	677,618	75%	2,122,578
MoICT-MCD-23	Approval of the Signage Content	5,355	42,293	3,071	20,631	50%	23,946
MoICT-TMD-26	License to Operate Restaurant and Pub Business	3,997	269,054	1,414	14,947	94%	256,691
MoICT-TMD-28	License to Operate Tourism Service Business	21,835	204,759	13,568	147,663	29%	65,363

		AS IS measurement (USD)		TO BE saving costs if recommendations are adopted (USD)			
Code	Name	Administrative activities costs	Fees, inspections and other expenses	Administrative activities costs	Fees, inspections and other expenses	% Savings	Reduction in burdens
MoJ-NT-2	Notarization of Documents to confirm its Validity	19,648	192,717	11,551	15,417	87%	185,396
MoLSW-NSSFO-1	Certificate for the Registration of Social Security	539	0	330	0	39%	209
MoNRE-LMD-3	Certificate to confirm Land Ownership	33,326	4,696,219	19,851	1,217,538	74%	3,492,156
MoNRE-LMD-4	Registration of Land-related Transactions	95,675	218,142	66,127	144,945	33%	102,745
MoPH-FDD-9	License to Operate Medicine and Medical Device Import-Export Company	9,261	32,613	5,953	14,495	51%	21,426
MoPT-ITTD-22	License to provide ICT Installation and Reparation Service	4,082	32,323	2,703	8,081	70%	25,621
MoPWT-CAD-9	License to Operate Air Ticket Sale and Reservation Agents	344	1,767	237	861	48%	1,013
VCPG-ICTD-33	License to Operate Hotel and Guesthouse	7,695	317,804	2,400	59,732	81%	263,368

		AS IS measurement (USD)		TO BE saving costs if recommendations are adopted (USD)			
Code	Name	Administrative activities costs	Fees, inspections and other expenses	Administrative activities costs	Fees, inspections and other expenses	% Savings	Reduction in burdens
	Business						
VCPG-PWTD-10	Licenses to Operate Domestic Transportation Business	1,116	44,172	684	8,890	79%	35,714
VCPG-PWTD-12	License to Operate Freight Forwarder Business	148	773	83	483	39%	355
VCPG-PWTD-22	License to Operate Car Rental Business	4,082	32,323	2,703	8,081	70%	25,621
VCPG-PWTD-31	License to Establish a Construction Business	3,560	33,736	926	11,541	67%	24,829
VCPG-PWTD-7	Permit to Construct a Building Structure	19,537	1,129,080	6,823	280,837	75%	860,956
VCPG-PWTD-8	Permit to Install Advertisement Signage	1,457	50,368	1,244	12,592	73%	37,989
Total		5,764,440	79,125,647	2,884,564	12,223,224	82%	69,782,299

Note: \*Without including opportunity cost.

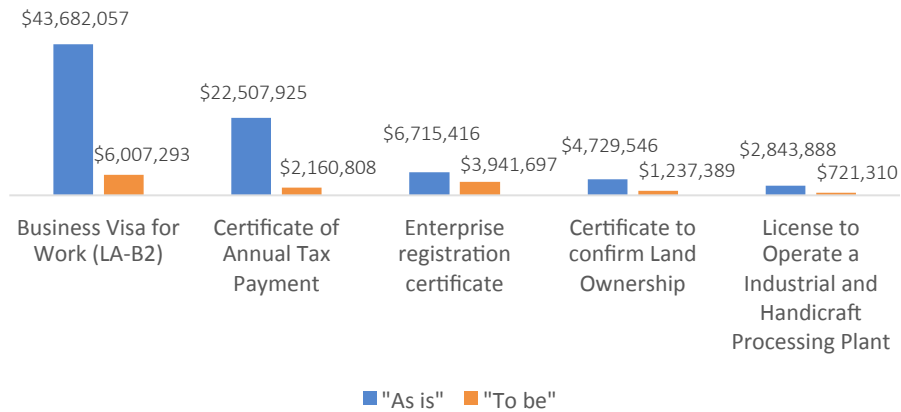
Figure 7: Savings on administrative cost of all HPBFs (USD)



### 5.2.1. Savings of costliest formalities

The six costliest formalities account for 96% of the total cost of all 30 HPBF. If the recommendations are adopted, administrative cost could be reduced significantly as follows:

Figure 8: Administrative cost "As is" and "To be" (USD)



### 5.3. Specific recommendations for the HPBF

Table 3 summarizes the main recommendations for each HPBF. Details on each recommendation can be found in the data sheeted in the Appendix 1 of the report.

Table 3: Specific Recommendations for each HPBFs

Code	Name	Make information on formalities, and fees publicly available.	State the administrative procedure in subordinated legislatures.	Eliminate Pre-operation inspections.	Establish a maximum response time.	Review supporting documents and regulatory requirements for applicants	Specific recommendations.
BoL-FISD-5	License to Establish a Deposit-Taking Microfinance	Yes	Yes	Yes	Yes	Yes	Train public officers to streamline the process and to improve their capacity to comment and approve the license.
BoL-MPD-1	License to Operate a Money Exchange Business	Yes	No	Yes	Yes	Yes	Considering the number of application submitted each year, the hum resources requirement for this unit should be re-assessed and re-assigned.
BoL-MPD-10	Certificate of the Capital Importation	Yes	No	No	Yes	Yes	Information about this Formality should be publicly disclosed, not only in the Bank of Lao PDR, but also should be included in other 'investment-Lao' web portal or other governmental means (i.e. through IPD or ERO) sources of information as well. Set a threshold on the amount of capital to be imported that requires this certificate

Code	Name	Make information on formalities, and fees publicly available.	State the administrative procedure in subordinated legislatures.	Eliminate Pre-operation inspections.	Establish a maximum response time.	Review supporting documents and regulatory requirements for applicants	Specific recommendations.
MoES-PSED-2	License to Establish the Pre-School Educational Institute	Yes	No	Yes	Yes	Yes	If this Formality will be delegated and assigned to the District authority, then a consistency shall be assured through all the requirements (qualifications, documents and fees). There shall have a monitoring mechanism at the central department to control the consistency.
MoES-VED-6	Licenses to Establish a Vocational Education Institute	Yes	Yes	Yes	Yes	Yes	Some required qualifications and conditions needed for the Formality should be revisited and reconsidered, in particular the one that would result in the high investment cost upfront (land acquisition, structure building or teacher's engagement). The investor recommended that the Formality should be issued in due time with basic qualification and then a set of conditions can be set post-registration with a clear timeline for the investor to comply with and follow. Also, the supporting documents shall also be re-assessed.  The involvement of other governmental authorities in the same Ministry and other

Code	Name	Make information on formalities, and fees publicly available.	State the administrative procedure in subordinated legislatures.	Eliminate Pre-operation inspections.	Establish a maximum response time.	Review supporting documents and regulatory requirements for applicants	Specific recommendations.
							<p>relevant stakeholders should be limited and if really necessary due to a limited expertise of the issuing authority, the Government should establish their own internal coordination mechanism to avoid the involvement of the investor in the Formality-issuing process.</p> <p>Special unit should be established to review and approve this Formality; provided that serious capacity and expertise building activities shall be undertaken.</p>
MoF-AD-11	License to Operate Accounting Enterprise	Yes	No	Yes	Yes	Yes	<p>Eliminate inspections and mitigate the use of brokers.</p> <p>The government should review and try to resolve the "Lao Chamber of Professional Accountings CPA" issue as soon as possible, considering the fact that there is certain linkage between the Lao CPA and the Department of Accounting. In particular, the privileges or benefits should be provided, or the fee shall be substantially reduced or even eliminated.</p>



Code	Name	Make information on formalities, and fees publicly available.	State the administrative procedure in subordinated legislatures.	Eliminate Pre-operation inspections.	Establish a maximum response time.	Review supporting documents and regulatory requirements for applicants	Specific recommendations.
MoF-AD-13	Certificate to Confirm the Compliance of the Enterprise Accounting	Yes	No	No	Yes	Yes	It is advisable to review the elimination of this formality as it has a duplication of OI with the tax payment certificate.
MoF-TD-9	Certificate of Annual Tax Payment	No	Yes	Yes	Yes	Yes	Interaction between the investor and the tax authority should be limited to the minimum in order to avoid a room for tax negotiation and the bargaining power that the tax authority would have. The electronic tax payment should be improved and strengthened to facilitate the tax payment system undertaken by the investor and limit the interaction between the investor and the tax authority. Also, a clear guideline and manual on the detailed tax payment should also be disclosed to the public so that the taxpayer understands them and pays tax correctly under the same standard - to avoid discretion of the public authorities.

Code	Name	Make information on formalities, and fees publicly available.	State the administrative procedure in subordinated legislatures.	Eliminate Pre-operation inspections.	Establish a maximum response time.	Review supporting documents and regulatory requirements for applicants	Specific recommendations.
MoFA-CD-4	Business Visa for Work (LA-B2)	Yes	No	No	Yes	Yes	Mitigate the use of a broker by adopting all proposed measures and change the process so that the investor can apply for this Formality by themselves and the in-out of the country requirement should be limited to mitigate the expenditure.
MoIC-ERMD-2	Enterprise registration certificate	Yes	Yes	Yes	Yes	Yes	<p>1. More information should be disclosed about the business registration - expanding than just the formality process (i.e. guideline on how to start a business and what are the available entity type); provided that that information shall be disclosed in a public domain online and offline and in Lao and English.</p> <p>2. The business registration process in every Enterprise Registration Office at all levels shall be assured of its consistencies and uniformity.</p> <p>3. The unnecessary documents should be limited, reduced and eliminated (i.e. business plan, investor's documents and the</p>

Code	Name	Make information on formalities, and fees publicly available.	State the administrative procedure in subordinated legislatures.	Eliminate Pre-operation inspections.	Establish a maximum response time.	Review supporting documents and regulatory requirements for applicants	Specific recommendations.
							lease contract).  4. Ex-post regime should be strengthened, and this Formality should be under the direct mandate of Enterprise Registration Office to do so without getting the technical comments from other lined agencies.
MoIC-IHD-8	License to Operate a Industrial and Handicraft Processing Plant	Yes	No	Yes	Yes	Yes	Standardized procedures and requirements relating to this Formality shall be assured in every public offices and the requirements that would require successful commissioning of the processing plant before the issuance of this Formality shall be eliminated. The successful commissioning should be assured as the post-registration monitoring scheme with a definite timeline.
MoICT-TMD-28	License to Operate Tourism Service Business	Yes	Yes	No	Yes	Yes	The renewal process should be expedited and the requirements for the same documents that have already been submitted at the first-time application should not be required. Inspection requirement shall be eliminated. If this

Code	Name	Make information on formalities, and fees publicly available.	State the administrative procedure in subordinated legislatures.	Eliminate Pre-operation inspections.	Establish a maximum response time.	Review supporting documents and regulatory requirements for applicants	Specific recommendations.
							investor is operating their normal business (i.e. bringing foreign tourist into Lao where they are still submitting to notify the relevant authorities of those operation), the investor opines that there should not be required to prepare and submit many documents and no inspection shall not be required.
MoLSW-NSSFO-1	Certificate for the Registration of Social Security	Yes	No	No	Yes	No	Strengthen the coordination mechanism between the enterprise registration office, other government authorities and this unit (i.e. information should be disclosed to all the investors by other governmental authorities as well and the information should be linked and shared electronically so that this Authority will be notified once a new enterprise is established so that they can enforce them to register to the system). Also, it would be good if the authority set up a mobile unit to facilitate the registration of social security at the investor's office, so the authority should be more proactive.

Code	Name	Make information on formalities, and fees publicly available.	State the administrative procedure in subordinated legislatures.	Eliminate Pre-operation inspections.	Establish a maximum response time.	Review supporting documents and regulatory requirements for applicants	Specific recommendations.
MoPH-FDD-9	License to Operate Medicine and Medical Device Import-Export Company	Yes	Yes	Yes	Yes	Yes	<p>1. A better management and coordination shall be established and improved if the application will still need to be proceeded from the District to Provincial to Central levels. Also, the internal document flow shall be improved to allow a single application to be submitted, reviewed and approved - no need to wait for other application. Finally, a better monitoring mechanism should also be established to avoid the case where the District authority used their own autonomy to issue this Formality illegally.</p> <p>2. A better and more efficient delegation of authorities among the Formality issuing authorities should be established.</p>
MoPT-ITTD-22	License to provide ICT Installation and Reparation Service	Yes	No	Yes	Yes	Yes	<p>1. Considering the low risk that the business operation can create to the society or general public, the validity period should be extended from one year to 3 years to avoid the burden of the investor to renew this. Also, for the renewal, the burden on documents and procedures on the investor</p>

Code	Name	Make information on formalities, and fees publicly available.	State the administrative procedure in subordinated legislatures.	Eliminate Pre-operation inspections.	Establish a maximum response time.	Review supporting documents and regulatory requirements for applicants	Specific recommendations.
							<p>should also be reduced substantially as well (i.e. limiting the number of documents submitted).</p> <p>2. Since this is the Ministry that deals directly with internet and technology, it would be great to be the pilot ministry that allow the electronic registration and electronic renewal of this formality. Also, the capacity building of the public officer should be leveraged and the public-private dialogue where the investor can assist in sharing and updating the new and innovative business model idea with the public should be held regularly.</p>
VCPG-ICTD-33	License to Operate Hotel and Guesthouse Business	Yes	No	Yes	Yes	Yes	Standardize the fee with a clear explanation and specification of how the fee will be calculated and collected publicly disclosed to the general investors. The fee should also be re-assessed based on the cost recovery basis.
VCPG-PWTD-10	Licenses to Operate	No	No	Yes	Yes	Yes	A clear inventory of all the business formalities should be disclosed to the public

Code	Name	Make information on formalities, and fees publicly available.	State the administrative procedure in subordinated legislatures.	Eliminate Pre-operation inspections.	Establish a maximum response time.	Review supporting documents and regulatory requirements for applicants	Specific recommendations.
	Domestic Transportation Business						with a clear explanation of the scope of each business services; what are the required qualifications and which authority should they coordinate with. So, that the investor will get a clear overview picture and make a right business decision on which formality to obtain.
VCPG-PWTD-22	License to Operate Car Rental Business	Yes	No	Yes	Yes	Yes	<p>1. Considering the low risk that the business operation can create to the society or general public, the validity period should be extended from one year to 3 years to avoid the burden of the investor to renew this. Also, for the renewal, the burden on documents and procedures on the investor should also be reduced substantially as well (i.e. limiting the number of documents submitted).</p> <p>2. Since this is the Ministry that deals directly with internet and technology, it would be great to be the pilot ministry that allow the electronic registration and electronic renewal of this formality. Also, the capacity building of the public officer</p>






Code	Name	Make information on formalities, and fees publicly available.	State the administrative procedure in subordinated legislatures.	Eliminate Pre-operation inspections.	Establish a maximum response time.	Review supporting documents and regulatory requirements for applicants	Specific recommendations.
							should be leveraged and the public-private dialogue where the investor can assist in sharing and updating the new and innovative business model idea with the public should be held regularly.
VCPG-PWTD-31	License to Establish a Construction Business	Yes	Yes	Yes	Yes	Yes	<p>1. All the qualifications for this Formality should be re-assessed considering a change to innovative business model and some qualifications should be reduced substantially, in particular the requirement for high investment cost on the fixed assets.</p> <p>2. The validity period should be extended or the renewal procedures for this Formality should be substantially expedited - avoid asking for the same documents that have been submitted for the first application.</p> <p>3. Document internal management and tracking should be established for the benefit of the investor and also for the government authority.</p>



Code	Name	Make information on formalities, and fees publicly available.	State the administrative procedure in subordinated legislatures.	Eliminate Pre-operation inspections.	Establish a maximum response time.	Review supporting documents and regulatory requirements for applicants	Specific recommendations.
VCPG-PWTD-8	Permit to Install Advertisement Signage	Yes	Yes	No	No	Yes	<p>Firstly, the best scenario would be to eliminate or merge this Formality with the MoICT-MD-23 Formality so that there is only one single formality needed relating to signage. At least the investor should only be coordinating with only one authority to get all the required formality, not two all the times. Also, this Formality should not be renewed unless there is any change in the structure of the signage only.</p> <p>Then, all the requirements and application / interpretation of all the relevant legal framework relating to signage shall be streamlined and standardized to assure consistency nationwide.</p>

6. Annex 1: Triage participants

Registration Document for the Triage Discussion to  
 Select 30 High Priority Business Formalities  
 18 January 2018, Meeting Room of Department of Enterprise Registration and Management

No.	Full Name	Position / Organization	Signature
1.	José Armando Ruiz Almanza	JC & A Consultant	
2.	Korakan Luanglath	Deputy Director OSS Division / I PD-MPT Korakanl@gmail.com.	 55111629
3.	LASONEXAY CHANTHAVONG	LAWYER / DFEL	
4.	THIP PHAPHONE VONGSAVAY	Senior PSD Specialist	
5.	Vongpadith VONGSAVATHA	Head of Division. FRM.	

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No.	Full Name	Position / Organization	Signature
6.	Mr. Seng phachanh Simanykhala	Director of Division, Dept of SME Promotion	
7.	Mrs. Valyna KECHONS	Regulatory Expert (National)	
8.	Mr. Sengxay Phousingh	NIC / OPC	
9.	Mrs. Amonglack Fongsavanh	LS Horizon	
10.	Mrs. RUBTHAN CHOLUNKONGTHAN	Team Leader / TA Tiger	

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No.	Full Name	Position / Organization	Signature
11.	Thoubet Heye	Economist WB	
12.	Khampao Nanthavong	WB	
13.	Soudaphone	TA project researcher	
14.	Cora Cordova	JCR A	
15.			

## 7. Annex 2: List of approved HPBFs

Code	Name
BoL-FISD-5	License to Establish a Deposit-Taking Microfinance
BoL-MPD-1	License to Operate a Money Exchange Business
BoL-MPD-10	Certificate of the Capital Importation
MoES-PSED-2	License to Establish the Pre-School Educational Institute
MoAF-DPF-25	License to Operate Agriculture and Forestry Business
MoES-VED-6	Licenses to Establish a Vocational Education Institute
MoF-AD-11	License to Operate Accounting Enterprise
MoF-AD-13	Certificate to Confirm the Compliance of the Enterprise Accounting
MoF-SAMD-3	Registration of Document
MoF-TD-9	Certificate of Annual Tax Payment
MoFA-CD-4	Business Visa for Work (LA-B2)
MoIC-ERMD-2	Enterprise registration certificate
MoIC-IHD-8	License to Operate a Industrial and Handicraft Processing Plant
MoICT-MCD-23	Approval of the Signage Content
MoICT-TMD-26	License to Operate Restaurant and Pub Business
MoICT-TMD-28	License to Operate Tourism Service Business
MoJ-NT-2	Notarization of Documents to confirm its Validity
MoLSW-NSSFO-1	Certificate for the Registration of Social Security
MoNRE-LMD-3	Certificate to confirm Land Ownership

Code	Name
MoNRE-LMD-4	Registration of Land-related Transactions
MoPH-FDD-9	License to Operate Medicine and Medical Device Import-Export Company
MoPT-ITTD-22	License to provide ICT Installation and Reparation Service
MoPWT-CAD-9	License to Operate Air Ticket Sale and Reservation Agents
VCPG-ICTD-33	License to Operate Hotel and Guesthouse Business
VCPG-PWTD-10	Licenses to Operate Domestic Transportation Business
VCPG-PWTD-12	License to Operate Freight Forwarder Business
VCPG-PWTD-22	License to Operate Car Rental Business
VCPG-PWTD-31	License to Establish a Construction Business
VCPG-PWTD-7	Permit to Construct a Building Structure
VCPG-PWTD-8	Permit to Install Advertisement Signage

### 9. Annex 3: The opportunity cost, assumptions

For businesses, having to wait for a reply from the authorities carries certain opportunity costs and risks in terms of missed investment opportunities or not being able to engage in the activities requiring licensing approval. Calculating this opportunity cost for businesses is complicated, as not every business is the same. Having to wait weeks/months to get licensed for a certain activity may carry significant costs for a business, either because it cannot start operating as it intended, or because it misses out on investment opportunities for which a license is required.

The opportunity costs used in this Standard Cost Model (SCM) are based on the initial investment made by businesses. When funds are invested, businesses make a return on investment. For this investment to be rational, the return on investment would have to be at least as large as the interest they would get in the bank, if they deposited the money there, instead of investing it. In 2016 the deposit rate was around 5.6% for private sector banks in Lao PDR. This rate has been used to calculate the minimum daily return on investment.

#### Opportunity cost calculation

	Total number of enterprises registered in Lao PDR	Total Investment	Average investment per enterprise	Average interest rate (2016)	Return in one year per enterprise	Daily return
LAK	140,438	470,487,312,456,187	3,350,142,500	5.61%	187,942,994	514,912
USD		\$ 56,829,002,592	\$ 404,655	5.61%	\$ 22,701	\$ 62

#### Sources for the opportunity cost calculation

Item	Source
Total number of enterprises registered in Lao PDR	Enterprise Registration and Management Department, Ministry of Industry and Commerce. (2018, May 2). <i>Nation Statistics</i> . Retrieved from <a href="http://www.erm.gov.la/index.php/en/statistics">http://www.erm.gov.la/index.php/en/statistics</a>
Total Investment	Enterprise Registration and Management Department, Ministry of Industry and Commerce. (2018, May 2). <i>Nation Statistics</i> . Retrieved from <a href="http://www.erm.gov.la/index.php/en/statistics">http://www.erm.gov.la/index.php/en/statistics</a>
Average investment per enterprise	Calculation
Average interest rate (2016)	Bank of the Lao PDR. (2018, May 2). <i>Annual Report, Commercial Bank's Interest Rate 2016, Average Interest Rate 2016</i> . Retrieved from <a href="https://www.bol.gov.la/together_use/interresrate/Interest%20rate%20">https://www.bol.gov.la/together_use/interresrate/Interest%20rate%20</a>



	202016-12.pdf
Return in one year per enterprise	Calculation
Daily return	Calculation



10. Annex 4: interview guideline

**Datasheet to gather information of the High Priority Business Formalities**

This interview is part of the data gathering for the project: Technical Assistance for Business Regulation Review and Rationalization in Lao PDR. Ministry of Industry and Commerce (MoIC).

**General aspects (pre-filled information)**

Name of the formality:	
Code:	

A.1 Date of the interview:	
A.2 Name of the enterprise:	
A.3 Enterprise's Activity:	
A.4 Size of the Enterprise (number of employees):	
A.5 Date of firm establishment:	
A.6 FDI / JV / Domestic Enterprise?	

**Interviewee's contact information**

B.1 Interviewee's name:	
B.2 Interviewee's position:	
B.3 Interviewee's e-mail/phone:	

**Overall experience of the formality application process**

C.1 Time of the formality application (year/month):	
C.2 Total time period spent from the preparation until the receipt of the formality (calendar days):	
C.3 First time application/Renewal?	
C.4 Did the applicant used the services of a broker?	

### Time required to complete administrative activities for the application of the formality

Please indicate the time (in minutes) required by the enterprise to:

Activity	Time (minutes)	Comments
1. Understand the formality		
2. Gather information and fill in the application package		
3. External preparation and meetings		
4. Submit the application to the Manager for validation and signature		
5. Submit the application to the authority (travel, waiting in line, etc.)		
6. Revise the application package pursuant to authority's comments		
7. Inspection by public authorities		
8. Pay the fees (transport, waiting in line, etc.)		
9. Collect the Formality (transport, waiting in line, etc.)		

**Costs and expenses to complete the formality**

E.1 Formality fees (certificate fee + service fees):	
E. 2 Application form fees:	
E.3 Inspections cost and expenses:	
E.4 Cost of external services to complete the application (outsourcing, notarization, chief of village confirmation, etc.)	
E.5 Other expenses:	

**Applicant's wage**

F.1 Wage of the person in charge of the formality (daily fee/ 8 hours):	
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**Other comments or proposed recommendations**

G.1 Other comments and proposed recommendations:

### 11. Appendix A: Datasheets for each HPBF

Note: This is just an example. The datasheets for each HPBF will be delivered in separate excel files.

Name:	License to establish a deposit-taking microfinance	
Code:	BOL-FISD-5	
Authority:	Bank of Lao	
Version:	30/04/18	
Total number of interviews for standardization		5

#### Summary

Estimated Administrative costs per year for all complying firms				
	Before recommendation	Before rec. in USD	After recommendation in USD	Savings
1.- Administrative activities costs	117,471,640	\$ 14,189	\$ 6,119	-57%
2.- Fees, inspections and other expenses	4,096,400,000	\$ 494,794	\$ 79,720	-84%
3.- Total administrative costs	4,213,871,640	\$ 508,983	\$ 85,838	-83%
4.- Opportunity cost	8,302,650,959	\$ 1,002,857	\$ 167,143	-83%
Administrative costs + Opportunity costs	12,516,522,599	\$ 1,511,840	\$ 252,981	-83%

#### Recommendations

1) Make IOs and JDs as well as the administrative procedure publicly available. 2) State the administrative procedure to apply for the formality in Law. 3) Eliminate inspections and create an ex-post verification system. 4) Establish in Law a maximum response time for the authority. 5) Review JDs, qualifications and conditions for the application of business formalities that cannot be justified, or which are already in the possession of a public authority. 6) Eliminate the qualifications and conditions of having a location, fixed assets or any other that involves a high investment prior to the application of the formality. 7) State all Application Fees in Law and make it publicly available. 9) Mitigate informal contributions. 10) Mitigate the use of broker.

### Cost breakdown

#### Costs Breakdown

1.- Administrative activities costs				
Time required to complete the formality (hrs)	Before recommendation	After recommendation	Savings (hrs.)	Change
1. Understanding the formality	1.00	0.25	0.75	-75%
2. Gather information and fill in the application package	80.00	40.00	40.00	-50%
3. External preparation and meetings	2.25	1.68	0.57	-25%
4. Submit information to the Manager for validation and signature	1.00	1.00	0.00	0%
5. Submit the application to the authority (travel, waiting in line, etc.)	0.66	0.66	0.00	0%
6. Revise the application package pursuant to authority's comments	2.00	1.00	1.00	-50%
7. Inspection by public authorities	3.00	0.00	3.00	-100%
8. Paying the fees (transport, waiting in line, etc.)	1.40	1.40	0.00	0%
9. Collect the Formality (transport, waiting in line, etc.)	0.33	0.33	0.00	0%
10. Follow up	25.71	4.29	21.43	-83%
<b>Total Time</b>	<b>117.35</b>	<b>50.61</b>	<b>66.75</b>	<b>-57%</b>
<b>Wage/hour</b> 11,375.00 LAK				
<b>Total administrative costs (per formality)</b>	<b>1,334,905 LAK</b>	<b>575,640 LAK</b>	<b>759,265 LAK</b>	<b>-57%</b>

2.- Fees, inspections and other expenses				
Costs and expenses to complete the formality	Before recommendation	After recommendation	Savings	Change
E.1 Formality fees (certificate fee + service fees):	25,000,000 LAK	7,500,000 LAK	17,500,000 LAK	-70%
E.2 Application form fees:	50,000 LAK		50,000 LAK	-100%
E.3 Inspections cost and expenses:	1,500,000 LAK		1,500,000 LAK	-100%
E.4 Cost of external services to complete the application (outsourcing, notarization, chief of village confirmation, etc.)	20,000,000 LAK		20,000,000 LAK	-100%
E.5 Other expenses:				

Total fees, inspections and other expenses (per formality)	Before recommendation	After recommendation	Savings	Change
		46,550,000 LAK	7,500,000 LAK	39,050,000 LAK

4.- Opportunity cost				
Total time period spent from the preparation until the receipt of the formality:	Before recommendation	After recommendation	Savings	Change
Days	180	30	150	-83%
Opportunity cost per formality (days multiplied by the daily return)	94,348,306 LAK	15,724,718 LAK	78,623,589 LAK	-83%
Opportunity cost per formality in USD	\$ 11,396	\$ 1,899	\$ 9,497	-83%
Aggregated opportunity cost (opportunity cost per formality times the frequency)	8,302,650,959 LAK	1,383,775,160 LAK	6,918,875,799 LAK	-83%
Aggregated opportunity cost USD	\$ 1,002,857	\$ 167,143	\$ 835,714	-83%
<b>Total aggregated costs + aggregated opportunity cost</b>				
	12,516,522,599 LAK	2,094,431,480 LAK	10,422,091,119 LAK	-83%
<b>Total aggregated costs + aggregated opportunity cost USD</b>				
	\$ 1,511,840	\$ 252,981	\$ 1,258,859	-83%

5.- Informal fees			
Range of informal fees paid by the investor	Min	Max	Notes: Only one investor interviewed paid informal fees
		20,000,000 LAK	