

Islamic Republic of Afghanistan
Ministry of Interior Affairs

**Procedure for
Regulating Activities of Risk Management Companies in Afghanistan**



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Introduction

In order to implement Presidential Decree (62); to show the commitment of the Islamic Republic of Afghanistan to dissolve private security companies; to provide security for non-governmental installations, diplomatic entities, development projects, economic installations and infrastructure; to prevent chaos by individuals and private security companies and to clarify the status of private security company's operations based on presidential decree, the Afghan Public Protection Force (APPF) was established within the Ministry of Interior (MoI). The General Directorate of Public Protection already existed within the MoI, which was providing commercial security for private banks, copper mines located in Anyak district and some other governmental and non-governmental institutions. That directorate consisted of 6,500 guards.

To implement Presidential Decree (62), the MoI established the APPF within its structure to replace private security companies and to provide security services across the country in accordance with the law. The APPF charter has been approved by the Council of Ministers. During this process (transition of private security companies to the APPF), Risk Management Companies will be established to provide advisory services to customers pertaining to security, training, logistics, vehicles, radios and equipment assessment.

This procedure creates a grievance process, thereby enhancing transparency, record keeping, and issue resolution. The goal behind this procedure is ensuring transparency, accountability and quality services by RMCs in accordance with the laws of Afghanistan.

RMCs operating in Afghanistan must apply for a license and must comply with this procedure. In addition, if an application for a license contradicts this procedure, or the required documents are not provided, the application will not be processed. Possession of an investment permit from AISA (Afghanistan Investment Support Agency) is not sufficient to operate in the security sector. In addition to AISA license, another license will be issued by MoI at the specified cost, to all Risk Management companies.

Operations of RMCs shall be assessed in a transparent process, based on the information provided. This assessment shall assist in identifying eligible consultants that meet the standards, principles and laws of Afghanistan.

Section 1

Terms of Reference Regulating Activities of Risk Management Companies in Afghanistan

In the Name of Allah, Most Gracious, Most Merciful

Procedure for Regulating Activities of Risk Management Companies

Chapter One

General Provisions

Article 1:

This procedure is based on Article 6, Chapter 4 of the Law on Weapons, Ammunition and Explosives.

Article 2:

This procedure is applicable to all companies that provide security advisory services the APPF or any other sectors.

Article 3:

The Ministry of Interior Affairs (MoI) is the principal authority regulating Risk Management Companies providing security related advisory services. This regulation does not preclude routine acts falling entirely within the purview of other Ministries.

Article 4:

Terms used within this procedure shall have the following meanings:

1. **National RMC:** An RMC established by an Afghan citizen or citizens or by partnership of Afghan and foreign citizen(s) and has acquired an RMC license based on the provisions of this procedure.
2. **Foreign RMC:** An RMC established in accordance with the law of a foreign state and having its head office in a foreign country, but having obtained an RMC license based on the provisions of this procedure in order to provide security services in Afghanistan.
3. **Risk Management Company (RMC):** An organization that advises on the security of sites, buildings, persons, logistics, transportation of goods and equipment. RMCs do not provide security services but provide security advisory services.
4. **Risk Management Consultants:** Foreign or Afghan consultants that are employed by Risk Management Companies (RMCs). The consultants are described as follows:
 - Skilled and experienced in security and risk assessment for companies working in an environment with personnel and property security concerns.
 - Experienced in military, police, protective or other law enforcement service with additional experience in a conflict zone

- Skilled and experienced to advise and train staff to achieve self sufficiency in security assessment operations and decision making processes.
- Cultural awareness of Afghanistan and familiarity with the security environment
- Qualified with small arms and authorized to carry and to use small arms for self defense.

5. **Risk Management Services:**

A. Advisory, contracting and training services pertaining to security of individuals, and private, governmental, and non-governmental organizations that include, but are not limited to:

- Threat and risk assessment
- Audit of security operations
- Emergency response procedures
- Evacuation planning procedures
- Project management
- Site security assessment and staffing scales
- Security Plan development
- Security contract assessment
- Development of standard operating procedures
- Contingency planning
- Personal protection planning and management

6. **RMC License:** A written document issued in accordance with the provisions of this procedure granting a Risk Management Company, after its evaluation, the authority to provide security assessment services consistent with this procedure.

7. **Afghan Public Protection Force (APPF):** A GIROA State Owned Enterprise under the oversight of a High Council chaired by the Minister of Interior Affairs which provides security services for key infrastructure, facilities, construction projects, convoy operations, personnel, diplomatic entities and static sites.

8. **Bridging Strategy:** The Government of the Islamic Republic of Afghanistan (GIROA) program designed to accommodate diplomatic, development, ISAF and coalition forces' security requirements as the APPF establishes sufficient capacity and capability to assume contracted guard security services.

9. **Bridging Strategy Period:** The 12-month period beginning when GIROA implements the bridging strategy.

Article 5:

RMCs are not authorized to perform security services or to hire employees to perform such services. The authorized activities of RMCs are limited to the activities defined in this procedure.

Article 6:

An RMC is obliged to observe the provisions of the valid laws of Afghanistan and this procedure.

Article 7:

(1) **The authority of the High Council:**

1. Adjudicate violations of this procedure.
2. Have the authority to revoke the license, and terminate the operation of, an RMC in accordance with the provisions of this procedure.
3. Adjudicate appeals filed by RMC's.

(2) **The authority of the MOI's PSC/RMC office :**

1. Verify all Risk Management Company applications and recommend that the Minister of Interior Affairs issue licenses.
2. Register weapons, munitions, non-tactical armored vehicles and related equipment of RMCs.
3. Register and monitor the number and type of weapons carried by Risk Management Company's consultants.
4. Renew RMC licenses as prescribed by this procedure.
5. Monitor operations of each RMC.
6. Advise on improving the quality of services.
7. Investigate alleged violations of this procedure by RMCs and assess fines as provided by this procedure if so specified.
8. Make recommendations to the High Council with respect to the penalty for confirmed violations not covered by the table of fines.
9. Propose the denial of, or limitations regarding, the issuance of RMC licenses to the High Council.

Chapter Two

Issuance of RMC License

Article 8: Corporations, other business entities and individuals shall not establish an RMC or provide services authorized by this procedure without having an RMC license in accordance with the provisions of this procedure.

Article 9:

- (1) Applicants seeking an RMC license shall submit their request to the PSC/RMC office of the Ministry of Interior Affairs, using the forms provided by the PSC/RMC office or its website.
- (2) A foreign RMC, in addition to completing the forms mentioned above, is obliged to submit the following documents:
 - A certified copy of documents of incorporation and licensing from country of origin.
 - A certified copy of documents detailing risk management activities the company has performed in other countries.
- (3) The PSC/RMC office will sign for the application packet from the RMC and track the approval process through each step of the process. The PSC/RMC office will have two weeks to review the application for completeness and identify any issues that may make the RMC ineligible for license issuance or renewal.
 - Within two weeks, if the application is complete and no issues are identified, the PSC/RMC office will recommend that the Minister of Interior Affairs issue a license.
 - If documents are missing or issues are identified, the PSC/RMC office will notify the RMC within the two weeks. If the RMC resubmits its application with the deficiencies corrected, PSC/RMC office will resign for the application packet and will follow the same timelines as above.
- (4) Should the PSC/RMC office find the applicant unqualified, the applicant shall be notified of the reasons within two weeks of the submission date; concurrently, the PSC/RMC office shall forward the application with its recommendation to the High Council for resolution.
- (5) An RMC may submit to the High Council documentation in support of its license application and request a hearing before the High Council. The High Council shall review the recommendation of the PSC/RMC office, any documentation submitted by the RMC and conduct a hearing if requested by the RMC. The High Council should endeavor to make a decision within four weeks of receipt.
- (6) Only the High Council may deny or revoke an RMC's license. The decision of the High Council shall be in writing and shall be provided to both the PSC/RMC office and the RMC. As applicable, if the High Council determines the RMC must cease operations, it shall also determine how long the RMC will have after written notification of revocation to cease operations. This period generally will be 90 days but could be more depending on extenuating circumstances. The High Council decision will be final.

Article 10:

In addition to submitting the application required by this procedure, a foreign RMC must meet the following requirements to receive an RMC license:

- 1- Have a charter containing goals, structure and scope of activity of the company.
- 2- Foreign staff of the RMC shall have work permits and valid work visas for Afghanistan.

- 3- The operations manager shall have a background check certificate regarding the non-existence of a criminal record from Interpol and the police administration of the home country.
- 4- The operations manager in Afghanistan shall be at least 30 years of age.
- 5- Pay the license fee provided at Annex 1 to the APPF account. .
- 6- Present a legitimate bank guarantee for not less than 20 million Afghanis.

Article 11:

In addition to submitting the application required by this procedure, a national RMC must meet the following requirements to receive an RMC license:

- 1- Have a charter containing goals, structure and scope of activity of the company.
- 2- Director, employees and the operations manager have not been convicted of a misdemeanor or felony nor been suspected or accused of such crimes.
- 3- Staff may not be suspected of or accused of human rights violations, as confirmed by the Afghanistan Independent Human Rights Commission.
- 4- The operations manager shall be at least 30 years of age.
- 5- Pay the license fee provided at Annex 1 to the APPF account .
- 6- Present a legitimate bank guarantee for not less than 10 million Afghanis.

Article 12:

The RMC license is valid for one year and must be renewed annually to continue operations.

Article 13:

- (1) The RMC must request renewal of its RMC license at least 30 days before the license is due to expire by completing and submitting required forms and documentation. The RMC must report any material changes to previously submitted documentation.
- (2) The required licensing fee must accompany the application for renewal.
- (3) Should the PSC/RMC office not make a decision on a license renewal prior to expiry as long as the RMC submitted its request not less than 30 days before its expiry, the RMC shall be given a 90 day temporary license. This temporary license shall be renewed for additional 90 day periods until the PSC/RMC office makes a decision on license renewal.
- (4) The PSC/RMC office, after the approval of the high council, has approval authority for renewal of an RMC license. The PSC/RMC office shall take action (approve/recommend disapproval/provide an extension of current license) within two weeks of receipt. The PSC/RMC office has three business days after approval of the license renewal to issue the RMC license. Should the PSC/RMC office recommend the RMC license not be renewed, the recommendation will be forwarded to the High Council for decision and the notice and appeal provisions of article 9 will apply.

Article 14:

- (1) Any Afghan with the following qualifications may be employed by an RMC:
 - 1- Has a national ID card.
 - 2- Is at least 25 years of age and, and no older than 50.
 - 3- Possess a graduation certificate in basic military training from a military training school or a security training certificate from a company licensed to conduct security related training.
 - 4- Has neither been convicted nor is currently charged with a misdemeanor or felony.
 - 5- Has been fully vetted through biometric collection.
 - 6- Criminal background of the candidates should be investigated.
 - 7- Newly hired personnel should provide documents from the relevant departments to ensure no criminal background.

- (2) A foreign citizen who has the following qualifications may be employed by an RMC:
 - 1- Has a work/residence permit in Afghanistan.
 - 2- Has the qualifications included in section (2, 3, and 4) paragraph (1) of this article.
 - 3- By the expenses of the recruiting company, submits a document certified by the home country or Interpol showing non-existence of criminal record.

Article 15:

- (1) RMC employees may carry light weapons for the purpose of self protection which weapons must be licensed and registered pursuant to the provisions of this procedure and the laws of Afghanistan.
- (2) The fees set forth at Annex 1 of this procedure should be submitted to Millie Bank state income account for the credit of the APPF.
- (3) Licenses are separately issued for each weapon or non-tactical armored vehicle and shall be valid for one year. After one year the license can be renewed by paying the appropriate fee.
- (4) Required weapons and ammunition must be procured through a company or individual with the proper licenses to import, export, and sell weapons or they may be provided by the Ministry of Interior in accordance with the Law on Firearms, Weapons, Ammunition, and Explosives.

Chapter Three

Obligations of a Risk Management Companies

Article 16:

Risk Management Companies will identify their vehicles, helicopters, airplanes and other modes of transportation with signs or placards with the company name or logo visible as security conditions allow.

Article 17:

Risk Management Companies must report their performance and activities to the PSC/RMC office quarterly.

Article 18:

The officers, directors and employees of RMC's may not:

- 1- Participate in political activities.
- 2- Provide funds to political parties and candidates for public office.
- 3- Pay individual government officials for assistance.
- 4- Use funds for religious activities and train at mosques and madrassas.
- 5- Recruit people collectively from one tribe or party.
- 6- Provide services contrary to those on the RMC license.
- 7- Recruit serving officers, non-commissioned officers, soldiers and other active officials of the Ministry of Defense, Ministry of Interior, National Directorate of Security and other state departments.

Article 19:

Allegations of the following violations will be forwarded to the Prosecutor's Office for investigation and appropriate action:

- 1- The presence of unregistered weapons within the control of RMC officials in offices or buildings of the RMC
- 2- Obtaining weapons from an unauthorized source.
- 3- Operating an armored vehicle without it being registered and licensed.
- 4- Any activities which are punishable by applicable laws of Afghanistan.

Article 20:

Fines for the following violations will be assessed as follows:

- 1- RMCs that hire non-Afghan personnel without first obtaining a valid visa or who maintain employees whose visas have expired and for whom no visa renewal application is pending shall pay a fine of 250,000 Afs for each such employee.
- 2- RMC's that have hired personnel prior to completion of the licensing process and obtaining a license shall pay a fine of 100,000 Afs for each employee so hired.
- 3- Non-tactical armored vehicles which have been imported contrary to Presidential Decree 3212 dated 9 November 2006 or without any customs processing shall be confiscated by Mol.

- 4- RMC's that have not registered weapons with MoI shall pay a fine of 20,000 Afs for each weapon and according to Presidential Decree 3212, the provisions of the Law of Firearms, Ammunition and Explosives, the weapons will be confiscated.

Article 21:

This procedure shall be enforceable after the approval of the High Council.

Chapter Four

GRIEVANCE RESOLUTION PROCEDURES

For RMCs alleged to have violated provisions of this procedure the following procedure will be used to resolve the issues:

1. The PSC/RMC office will notify, in writing, the RMC of the specific violations. The PSC/RMC may only allege violations that may have occurred within six (6) months of the date of notification.
2. Upon receipt of written notice from the PSC/RMC office, the RMC will have two weeks to resolve the alleged violations either by paying the assessed fine or by filing an appeal to the High Council. The RMC may provide documentation in support of an appeal to refute or explain the alleged violations and will have the right to schedule a hearing before the High Council. Upon receipt of the appeal, the High Council will have four weeks to review the appeal, conduct a hearing if requested and to reach a final decision. The High Council will notify the RMC in writing of its final decision. Following receipt of the final decision if adverse to the RMC, the RMC will have two weeks to make payment of any fine(s) assessed or notify PSC/RMC office that they will cease operations.
3. If the RMC chooses to cease operations, it will have 90 days from the date of final notification by the High Council to cease operations.
4. During the appeal process, the RMC will be allowed to continue operations.

Annex 1

Number	Type of License	Royalty	Payable Fees and Renewal of License Cards	Bank Guarantee
1	The National RMC License	Three Million Afghanis	15000 Afs	10 Million Afghani
2	The Foreign RMC License	Six Million Afghanis	15000 Afs	20 Million Afghani
3	License to Carry Weapons for Afghan RMC Employees	0	7,500 Afghani	0
4	License to Carry Weapons for Foreign RMC Employees	0	12,500 Afghani	0
5	License for use of Bulletproof Vehicles or Non-tactical armored vehicles for Foreign RMCs	0	30,000 Afghanis	0
6	License for use of Bulletproof Vehicles or Non-tactical armored vehicles for Afghan RMCs	0	30,000 Afghanis	0

Annex 2

Rules for Use of Force

Use of Force by personnel of RMCs, where necessary, shall be limited to self defense or the defense of others in accordance with Afghan penal law. Personnel of RMC's are required to adhere to the following four important points:

1. Cooperation with national and international security forces

Personnel are required to cooperate with the security forces of the Islamic Republic of Afghanistan, ISAF, and the Coalition Forces. They shall comply with the stipulated security policies and principles of the country. They shall not ignore, avoid or be exempted from full adherence to, and respect for, the legally stationed check points of the Afghan or international security forces.

2. Employment of trained personnel

RMCs must employ personnel already professionally trained and qualified to deliver security advisory services or provide them with full and proficient training prior to their employment. Under the principles of corporate responsibility, it is also recommended that RMC's provide periodic refresher training which in any case shall be mandatory for all armed personnel. All RMC personnel designated to possess and carry weapons on duty must obtain and at all times carry their identity card and weapon license.

3. Procedures to follow when the use of firearms becomes unavoidable

- Any use of force must be proportional to the threat;
- Fire only aimed shots;
- Fire can only be initiated after serious consideration for the safety of innocent people (bystanders);
- In all cases, police must be immediately informed and requested for help.

4. Use of lethal force

RMCs may use force up to and including deadly force against a person or a group of individuals under the following circumstances: Self-defense or defense of others, in full accordance with Afghan law.