

Islamic Republic of Afghanistan

Ministry of Justice

General Directorate of the Legislative affairs

Institute of legal and academic researches

Punitive Laws' Department

Communication and Documentation Department

No: 105

Date: 1399/1/31

To the esteemed Supreme Audit Office!

The Draft Law of the Supreme Audit Office, which has been approved based on decision No. (13) of the Cabinet of the Islamic Republic of Afghanistan on 14/12/1398 and has been Endorsed through decree No (45) dated 15/12/1398 of the President of the Islamic Republic of Afghanistan. It will be published soon in the Official Gazette. Since the mentioned legislative decree is effective from the date of signing, a copy of it is attached.

With respect

Dr. Abdul Basir Anwar

Minister of Justice

Decree of the President of the Islamic Republic of Afghanistan

Regarding the Endorsement

of the draft law of Supreme Audit Office

Article One:

Pursuant to the provisions of Article 16 of the sixty-fourth article and in compliance with Article seventy-nine of the Constitution of Afghanistan, I am signing the Draft Law of the Supreme Audit Office, which has been approved in 6 chapters and (37) articles based on decision No. (13) dated 12/14/2015 of the Cabinet of the Islamic Republic of Afghanistan.

Article Two:

The Minister of Justice and the State Minister for Parliamentary Affairs are obliged to submit this decree and the Draft law of the Supreme Audit Office to the National Assembly within (30) days from the date of the first meeting of the National Assembly.

Article Three:

This decree shall effective from the date of Endorsement and shall be published in the Official Gazette with the Decision of the Cabinet of the Islamic Republic of Afghanistan and the text of the mentioned Draft law.

President of the Islamic Republic of Afghanistan

Mohammad Ashraf Ghani

Draft Law of the Supreme Audit Office

Chapter 1-

General Provision

Basis

Article 1: this law has been enacted pursuant to provision of Article 50 and section 4 of Article 75 of Constitution of Islamic Republic of Afghanistan.

Objectives

Article 2:

This law has been enacted for the following purposes:

- 1- Regulate the affairs related to audit of revenues and expenditure of governmental entities and compliance of financial and accounting activities of the Government and all other Governmental organizations utilizing or holding public properties with the provision of legislative document.
- 2- Enhancement of transparency and accountability and proper utilization of public funds or assets to improve a good entity and increase public trust.
- 3- Enhancement of transparency in accountability and performance of governmental bodies or other entities utilizing or holding public funds.
- 4- Regulate the affairs related to organizational chart, function, mandate and duties & responsibilities of SAO.
- 5- Considering rights and responsibilities of auditees.

Terminologies

Article 3:

In this law, the following terms have the meaning set forth below:

- 1- Audit:** Is a process of regular and physical examination of transactions, performances, financial Statements, reports of internal audit, internal control, accounting and financial procedures for electronic information system and all other documents referred to in article 5th of this law in order to ensure compliance with related legislative documents, economy, efficiency and effectiveness of performance and accurate preparing of financial statements, analysing and evaluation of evidences, reporting on audit results and following their implementation.
- 2- Audit Affairs:** includes planning, audit execution, quality assurance, reporting, analysing, scrutinizing recording, forwarding of criminal cases to judicial institutions, follow-up and other related issues to audit.
- 3- Auditor:** Is a civil service employee who is appointed as a member of SAO as per law or assigned anyone outside from SAO considering his experience and professioncy in a specific issues and the audit authority has been given to him / her.
- 4- Physical Examination:** is a function that assures the accuracy of financial performances, accounting, depots, construction affairs, procurement and any other physical related issues in prior, current and later on.
- 5- Compliance Audit of legislative documents:** is the audit of implementation and compliance of legislative documents, policies and procedures, with respect to Audit Issue that is implementing in accordance with international audit standards.
- 6- Financial Audit:** Is examination of financial accounts and reporting of financial transactions which audits receipts and payments of public funds, property safeguard and financial transactions notes in accordance with International Financial Reporting Standards (IFRS)

- 7- Performance Audit:** Is an independent, objective and accredited audit to ensure performance of systems, programs, projects and activities of governmental entities. Its conclusion is based on effectiveness, efficiency and economy.
- 8- Information Technology Audit:** is an audit and evaluation of IT infrastructures, related policies and operations and determiner of IT controls condition, integration of information and their coordination level in respect of organization main objective.
- 9- Special audit:** is the Audit of unplanned issues which is conducted based on the following:
- a. Order of the president or suggestion of national assembly.
 - b. Identification of SAO.
 - c. Request of public, civil society and media after approval by the SAO.
 - d. In accordance with international standards or INTOSAI Best Practices.
- 10- Audit of Systems:** Independent evaluation of the performance and effectiveness of management systems, policies, programs and their effectiveness, which focuses on administrative organizations planning, allocating resources, regulations and monitoring.
- 11-Qatia Statement:** Is a complete and credited record of the annual expenditure of national budget in comparison with mentioning the previous and next payment and collected net revenues of government comparing to estimated revenues for the financial year.
- 12-Financial Statements:** is a statement which provides adequate and summarized accounting information on financial activity results, which includes the Balance Sheet, Profit and Loss account and cash flow during a specified period of time.
- 13-Financial report:** includes Balance Sheet, income and capital statement, Cash flow Statement Reports and Notes on financial statements.
- 14-INTOSAI:** Is International Organisation of Supreme Audit Institutions (INTOSAI) that develops and enacts Auditing Standards.

15- Internal Audit: Independent, purposeful, reassuring and consulting activity designed and established to increase the value and improve the performance of the Entity, and helps with the Entity in order to achieve its goals by using a systematic and regular method by evaluating and improving the effectiveness of risk management , Internal control and governance processes.

Responsible Authority

Article 4:

Supreme Audit Office is the highest Institution that conducts all types of audit referred to in this law set forth in the article 5 of this law independently, impartially and responsibly within the scope of provisions of law and in accordance with INTOSAI standards.

Audit of Entities

Article 5:

(1) Supreme Audit Office has the mandate to audit the following entities:

1. The related institutions of the Office of the president.
2. Secretariat of National Assembly.
3. The General Administrative Directorate of Judicature.
4. Attorney General Office.
5. Central and local units and their relevant units inside and outside the country.
6. General directorates with independent budget and organizational chart
7. Commissions.
8. Municipalities.
9. Enterprises, state-owned companies and corporations which government has share on it.
10. The Afghan Red Cross Community.
11. Other entities utilizing or holding public funds or properties.

- (2) The Supreme Audit Office can audit all other Entities in accordance with the protocols and agreements signed in exchange of financial privilege, in accordance with the terms and conditions of the protocol or agreement, in addition to the entities referred to in paragraph (1).
- (3) Privileges referred to in paragraph 2 of this article shall be deposited to bank into government account.
- (4) Ministry of Finance shall allocate and provide the expenditure for audit referred to in paragraph 2 of this article based on Supreme Audit Office suggestion.

Budget and Financial Affairs:

Article 6:

- (1) SAO prepares its budget in consultation with the Government and this budget will be submitted to national assembly as national budget supplement for approval through government.
- (2) SAO implements its budget independently as per related legislative document

Chapter No 2

Organizational chart, recruitment and financial privileges

Organizational Chart

Article 7:

1. SAO Organizational chart consists the following:

1. Auditor General
2. Deputy Auditor General on Financial affairs and Legislative Document Compliance Audit
3. Deputy Auditor General on Performance and IT Audit
4. Admin and Finance Deputy Auditor General.

5. Advisor offices, General Directorates, Directorates, Departments and Professional and Administrative offices.
2. SAO prepares and enacts its Tashkil refer to in paragraph (1) and presents to the President for approval.
3. SAO may establish or disband its regional offices in the Provinces when needed. The disband of the regional offices of the Supreme Audit Office is happen in the following cases:
 - If SAO determine that its regional Offices are uneconomical or ineffective.
 - If independence is affected in the performances of the regional office in such a way that other measures are irresponsible for the Supreme Audit Office.
 - Other cases determined by the Supreme Audit Office which make the activities of the regional office impossible.
4. The Auditor General of the Supreme Audit Office may, if necessary, increase or reduce the deputies after the approval of the President.

Qualifications for Appointment of AG and DAGs

Article 8:

(1). Any individual may be appointed as an AG who carries the following qualifications:

1. Citizen of Afghanistan
2. Shall not be less than 35 years old .
3. Hold certified/chartered Accountant degree and at least Bachelor Degree in one of the following fields: Economics, Law, Public Administration, accounting, audit or financial management and other related fields.
4. At least 10 years working experience refer to in section 3 of this paragraph.
5. Shall not have been convicted of any crime or corruption.
6. Shall not hold membership of any political party while being recruited

(2). Any individual appointed as Auditor General shall not perform any other duty/job while he/she is incumbent of this position, except in case of teaching

Auditor General and Deputies AG Appointment:

Article 9:

- 1- Auditor General shall be appointed with the approval of the President for 6 years tenure with respect to qualifications referred to in paragraph 1 of Article 8 of this law. The AG shall be reappointed only for one more period as per provisions of this law.
- 2- The Deputies of AG shall be appointed by the request of the Auditor General and approval of president based on sections 1, 5 and 6 of paragraph 1 of Article 8 of this law.

Terms for Dismissal of AG and DAGs

Article 10:

1. Auditor General shall not be dismissed unless his/her tenure is completed, except conditions referred to in paragraph 2 of this article.
2. Auditor General shall be dismissed by the president one of the following situations:
 - 1) Accused of crime or corruption
 - 2) Providing inaccurate information having conditions referred to in paragraph 1 of article 8 of this law.
 - 3) Obtaining a political party membership.
3. DAGs shall be discharged by the proposal of the AG and approval of President.

Recruitment of Auditor and staff

Article 11:

1. Any individual shall be appointed as SAO employee who has the following qualification in addition to qualifications mentioned in civil service law.
 - 1) At least bachelor degree.
 - 2) Shall not Have been convicted of any crime or corruption
2. SAO staff will be recruited by SAO and IARCSC as per provision of civil service law and related procedure.

Judicial Prosecution

Article 12:

Whenever an Auditor General is suspected of committing any violations/crime, he/she shall be prosecuted after notification of SAO and permission of Attorney General Office. Except clear crime.

Professional privileges

Article 13:

AG , DAGs and Auditors of SAO are entitled to financial privileges. The amount of payment shall be regulated as per relevant regulation.

Immunity

Article 14:

Pursuant to the provisions of this Law, the Auditor General, DAGs, Auditors and other individuals who have been delegated the power of audit shall not be prosecuted for performance of audit duties arising out of the normal performance of their duties in the Supreme Audit Office.

SAO's Audit and Evaluation

Article 15:

- (1) Assessment of the professional affairs of the Supreme Audit Office shall be carried out in accordance with INTOSAI and international practices.
- (2) The audit of the financial and accounting affairs of the Supreme Audit Office shall be carried out in accordance with the INTOSAI by an independent entity or company in accordance with a separate procedure to be enacted by the Supreme Audit Office.
- (3) Audit Report referred to in paragraph (2) of this Article shall be submitted to the Supreme Audit Office, the relevant commissions of the Wolesi Jirga and the President.

Chapter

Duties, obligations and Mandates of SAO

Duties and Mandates of SAO:

Article 16:

The Audit Office has the following duties and Mandates:

1. Drafting, developing, ratifying and approving audit plans and their implementation.
2. Performing audit in accordance with the provisions of this law.
3. Identifying illegal, uneconomic and ineffectiveness activities, and other inaccurate financial and accounting activities of governmental Entities and other Organizations holding or using public funds or asset and recommending for the correction of their defects.
4. Providing a draft of audit results for obtaining the comment of auditee.
5. Ensuring economy, effectiveness and efficiency of the activities of governmental Entities and other Organizations holding or using public funds or asset.
6. Communicating the results of audit to the relevant auditee for implementation.
7. Providing recommendation on findings and financial notes mentioned in the audit report to the relevant Entities.
8. Assigning or recruiting individuals out of the SAO in specific cases considering their expertise and experience, and authorizing them for audit.

9. Considering the Audit Executive standards adopted by the (INTOSAI) in accordance with the provisions of the law.
10. Preparing and arranging the SAO Budget independently.
11. Redressing information received on SAO financial and accounting working area through governmental Entities and mass media in accordance with the relevant procedure.
12. Facilitating participation of citizens in audit process in accordance with the relevant procedure.
13. Disseminating audit reports in accordance with article 26 of this law.
14. Signing cooperation protocols with similar audit Entities of the similar countries and national and international organizations in accordance with relevant legislative documents.
15. Recruiting SAO staff as per legislative documents and relevant procedure.
16. Requesting amendment of provision of legislative documents related to financial and accounting to the line entity or recommending for the amendment of legislative documents.
17. Collaborating with judicial Entities for persecution when requested.
18. Assessing internal control system of the Entities, including the internal audit Entities.

Duties and Authorities of Auditor General

Article 17

The Supreme Audit Office has the following duties and authorities:

1. Leading and managing Supreme Audit Office.
2. Approving audit plan, Guidelines, procedures and related Regulations.
3. Appointing auditors and authorized individuals for auditing entities referred to in Article 5 of this law.
4. Monitoring performance and activities of the Auditees.
5. Approving recruitment of Auditors and administrative and service staff in accordance with the provisions of the law.
6. Redressing grievances received from audited entities on method of the audit execution and findings by auditors and taking decisions.
7. Referring Criminal cases of the auditees to the Attorney General Office.

8. Presenting audit reports in accordance with provisions referred to in article 25 of this Law.
9. Supervising over implementation of SAO Budget.
10. Representing from the Supreme Audit Office, at home and abroad.
11. Establishing technical committees related to obligations of SAO and authorizing them
12. Performing other duties and authorities in accordance with the provisions of law.

Duties and Authorities of DAG's

Article 18

- (1) Scope of duties and authorities of SAO DAGs are regulated considering their nature of work set forth in their Terms of Reference in accordance with provision of law.
- (2) In the absence of the DG, the Deputy Auditor General for Audit of Financial and Compliance Documents and Deputy Auditor General for audit of Performance and IT shall carry out the duties and Authorities of AG respectively, unless one of the Deputies has been delegated.

Duties and Responsibilities of Auditor

Article 19

The Auditor shall carry out the following tasks:

1. Preparing working plan
2. Auditing all documents, books, financial statements, reports, evidences, stamps, bonds, electronic data and information systems, and other documents related to the auditee according to plan, although they were audited by internal audit or other entities.
3. Identifying financial and accounting violation of auditees and its violators.
4. Conducting physical Audit(inspection) of financial and accounting activities, manner of procurement, storage, distribution and use of goods, vehicles and other valuable assets and goods referred to in article 5 of this law to ensure their effective usage as per related plan.
5. Providing clear, precise, concise and rational advices and legal recommendations in the audit report to the auditees in order to better manage the financial and accounting affairs.
6. No disclosing of information obtained during the audit.

7. Presenting a report on executions of the audit in auditees referred to in Article 5 of this Law to SAO.

Forwarding criminal cases to Judicial Institutions

Article 20

When a criminal case is identified and detected in the audited documents, the SAO is required to forward the case to Attorney General Office for further investigations and legal prosecution.

Protective Measures

Article 21:

- (1) To prevent the corruption crimes committed by SAO staff, the following measures shall be taken:
 1. Publicizing and registering properties of AG, DAGs and SAO staff as per relevant legislative document.
 2. Preventing arise of staff conflict of interest while executing audit
 3. Creating and strengthening staff observation system and disclosing corruption in SAO
- (2) While SAO staff committed corruptions crimes, governmental entities and natural and legal individuals are required to inform SAO.
- (3) Details and how to execute issues mentioned in section 1 and 2 of paragraph 3 of article 1 and executions on notification mentioned in clause 2 of this article shall be regulated in a separate procedure adopted by SAO.

Chapter 4 Affairs related to Audit

Types of Audit

Article 22

- (1) The Audit conducted by Supreme Audit Office has the following Types:
 1. Compliance Audit
 2. Financial Audit
 3. Performance and Environmental Audit
 4. Information Technology(IT) Audit
 5. Systems Audit
 6. Forensic Audit

7. Special Audit

- (1) How to execute the audit referred to in paragraph (1) of this Article shall be fulfilled, subject to the provisions of the relevant legislative documents, considering audit standards adopted by the (INTOSAI) and in accordance with the procedures and guidelines enacted by SAO.

Audit of Secret Expenditures

Article 23

The Auditor General is allowed to audit secret expenditures of governmental entities as per provision of this law.

Conflict of interest

Article 24

- (1) The Auditor cannot audit in one of the following situations:

1. If the auditor is one of the third class relatives of auditee's Department Head or High ranking officials.
2. If the auditor is involved in the subject directly or indirectly.
3. If the auditor has joint interests with the head of department under audit.
4. If there is dispute between the auditor and the person to be audited.
5. If there is a link of borrowing and lending between the auditor and the authorities of the auditee.
6. If the auditor has a share in the auditee.
7. If the auditor has worked at least three years with the auditee or has been involved in recording of accounting documents, preparing of annual financial statements and financial reports.
8. Any other conditions negatively affect the impartial and independent audit.

- (2) The auditor is required to officially inform SAO in case of being in the condition referred to in paragraph 1 of this Article. The Supreme Audit Office is obliged to appoint another auditor instead.

Presenting Audit Report

Article 25

- (1) SAO submits reports in the following cases:

1. SAO shall report on Government financial statement of Qatia Account to the President and National Assembly within six months after completion of every fiscal year.
 2. SAO shall report on revenue and budget expenditure of governmental entities to the President and National Assembly in the subsequent year.
 3. SAO shall submit special audit reports when required by President or National Assembly.
 4. SAO shall submit the audit report on secret expenditure to the President.
 5. SAO shall submit a performance audit and other audit report to the President and National Assembly.
- (2) The report referred to in section 1 of Paragraph (1) of this article shall be presented by Auditor General to the General Assembly of the Wolesi Jirga.
- (3) The AG may, in particular circumstances, submit the results of the special audit report to the President and the Wolesi Jirga when needed.

Publication of Audit Report

Article 26

- (1) The reports referred to in paragraph 1 of article 25 of this law, except reports referred to in sections 3 and 4 of this paragraph, shall be disseminated through mass media after being presented to the President and Wolesi Jirga
- (2) SAO may disseminate the reports referred to in section 3 of paragraph 1 of article 20 and 5 of this law considering relevant legislative documents
- (3) SAO may disseminate manner of execution and implementation of audit findings through mass media

Chapter 5

Rights and Obligations of Auditees

Rights of the Auditees

Article 27

- (1) The auditees referred to in Article 5 of this law, which is audited by SAO, have the following rights:
 1. Documented complaint to the AG about how the audit was conducted by the SAO auditors.
 2. To get information on scope, types and time of audit execution.

3. To receive the draft of Audit results and final report of related audit.
 4. To have the right of objection on audit findings mentioned in final audit report.
- (2) Redressing complaints and objections referred to in sections 1 and 4 of Paragraph (1) of this Article shall be treated in accordance with the relevant procedure.

Obligations of the Auditees

Article 28

The auditees are obliged to consider the following issues:

1. Providing required facilitations for audit execution
2. Timely providing documents, books, financial statements, organizational chart and recruitments, reports including internal audit reports, evidences bonds, electronic data and other information.
3. Implementing recommendations and ensuring SAO on implementation of audit findings.
4. Providing feedback on audit results by the award authority at the specified time.
5. Implementing SAO guidelines and procedures subject to audit.

Violation Cases of Auditees

Article 29

- (1) Executing the followings by auditees are considered as breach of provision of this law:
1. To not consider the issues referred to in article 28 of this law.
 2. To delay in providing documents and any other required information.
 3. To negligence in implementation of audit results.
 4. To not allow the execution of audit for the appointed auditor.
- (2) If the employee of auditee violate an issue as referred to in paragraph 1 of this law, the offender shall be punished as per provision of law by the authorized official based on SAO's suggestion and then the auditee shall assure Supreme Audit Office of its punishment.

- (3) If the auditee was repeatedly committing the issues mentioned in paragraph 1 of this article or there may be a situation that the auditee prevents the execution of audit, SAO shall refer the case to Attorney General Office for persecution.

Execution results of Judicial Institutions

Article 30

The Judicial Institutions shall inform SAO in writing of their executions on cases sent by SAO for judiciary and legal persecution.

Chapter 6

Final Provision

Internal audit:

Article 31:

- (1) SAO shall review professional executions of internal audit departments of ministries and governmental entities in accordance with the international standards of internal audit.
- (2) Execution of internal audit of ministries and governmental entities does not prevent the execution of audit by SAO.
- (3) Internal audit of entities referred to in article 5 of this law are required to cooperate and provide information to SAO on their annual plan in accordance with the international standards

Non-Interference

Article 32:

SAO is independent in its executions and acts as per provision of this law. No institution, authority or entity is allowed to interfere in SAO's legal mandates.

Invitation of a Professional Representative from the Auditees

Article 33

- (1) The Supreme Audit Office may, in certain technical and professional matters, invite the professional individual of other concerned Entities.

(2) The Entities referred to in paragraph (1) of this Article are required to introduce and deploy their professional representative to the Supreme Audit Office within the specified period.

Audit executive standards

Article 34:

SAO is required to regulate audit executive standards in separate procedures and guidelines, provided that they shall not be in contradiction with provision of this law and standards adopted by INTOSAI.

Audit Institute

Article 35:

According to provision of Civil Higher Education Law, SAO may establish Audit Institute.

Enacting manuals, guidelines and procedures

Article 36:

In order to better implement the provisions of this law, SAO may enact manuals, guidelines and procedures.

Effectiveness and Nullification

Article 37:

This law shall be effective upon endorsed, and Supreme Audit Law published in Official Gazette no.1101 dated 10.01.1392, amendment and increment in some articles of SAO law published in Official Gazette no.1269 dated 25.07.1396 and other provisions of this law are nullified.

