



**Royal Government of Cambodia
National Committee
for Sub-National Democratic Development
(NCDD)**

**Technical Document
on
the Selection, Management, Arrangement
and Execution of Permissive Functions
for Sub-National Councils**

NCDD-S

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Preface

The Capital Council, Provincial Councils, Municipal Councils, District Councils and Khan Councils were established in order to promote, enhance and sustain democratic development at sub-national level. In performance of their functions, the councils shall be directly accountable to citizens within their own jurisdiction in a transparent and effective manner. They shall promote civic engagement by collecting feedback and by taking into account the needs of men, women, youths, children, disabled and vulnerable people including the poor and ethnic minorities in decision-making processes that pertain to the utilization and mobilization of resources for public service delivery and local development.

This technical document on the selection, management, arrangement and execution of permissive functions was developed on the basis of the sub-decree on the selection, management, arrangement and execution of permissive functions by sub-national administrations in order to assist the Capital Council, Provincial Councils, Municipal Councils, District Councils, Khan Councils, and Commune/Sangkat Councils in taking initiative and implementing permissive functions to respond to local needs and priorities.

This technical document is neither a legal framework nor a guideline that requires a council to fully implement it. Councils may use this technical document in a flexible manner in accordance with their practical needs and in response to the actual situation of their respective locality.

The NCDD Secretariat highly appreciates the contribution of ministries, institutions, departments, units, councils, the board of governors and relevant stakeholders who provided feedback and recommendations for the development of this technical document. NCDD-S also wishes to thank the EU SPACE programme for its technical and financial support. The NCDD Secretariat welcomes any constructive feedback and comments that help to improve this technical document.

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Introduction

The technical document on the selection, management, arrangement and execution of permissive functions was developed for the purpose of supporting the Capital Council, Provincial Councils, Municipal Councils, District Councils, Khan Councils, Commune and Sangkat Councils in taking initiative in the selection and preparation of action and budget plans for the implementation of permissive function as well as for monitoring and evaluation of the implementation processes.

The technical document was developed with a focus on outlining the process of selection, management, arrangement and execution of priority activities that correspond to the most urgent local needs in coordination with relevant stakeholders. This technical document was developed in alignment with sub-decree 285 issued on November 18, 2014 on the selection, management, arrangement and execution of permissive functions by sub-national administrations, and existing regulations.

This technical document consists of 6 parts:

- Part 1: Relevant legal documents, key content and characteristics of permissive functions;
- Part 2-5: Tasks that sub-national administrations shall consider when identifying, selecting, managing, arranging and implementing permissive functions, details of support, monitoring and evaluation of permissive functions in their area;

- Part 6: Case studies of the implementation of permissive functions.

This technical document does not replace existing guidelines related to planning, budgeting, procurement and project implementation. This technical document should be read alongside those existing guidelines.

PART 1: Overview on Permissive Functions

Part I provides an overview on permissive functions that initiated by the sub-national councils. It explains the definition, pertinent legal documents, and characteristics of permissive functions as well as the support of relevant stakeholders in implementing the permissive functions.

1.1 Definition

Permissive functions are functions that are chosen by the sub-national council within the framework of the sub-decree on the selection, management, arrangement and execution of permissive functions by sub-national administrations.

Permissive functions fall into two different categories:

Category 1:

- Functions that do not fall under the mandate of ministries/institutions of the Royal Government;

Category 2:

- Functions that fall under the mandate of the Royal Government's ministries/institutions, but the relevant ministries/institutions do not raise objections.

1.2 Legal Framework

The legal framework and existing regulations that provide authority to the councils to implement permissive functions are as follows:

1.2.1 Law on Administrative Management of Capital, Province, Municipality, District, and Khan

The law on the administrative management of Capital, Province, Municipality, District, and Khan sets out the following:

- Councils shall administer and implement the permissive functions to the maximum extent possible based on their capacity and resources.
- Councils shall have the right to decide on ways to administer and implement the permissive functions in accordance with standards and procedures that are set out in existing laws and regulations.
- Councils shall have the right to set out at their own discretion the standards, procedures and resources required to administer and implement permissive functions that have not previously been administered and implemented by ministries or institutions.

1.2.2 Law on Financial Regime and Asset Management of Sub-National Administrations

Sub-national administrations shall administer and use the available budget including the expense to implement permissive functions in a way that is effective, transparent and accountable to the citizens and the Royal Government (Article 22 and 23).

1.2.3 Sub Decree on the Selection, Management, Arrangement and Execution of Permissive Functions by Sub-National Administrations

- Sub-National Administrations may pro-actively select permissive functions to execute based on the needs of citizens or local priorities in their jurisdiction and their administrative, technical and financial capacities.
- In selecting permissive functions, each sub-national council may consult with relevant joint councils or other categories of council as deemed necessary.
- Decisions on any function(s) shall be approved by the council.
- In the event that the selected function(s) fall(s) under the mandate of ministries, institutions or units, Sub-National Administration shall coordinate and consult in advance with those institutions before obtaining approval from the council.
- Sub-National Administrations can manage, arrange and execute permissive functions on their own or by cooperating with other Sub-National Administrations or relevant ministries, institutions and units or by cooperating with the private sector, civil society and other relevant stakeholders.
- Governors of Capital, Province, Municipality, District, Khan and Commune/Sangkat Chiefs shall ensure that the execution of permissive functions is approved by their respective council in an efficient manner.
- Councils shall arrange monitoring, oversight and evaluation of the management, arrangement and execution of permissive functions.

- Governors of Capital, Province, Municipality, District, Khan and Commune/Sangkat Chiefs shall report on the outcomes of the management, arrangement and execution of permissive functions to their respective council.
- Norms, procedures and resources for managing, arranging and executing permissive functions shall be determined at the discretion of the council of each Sub-National Administration.
- Management, arrangement and execution of permissive functions shall be based on the principles of efficiency, transparency, accountability, consultation, inclusiveness and equity.
- One or a number of permissive functions chosen by Sub-National Administration shall be included in the development plan and investment program of respective sub-national administrations.
- Councils shall update their investment plans on an annual basis by incorporating new permissive functions or revised permissive functions based on the needs of citizens or local priorities.

(Article 6-9, Article 11-12, Article 18)

1.2.4 Sub Decree on Preparation and Implementation of Municipality/District Fund

This sub decree provides the possibility of managing the municipality/district fund by providing unconditional budget from national level and other sources for contribution to expend for activities including selection, management, arrangement and implementation of permissive function (Article 3).

1.2.5 Sub Decree on Municipality/District Administration Financial Management System

The application of the Municipality/District Administration fund is to ensure the establishment, promotion and sustainability of democratic development; and fulfilling the duties which have been assigned and delegated. Municipal/District governors on behalf of their own council shall publicly disseminate the budget plan one week prior to the Municipality/District council meeting to collect feedback from the local citizens (Article 15).

1.2.6 Sub Decree No. 215 on Roles, Duties and Working Relations of the Phnom Penh Capital Council and Board of Governors, and the Khan Council and Board of Governors of Phnom Penh Capital

In every meeting, Phnom Penh Council shall take legislative decisions or executive decisions which include principles and policies of the Capital as well as measures, formats and procedures as necessary related to the implementation of permissive functions of the Capital council (Article 14).

1.2.7 Sub Decree No. 216 on Roles, Duties and Working Relationship of the Provincial Council and Board of Governors, Municipal Council and Board of Governors, and District Council and Board of Governors

In every meeting, Provincial Council shall take legislative decisions or executive decisions which include principles and policies of the Province as well as measures, formats and procedures as necessary related to the

implementation of permissive functions of the Provincial Council, Municipal Council and District Council (Article 14, 70, 132).

1.2.8 Sub Decree No. 16 on Commune/Sangkat Fund

Transfers from the Commune/Sangkat Fund may be used by Commune/Sangkat Councils to cover, in full or in part, any local development of infrastructure and socio-economic service delivery expenditure that is reflected in the Council's approved budget and does not violate the existing law or any other regulations.

1.2.9 Sub Decree No. 26 on Financial Management System of Commune/Sangkat Administration

Commune/Sangkat budgets shall include all commune/sangkat revenues and expenditures regardless of their origin or nature.

Commune/Sangkat budgets shall reflect spending priorities emerging from the commune/sangkat development plan. Commune/Sangkat Councils may use their Commune/Sangkat budget to cover any expenditures related to local development investment, public service costs, social intervention, economic intervention, and contingency (Article 3 to 7).

1.3 Characteristics of Permissive Functions

The permissive functions, in this technical document, refer to the permissive functions chosen on the council's own initiative. Councils have full discretion in the selection of permissive functions that respond to local requests and needs.

The permissive functions as mentioned in this technical document shall have the following characteristics:

- Functions that are initiated by councils through various methods;
- Functions that are not transferred by ministry, institution, department, unit to council or sub national administration to continue management, arrangement and implementation;
- Same functions that can be selected for implementation by different or same categories of councils;
- Functions that are changeable over time and situation that council can terminate such functions as necessary;
- Functions that are at no-cost, little cost or high cost;
- Use unconditional fund or budget (the fund allocated to councils from national level and other sources as set out in regulations).

The necessary standards, procedures, and resources for managing, arranging and implementing permissive functions shall be determined by councils at their discretion.

Example 1: A council selects a function in order to establish a community pre-school. In order to implement this function, the council may need to determine the size of budget, number of hours for child care, teacher qualification, and other standards related to location of the community pre-school.

The council, when selecting a permissive function, should pay attention to the identification and selection of

functions that focus on service delivery related activities rather than the physical infrastructure. This is on one hand due to the limited availability of unconditional funding, on the other hand, the service delivery may be easier to realize by using recurrent expenses.

Example 2: For the regular health dissemination activity, councils can use the recurrent expenses for the allowance of health contract staffs, dissemination materials, travel costs, and costs for events arrangements. The service delivery activities can also be capital and recurrent expenditure.

Example 3: Child education activities require capital expenditure for classroom, and equipment in the classroom as well as the recurrent expenses for the teachers' salary.

The technical support from, and an agreement or coordination with the relevant ministry, institution, department and unit is generally required for permissive functions related to service delivery.

Below are some examples of permissive functions as food for thought for the councils. Councils may take up functions differently based on the geographical area, economic situation and practical local needs.

Health
<ul style="list-style-type: none"> • Dissemination of health promotion for target groups any specific health issue (e.g. reproductive health, HIV/AIDs, malaria, hygiene etc.) • Provision of transportation for patients to access health services • etc.
Education
<ul style="list-style-type: none"> • Employment of teachers for community pre-schools • Management of child education • Establishment of community library • Establishment and management of literacy classes • Provision of educational equipment for poor children • etc.
Social Affairs
<ul style="list-style-type: none"> • Provision of support to the poor and vulnerable people • Creation of a kid park • Construction of a cremation site • etc.
Rural Development
<ul style="list-style-type: none"> • Support activities related to the promotion of rural hygiene • Support the networking of farmer groups • Support the establishment of community centers (a place for people gathering in the village/commune) • Clean the ponds in the community • etc.

Culture, Fine Arts, Sports and Religion
<ul style="list-style-type: none"> • Cultural activities (popular games conservation, food competition, traditional songs competition etc.) • Development of a community sport field • Provision of sport equipment to the community • etc.
Economic
<ul style="list-style-type: none"> • Promotion of the development of eco-tourism such as cleaning the tourist sites, natural lakes conservation etc. • Strengthening capacity of target groups (e.g. farmers, businessmen, women entrepreneurs) • Dissemination of agricultural techniques • Training on small-scale handicraft for women groups • etc.
Disaster Management
<ul style="list-style-type: none"> • Prevention measures to respond to natural disasters (e.g. preparation of boats for flood season, preparation of safety highland, prevention and firefighting etc.) • etc.
Rural Infrastructure
<ul style="list-style-type: none"> • Roads related works (e.g. repairing and maintaining village and commune laterite roads ...) • Bridge related works (repairing and maintaining village and commune bridges ...)
Others

- Development of local regulations
- Road cleaning, garbage collection in public places
- Local environmental campaign
- Development of yard for community kids
- Implementation of climate change related activities
- etc.

1.4 Support of Relevant Stakeholders in Implementing Permissive Functions

When councils identify and select the permissive function and if they foresee that the permissive function can be the function of relevant ministries, institutions, line departments and units, they have to coordinate in advance with relevant ministries, institutions, line departments, and units before they start preparing their development plan and investment program.

Remark:

- Capital/provincial Councils, Municipal Councils, District Councils and Khan Councils may give direction to the Board of Governors to ask for support from and coordination with the respective ministry, institution, department, and relevant units permissive functions selected by councils; or
- Municipal Councils, District Councils and Khan Councils may ask the Capital/Provincial Governor for support from and coordination with the respective ministry, institution, department, and relevant units to select permissive functions for implementation.
- Commune/Sangkat Councils may give direction to Commune/Sangkat Chiefs to ask for support from and coordination with the respective ministry, institution, department, and relevant units on the permissive function selected by the council; or
- Commune/Sangkat Council may ask the Capital/Provincial governor for support and coordination with the respective ministry, institution, department, and relevant units on the selected permissive function.

PART 2: Selection of Permissive Functions

Part 2 provides Councils with information on the process of selecting permissive functions and the roles of relevant stakeholders regarding the initiation of permissive functions.

The council shall consider the following tasks when selecting to take up permissive functions:

1. Review local priority needs;
2. Consider resources and capacities of the council to manage permissive functions;
3. Make an initial decision about permissive functions to be taken up;
4. Determine whether coordination is needed with other ministries, institutions and councils;
5. Consider whether there is concurrence;
6. Make a final decision about permissive functions to be taken up.

2.1 Review Local Priority Needs

Actors: Council, Board of Governors, Council committees, Relevant Offices, Commune/Sangkat Chief, and Deputies.

When a Council wants to identify permissive functions to be taken up, the Council directs the Board of Governors and relevant offices and council committees to study the matter. After this process has been completed, assigned persons have to report back to the Council and make recommendations to the Council.

For Commune/ Sangkat Councils, the Council directs the Chief and Deputies to study the matter and then they have to report back and make recommendations to the Council.

In order to study the matter and make recommendations, the board of governors and relevant offices and council committees, Commune/Sangkat Chief, and Deputies should review the following basic criteria:

2.1.1 Study on Services that Citizens Need

This may include both services that are not yet being provided and services that are already being provided by ministries, institutions, line departments, units, or by any council, yet not in a complete/adequate manner. The board of governors, relevant units, council committees, and commune/sangkat chief/deputies have to gain information on the services that citizens need by using the following approaches:

- Information gathered during civic engagement activities;
- Information gathered during dissemination and consultative forums;
- Information gathered from citizens attending council meetings;
- Information gathered during the planning process;
- Any other sources of information available to the SNA.

In studying and identifying permissive functions, councillors, citizens and CSOs are entitled to raise a

possible permissive function. The ways they can do so are:

- **For Councillors:** Any Councillor is entitled to raise a possible permissive function for consideration. The Councillor may do so by approaching the Chairperson of the Council, Board of Governors or the Council Committee Chairperson. The Councillor can put the matter on the agenda of a council meeting in accordance with the Technical Document on Council Meetings.
- **For Citizens and CSOs:** Any citizen and/or CSO may approach the Chairperson of the Council, Board of Governors, or Commune/Sangkat Chief or Council Committee or Village Chief or Village Development Committee in order to suggest to the council to consider the permissive function during its meeting. Citizens or civil society organization representatives may attend a Council meeting and speak on the matter. Furthermore, citizens and/or civil society organizations may make suggestions during Dissemination and Consultative Forums, during civic engagement activities and during the council planning process.

2.1.2 Consider Willingness and Availability of Citizens' Contribution regarding service provision with Councils

Before selecting a permissive function, councils should consider the willingness and availability of citizens' contribution in implementing permissive functions.

Examples:

- Contribution of parents to the financing of pre-school education.
- Citizens are willing and contribute to the financing of mosquito nets for protecting the malaria.

2.1.3 Benefits for Citizens

The permissive functions chosen by the council should be based on the majority needs of the citizens. The provision of service delivery must take into account the interests of the majority rather than individuals or a small group of people, and avoid unnecessary high costs. Thus, it is necessary to consider the priorities of service recipients.

Besides considering services that matter to a majority of people, the council shall also take into account the priorities or urgent needs of women, youths and vulnerable people, even if they do not constitute the majority.

Example: the council learns about a lack of clean water supply for 20 households. Therefore, the council should consider the establishment of a clean water supply system for these people rather than the establishment of a playground to serve the needs of 100 households.

The Board of Governors, council committees, relevant units, and Commune/Sangkat chief/deputies, upon reviewing the criteria, shall record any recommendations and suggestions to inform the council during its ordinary or extraordinary meetings.

2.2 Consider Resources and Capacities of the Council to Manage Permissive Functions

Actors: Council, Board of Governors, Council Committees, relevant offices, Commune/Sangkat Chief/Deputies.

After considering the priority needs and citizen engagement for selecting permissive functions, the Board of Governors, council committees, relevant line offices/departments, and Commune/Sangkat chief/deputies should consider the following points:

2.2.1 Consider Capacities of the Council

For capital council, provincial councils, municipal councils, district councils, khan councils, and commune/sangkat councils that have not had much experience with project management, it will be important to select permissive functions that they are able to manage, and that involve other actors (such as experienced civil society organizations in the sector) that can provide the missing expertise, either as partners or contracted parties. Activities associated with permissive functions require different levels of capacities by sub-national administrations.

2.2.2 Consider Limited Funds

A Council may prefer to take up several functions and to spread its budget. If a Council takes on one large function, the Council might lose its financial ability to respond to other needs and thus the chance to gain valuable experiences related to the delivery of different kinds of services. Besides the financial resources,

councils should consider different resources such as human resources, assets etc. in implementing the permissive function.

2.2.3 Consider the Duration of Services

Councils should be cautious about committing to service provision for a specific period of time. Councils must be mindful that permissive functions are chosen by the Councils, and thus are subject to changing local perceptions, resources, and Council leadership. Therefore, the councils should consider the duration of service provision in accordance with the priority activities and resources in the future. Initially, it may be best to commit to activities that do not bind the Councils beyond one year, or at least beyond the political term of the Council.

Of course, councils shall initiate some permissive functions for longer implementation with reasonable justifications.

Example: The Council created a community library for the reason that the council wished to have a documentation resource center for the community, therefore the newly elected council should keep supporting this library during the duration of its period/mandate.

2.3 Make an Initial Decision about Permissive Functions to Be Taken Up

Actors: Council, Board of Governors, Council Committees, Relevant Offices, Commune/Sangkat Chief and Deputies.

The report enables the Council to make informed decisions about which permissive functions to take up: Capital, Provincial, Municipal, District, Khan Board of Governors, the Commune/Sangkat Chief and Deputies report to the Council considering local priority needs as well as capacities and resources of respective councils in managing the permissive function. The report sets out options and recommendations for permissive functions and clearly explains the advantages and disadvantages of those options and the rationale for recommendations.

The Council then discusses and debates in order to make a decision about which permissive functions it intends to take up. The Council may ask questions to the Board of Governors or to the Commune/Sangkat Chief or any other person at the meeting who has relevant expertise. (See Technical Document on Council Meetings)

The Council makes a decision and instructs the administration director to record its decision, including the next steps.

In case that there is still a lack of information, the councils can instruct the board of governors, council committees, relevant offices or the Commune/Sangkat chief to complete any of the following tasks:

- Additional research regarding recommended permissive functions and required resources;
- Research regarding permissive functions the Council is interested in but have not been mentioned/recommended by the Board of Governors, council committee, relevant offices or Commune/Sangkat chief;

- Contact with other councils that have undertaken permissive functions the council is interested in;
- Coordination with ministries, institutions, other relevant units if required.

2.4 Determine Whether Coordination is Needed

Actors: Capital, Provincial, Municipal, District, and Khan Board of Governors or Commune/Sangkat Council Chief.

The Capital, Provincial, Municipal, District, Khan Governor, and Commune/Sangkat chief shall support the council in studying and reviewing the permissive functions which is preliminarily chosen by the council. Municipal Councils, District Councils, Khan Councils, Commune/Sangkat Councils that cannot identify which category of selected permissive functions to take up, may request support from and coordination with the Capital or Provincial governor on this matter. The Capital/Provincial governor may delegate this authority to the Municipal/District/Khan Governor to support the Commune/Sangkat Council in identifying the category of preliminarily selected functions.

In order to have a basis for the review and study of the permissive functions, the Capital, Provincial, Municipal, District, Khan Governor, and Commune/Sangkat chief should learn about the categories of permissive functions as mentioned above in part 1 (Definition).

Subsequently, Capital, Provincial, Municipal, District, Khan Governors, and Commune/Sangkat chiefs should consider the following mechanisms according to the categories of permissive functions:

- In the event that the Capital, Provincial, Municipal, District, Khan governor, and Commune/Sangkat chief find the proposed functions do not fall under the mandate of the ministry, institution, department, or unit (category 1 of permissive functions), the Capital, Provincial, Municipal, District, Khan governor, and Commune/Sangkat chief shall incorporate that function into the annual and development plan.
- In the event that the Capital, Provincial, Municipal, District, Khan governor, and Commune/Sangkat chief find the proposed functions fall under the mandate of the government ministry, institution, department, or unit (category 2 of permissive functions), the Capital, Provincial, Municipal, District, Khan governor, and Commune/Sangkat chief shall notify the Capital, Provincial, Municipal, District, Khan and Commune/Sangkat Council, and shall coordinate and consult with the ministry, institution, department, and relevant unit in selecting that permissive function for implementation.

For Category 2 functions, the Capital, Provincial, Municipal, District, Khan Governor, and Commune/Sangkat chief shall seek to make the Council's implementation workable and successful. The Capital, Provincial, Municipal, District, Khan governor, and Commune/Sangkat chief will not withhold approval unless there is clear indication that the Council's undertaking would not yield the anticipated benefits, or may be harmful.

In the event a report shows that the selected function by the council may be harmful to citizens, the governor and Commune/Sangkat chief shall give advice to the council to not select that function.

Objection against the function chosen by the council for implementation, addressed verbally or in written form to the governor and Commune/Sangkat chief by the ministry, institution, department, and relevant unit, may be due to the function falling under one of the cases below:

- Overlapping with the plan of ministry, institution, department, and relevant unit, and other sub-national administrations.
- Limited capacity of sub-national administration in managing, arranging and implementing the permissive function.

In this case, the governor and Commune/Sangkat chief shall report to the council about this objection.

In the event that the council disagrees with the objection of the ministry, institution, department, and relevant unit, the council shall give instruction to the Capital, Provincial, Municipal, District, Khan governor, and Commune/Sangkat chief to submit request through the Capital/Provincial governor to NCDD for coordination and approval.

Example: District “A” Council wishes to choose the function of community pre-school service delivery for implementation. Upon review by the provincial department of education, it turns out that this function is being implemented or planned to be implemented by this

department. In this case, the provincial department of education shall notify the respective district “A” council and inform them that the selected function overlaps with the plan of provincial department of education. Following this, the District governor shall report to the council on the objection by the provincial department of education so that the council will be able to reconsider.

2.5 Consider Whether There is Concurrence

Actors: Council, Board of Governors, Council Committees, Commune/Sangkat Chief and deputies.

Councils instruct the Capital, Provincial, Municipal, District, and Khan Board of Governors and Commune/Sangkat Chief must determine whether there are other Councils in the area that have or intend to take up the same permissive functions. In reviewing the concurrence, the Capital, Provincial, Municipal, District and Khan Board of Governors and Commune/Sangkat Chief shall organize the consultation with other councils through the mechanism of the technical facilitation committee of the council. They should consider the following cases:

- If **neighbouring Councils** decide to take up the same permissive function (one or several), the councils should meet and discuss how they can cooperate through the mechanism of the technical facilitation committee of the council. Agreements about the cooperation should be recorded so that there is clarity for the future.
- It may also happen that different councils select the same functions to take up (e.g. Provincial and Municipal councils, or Provincial and District

Councils, or District and Commune councils, or Municipality and Sangkat councils). It is important in this situation to closely coordinate through the mechanism of the technical facilitation committee of the respective council, also in order to avoid dissipation or friction.

If it is unlikely that successful implementation can be attained by both Councils, however, then the Council that is most likely to implement successfully should proceed, and the other Council should not take up the function.

However, if both Councils are equally capable of carrying out the function, but the function is not likely to be carried out successfully if both councils take it up, the lower level Council should be given priority in this case.

Example: Municipal and Sangkat councils wish to choose one function on preparing the waste management system in Sangkat. During the consultation meeting between the Municipal and Sangkat councils it turns out that both councils have similar capacity to implement this function. Thus, the Municipal council should offer the implementation of this function to the Sangkat council because the Sangkat council is closer to the citizens.

If there is disagreement about a permissive function between the councils, the Capital and Provincial Councils should instruct the Capital and Provincial governors to coordinate so that the implementation of the function is offered to the Sangkat council.

2.6 Make a Final Decision about Permissive Functions to Be Taken Up

Actors: Council, Board of Governors, Council Committees, Relevant Offices, Commune/Sangkat Chief and Deputies.

The Board of Governors and Commune/Sangkat Chief and Deputies must report to their Council on the outcomes and recommendations arising from Tasks 4 and 5 for the final decision. The report should highlight any changes to the options and recommendations the Board of Governors or Commune/Sangkat Chief provided to the Council as part of Task 2.

The Council then discusses and debates in order to make a final decision about which permissive functions to take up.

PART 3: Planning and Budgeting For Permissive Functions

Part 3 provides information about how a Council plans and budgets for permissive functions. The planning and budgeting for permissive functions should ideally be an integral part of the Capital, Municipal, District, Khan and Commune/Sangkat Council annual investment program.

Councils will therefore need to refer to the legal instruments and guidelines that apply to the ordinary planning and budgeting processes in order to prepare planning and budgeting for implementing the permissive functions.

Actors: Council, Board of Governors, Relevant Offices, Commune/Sangkat Chief and Deputies.

There are three inter-related tasks to complete under Part 3:

1. Planning for Permissive Functions;
2. Budgeting for Permissive Functions;
3. Incorporation of planning and budget in the investment program;
4. Modification of the annual budget plan.

3.1 Planning for Permissive Functions

Planning for permissive functions ideally happens as a regular and integral part of the annual investment program of the Capital, Provincial, Municipal, District, and Khan Councils, and Commune/Sangkat Councils. Most procedures for permissive functions, therefore, are

the same as for any other activities/functions of the Council.

- At the beginning of their mandate, every Council approves its five-year development plan and three-year rolling investment program that include the permissive functions that the Council plans to take up.
- Capital, Provincial, Municipal, District and Khan Councils, and Commune/Sangkat Councils also approve a Medium Term Expenditure Framework projecting budget categories of expenditures over at least 3 years (up to 5 years), including for permissive functions.
- Councils update annually their investment program, including regarding any new or modified permissive functions.
- *If necessary, Councils may modify their annual investment program in order to incorporate any new permissive function depending on community need and interest.*
- Councils coordinate with other councils (same or different level), relevant ministries, institutions, departments, units and development partners during the regular annual investment program to incorporate permissive functions.

Remark: For permissive functions that fall into Category 2, Councils should be proactive during the planning process to ensure that there is good coordination. Coordinating with involved relevant ministries, institutions, departments, and units early on reduces the risk that a Council will be asked to make drastic changes to their plans later on.

Example: If a Council selects a garbage pick-up and disposal function, the Council must take care to not unintentionally violate governmental rules on garbage disposal. The Council may need to meet with relevant ministries, institutions, departments, and units such as a Provincial Department/Office of Environment. Similarly, if the Council wishes to take up a health project, it should meet relevant departments, units, and other stakeholders such as a Health Center, Operational District or Provincial Health Department, and NGOs implementing health-related activities.

3.2. Budgeting for Permissive Functions

Before preparing the budget for implementing permissive functions, the council should consider whether that permissive function needs a budget or not.

For permissive functions that need a budget, the council should prepare the budget estimation and identify the sources of funding for implementing the functions. In preparing the budget estimation for the implementation of permissive functions, the council must follow the existing regulations and instructions on preparing the budget.

In preparing the budget estimation for the implementation of permissive functions, the council may identify the sources from unconditional funds, the Royal Government, direct revenues of SNA, development partners and other sources.

3.2.1 Unconditional Funds

The Council decides on how to administer the funds for permissive functions that the council wishes to

implement. It is very important that the council uses unconditional funds with additional funds that the council receives within and outside its jurisdiction or from different sources that the Law and relevant regulations permit.

The Capital, Provincial, Municipal, District and Khan Board of Governors, or Commune/Sangkat Chief, relevant offices and Council Committees shall provide the recommendations to the councils on how to administer the funds for implementing the permissive functions well.

3.2.2 Royal Government Source

Part of unconditional funds allocated from the national level to the council can be used for the implementation of permissive functions.

3.2.3 Source from Direct Revenue of Sub-National Administrations

In the future, there will probably be regulations that define the categories of local revenue for sub-national administrations including tax and non-tax revenues. The council can use these revenues for implementing its permissive functions.

3.2.4 Co-funded by Development Partners

Development partners may directly provide funding and/or technical support to sub-national administrations. The funds from development partners may be allocated through the national budget system or through any

commercial banks. The procedures and formalities for this kind of budget implementation and management may be set out in a memorandum of understanding (MoU) between the development partner and the sub-national administration.

3.2.5 Private Sector or Community or Civil Society Source

Councils may use sources of funding from the private sector or communities or civil society for implementing the selected permissive functions. The procedures and formalities for the implementation and management of funds can be set out in a memorandum of understanding (MoU) between the private sector or the community or civil society with the respective sub-national administration.

3.2.6 Development Partner Projects

It is possible that Development Partners will undertake projects that include activities that a Council could take up as a permissive function. In these cases, the Development Partner finances its own project activities and the funds do not flow through the Council's budget. Development Partners should, however, invite the Council to participate in the decision-making process.

3.3 Incorporation of Planning and Budget in the Investment Program

Following the preparation of the action and budget plan for the implementation of the selected permissive function, councils shall incorporate the plan into their own

annual investment program in accordance with the procedures of development of this annual investment program.

3.4 Modification of Annual Budget Plan

Councils shall integrate all revenues and expenditures regardless of their sources into the budget plan, including the budget plan for implementing the permissive function chosen by the council.

3.4.1 Preparation and Modification of Budget Plan of Capital Council/Provincial Councils

Capital Council/Provincial Councils shall prepare their budget plan for implementing the permissive function chosen by the council by using the Capital, Provincial and other sources of fund.

The councils shall follow the existing regulations related to the budget modification.

3.4.2 Preparation and Modification of Budget Plan of Khan/Sangkat Councils

Khan/Sangkat Councils in the Capital shall prepare their budget plan for implementing the permissive function chosen by the council by using the Capital fund and other sources of funds.

The councils shall follow the existing regulations related to the budget modification.

3.4.3 Preparation and Modification of Budget Plan of Municipal/District Councils

All Municipal/District Councils have their own funds for administration and local development in their jurisdiction. The Councils may use their own discretion to administer District/Municipal funds for implementing permissive functions.

The Local Development Component is the category of the District/Municipal budget that covers expenditures on either capital or recurrent expenses related to service delivery functions. The Local Development Component, therefore, can be used to fund permissive functions.

District/Municipal Councils can modify their budgets during the fiscal year if economic/revenue conditions change. This allows flexibility for Councils if information on available revenues or preferred activities that could fall under permissive functions is received late.

The councils shall follow the existing regulations related to budget modification.

3.4.4 Preparation and Modification of Budget Plan of Commune/Sangkat Councils

Commune/Sangkat Councils have their own funds for administration and local development in their jurisdiction. The Commune/Sangkat Councils may use the Local Development Component to cover expenditures on either capital or recurrent expenses for the purpose of local development. The Local Development Component, therefore, can be used to fund permissive functions.

Commune/Sangkat Councils can modify their budgets during the fiscal year if economic/revenue conditions change. This allows flexibility for Councils if information on available revenues or preferred activities that could fall under permissive functions is received late.

The councils shall follow the existing regulations related to budget modification.

PART 4: Implementation of Permissive Functions

Part 4 provides Councils with options for how to implement permissive functions and how the Council remains informed.

Actors: Council, Board of Governors, Relevant Offices, Commune/Sangkat Chief and Deputies, CSOs, the private sector.

There are two tasks to complete under Part 4:

1. Identify who will implement the permissive functions;
2. Conduct procurement for the permissive functions.

4.1 Identify Who Will Implement the Permissive Functions

When deciding on who will implement a permissive function, Councils have two main options:

- Council personnel implement the permissive function;
- The Council cooperates or contracts with other Councils, the private sector or CSOs to implement the permissive function.

The Capital, Provincial, Municipal, District and Khan Board of Governors and Commune/Sangkat Chief and Deputies and any Committee established for permissive functions studies the advantages and disadvantages of the two options for each permissive function the Council

intends to take up. For each permissive function, a recommendation is made to the Council with rationale.

The Council decides during a Council meeting who will implement the permissive function.

4.1.1 Option 1: Council Personnel Implement

The Council may decide that existing SNA personnel will implement a permissive function

If existing personnel cannot manage or do not have the capacity to do the work; the Council could decide to hire new personnel. The Council must consider, however, the possible duration of the permissive function. The permissive function may be a temporary measure, or might be taken up as a pilot. The Council should carefully consider whether it is appropriate to hire new personnel.

4.1.2 Option 2: External Implementers

Alternatively, the Council can decide that the SNA will cooperate or contract with an external entity including:

- Councils can cooperate or contract with other councils or line departments and units;
- Councils can contract with the private sector or CSOs to implement the permissive functions.

The Council will need to follow the existing procurement guidelines and procedures of SNA. Every activity of permissive functions shall have a separate agreement. A procurement committee advises the Capital, Provincial, Municipal, District, and Khan Board of Governor or

Commune/Sangkat Chief on the procurement process and then submits it to the Council for review and approval.

Prior to concluding a contract to implement the permissive function, the Capital, Provincial, Municipal, District and Khan Board of Governors or Commune/Sangkat Chief coordinate with the relevant line departments and units to ensure technical standards, environmental analysis, and other safeguards are met.

The SNAs may decide to hire and share personnel together or to engage a separate service provider together. In this case, the administrative hiring or contracting may be carried out by just one of the cooperating SNAs, with the other(s) providing their financial contribution.

Remark: A cooperation agreement will be necessary in most cases to ensure there is a common understanding of the various roles, particularly around the management and accountability of the hired personnel/service provider.

4.2 Conduct Procurement for the Permissive Functions

The Council Procurement Committee makes recommendations to the Council regarding how to procure goods and services related to the implementation of the permissive function. The Council makes the final decision about procurement during a Council meeting.

The Councils shall consider the following for the implementation of permissive functions:

- **Works Contracts.** These are contracts between the Council and a private contractor to do construction or maintenance work. **Example:** repair of a school roof.
- **Service Contracts.** These are contracts between the Council and a service provider who will perform a particular service. **Examples:** adult literacy classes, training for farmers.
- **Purchase Orders.** The Council uses a Purchase Order to buy equipment, furniture, or other goods. **Examples:** a water pump, food for children or the sick.
- **Consultancy Service Contracts.** These are contracts between the Council and a consultancy firm or individual consultant in relation to any project or for institutional capacity development.

Remark: All procurements must follow the existing procurement processes and procedures of SNA.

PART 5: Monitoring and Evaluation of the Implementation of Permissive Functions

Part 5 indicates the roles and responsibilities of relevant actors in providing support on the monitoring and evaluation of the implementation of permissive functions chosen by the council. These actors may coordinate and request technical and capacity support as well as other necessary means from the ministry, institution, department, unit, and relevant stakeholders for implementing the permissive function.

5.1 Actors

Those actors are the Council, Governor, Commune/Sangkat Chief, Council Committees, Relevant Offices, NCDD, Development Partners, CSOs, and the Private Sector.

5.2 Roles and Responsibilities

Supporting the monitoring and evaluation of the implementation of permissive functions, each actor has roles and responsibilities as follows:

5.2.1 Councils

Capital Council, Provincial Councils, Municipal Council, District Council, Khan Councils and Commune/Sangkat Councils monitor and evaluate the implementation of permissive functions through council ordinary meetings and extraordinary meetings. Besides this, councils may also assign councillors to directly monitor the implementation of the permissive functions. The

assigned councillor shall report back to the council about the progress and challenges of the implementation of permissive functions.

In the event that the permissive function is being implemented by the council, the council can request technical and capacity support as well as other necessary means of support from the ministry, institution, department, unit, development partner, CSOs and the private sector in implementing these permissive functions.

For permissive functions chosen by the council and implemented by development partners, civil society or the private sector, the council should provide support to and coordinate with development partners, civil society, and the private sector to implement these permissive functions.

5.2.2 Capital, Provincial, Municipal, District, Khan Governor and Commune/Sangkat Chief

Capital, Provincial, Municipal, District, Khan Governor and Commune/Sangkat Chief shall help the council to monitor and evaluate the administration and implementation of permissive functions. The monitoring and evaluation shall ensure that the permissive function is implemented in compliance with existing standards, procedures, timeframes and other conditions.

Capital/Provincial governors shall coordinate well with the ministry, institution, department, unit and relevant stakeholders to request technical and capacity support, and other necessary means of support in implementing the permissive function.

Municipal, District, Khan governors shall coordinate with and request technical and capacity support, and other necessary means of support from the ministry, institution, department, unit and relevant stakeholders in implementing the permissive function. In addition to this, the Municipal, District, Khan Governors can also seek support from the capital/provincial governor.

Capital/Provincial governors can delegate authority to Municipal, District, Khan governors to coordinate with and request technical and capacity support, and other necessary means of support from the ministry, institution, department, unit and relevant stakeholders for Commune/Sangkat councils to implement the permissive functions.

Capital, Provincial, Municipal, District, Khan Governors, and Commune/Sangkat chiefs shall regularly collect reports from relevant stakeholders regarding the progress and challenges in implementing the permissive functions. Capital, Provincial, Municipal, District, Khan Governors, and Commune/Sangkat chiefs must report the monitoring and evaluation results to the council during council meetings. Councils may decide on a solution or provide instructions and orientation to Capital, Provincial, Municipal, District, Khan Governors, and Commune/ Sangkat chiefs to do so.

5.2.3 Line Departments/Offices at Sub-National level

All relevant line departments/offices at sub-national level must help Capital, Provincial, Municipal, District, Khan governors, and Commune/Sangkat chiefs to monitor and evaluate the administration and implementation of

permissive functions that are implemented by development partners, CSOs and the private sector.

These line departments/offices must report to Capital, Provincial, Municipal, District, Khan Governors and to Commune/Sangkat chiefs about the progress of administration and implementation of permissive functions that are implemented by them and by development partners, CSOs and the private sector.

5.2.4 National Committee for Sub-National Democratic Development (NCDD)

The secretariat of NCDD shall review the reports submitted by the sub-national administrations and other reports in relation to the implementation of permissive functions to learn about the categories of permissive functions as well as the progresses and challenges in undertaking those permissive functions. The secretariat of NCDD shall coordinate with ministries, institutions, departments, units, and relevant stakeholders to provide technical and capacity support as well as other necessary means.

5.2.5 Development Partners, CSOs and Private Sector

Implementing the permissive function, sub-national councils may request technical and capacity support and other necessary means from development partners, CSOs, and the private sector within and outside their administration as needed.

PART 6: Examples of Permissive Functions

Several experiences can be drawn from the implementation of permissive functions in Cambodia, but Part 6 will provide two case studies for council and relevant stakeholders learning. The first case study looks at addressing animal control to prevent crop destruction, and the second case study looks at organizing order at Prek Ta Chraeng market, in Aek Phnom District.

Experience #1: Animal control to prevent crop destruction

The residents of a commune in Varin district, Siem Reap province had difficulties with the crop destruction by unsupervised animals. They complained to the local authority to find a solution.

Based on the complaint, the commune council arranged a discussion between the animal owners and the farmers to reconcile and resolve the issue.

In order to prevent this issue from happening again, the commune council took initiative by issuing a Deika on animal control to prevent crop destruction in the commune.

Remark: Councils can discuss and prepare Deikas in their ordinary meetings and in preparing Deikas they need to expend on the preparation of documents, refreshments, loud speakers, etc.

After the draft Deika was developed, the council organized a consultation with relevant residents to provide them with the opportunity to give comments and feedback on the provisions including the regulations and determination regarding penalties as set out in the draft.

Following the consultation, the council collected all comments and feedback for discussion and decision in the council meeting. The commune chief signed the Deika upon approval from the council. The commune chief disseminated the approved Deika by using all possible means to raise awareness among the residents about the provisions set out in the Deika.

After the dissemination, a Council Committee was established by the Commune Council to enforce this Deika.

Experience #2: Organizing order at Prek Ta Chraeng market, Aek Phnom District, Battambang Province

Sellers in Prek Ta Chraeng Village, Prek Norin Commune, Aek Phnom District, Battambang Province, who had occupied the sidewalk of a provincial road for installing their stores, were temporary removed to a private location until the district market was completely rearranged by authorities. During this interim period, the location became disorderly, untidy lacked beauty and sanitation, and caused traffic congestion every morning. The residents criticized and informed the councillor every day, seeking for action and a solution.

Based on the information and criticism, the District Council brought this issue up to discussion in the council's monthly meeting.

In response to this issue, the council took the initiative by establishing a Working Group to properly organize stores and arrange the market place beautifully and sanitarily. After the council's approval, the governor in collaboration with the Commune Council and the Working Group made an announcement about this decision by using loud speakers, and posting it on an information board and stores in Prek Ta Chraeng market for three days in order to raise awareness among the residents and sellers of the council's decision.

A week later, the Working Group comprising the District governor and deputy governors, the administrative director, representatives from Aek Phnom District Offices such as Planning Office, Land Management, Urbanization and Construction Office, Environment Office, Prek Norin Commune chief, two seller representatives, and landlord representatives jointly rearranged order in Prek Ta Chraeng market to ensure proper arrangement, sanitation, and satisfaction of citizens. And they continued to monitor and rearrange Prek Ta Chraeng market place after the decision made by council.