

Translation



The following guide, published by the predecessor office of the PRC State Administration for Science, Technology and Industry for National Defense (SASTIND) in 2007, provides detailed instructions regarding the various permits private companies must obtain in order to undertake defense-related S&T projects.

Title

Notice on the Publication of the *Guide to the Participation of the Non-Publicly Owned Sector in National Defense Science, Technology and Industry Construction*
关于印发《非公有制经济参与国防科技工业建设指南》的通知

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PRC Commission of Science, Technology and Industry for National Defense (COSTIND; 国防科学技术工业委员会; 国防科工委). COSTIND was eliminated in a ministry reorganization in 2008, when most of its functions were moved to the newly created State Administration of Science, Technology and Industry for National Defense (SASTIND; 国防科技工业局; 国防科工局).

Source

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Editor

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To the Commissions (Offices) of Science, Technology and Industry for National Defense of all provinces, autonomous regions and province-level municipalities:

In order to implement the *Guiding Opinions of the Commission of Science, Technology and Industry for National Defense (COSTIND) on the Participation of the Non-Publicly Owned Sector in National Defense Science, Technology and Industry Construction*, and to better encourage and guide participation by the non-publicly owned sector (非公有制经济) in national defense science, technology and industry construction, we have prepared the *Guide to the Participation of the Non-Publicly Owned Sector in National Defense Science, Technology and Industry Construction*, which is hereby issued to you for your reference and implementation.

July 30, 2007

Guide to the Participation of the Non-Publicly Owned Sector in National Defense Science, Technology and Industry Construction

In order to securely guide the orderly participation of the non-publicly owned sector in national defense science, technology and industry construction, the following guidelines on matters related to participation by the non-publicly owned sector in national defense science, technology and industry construction are hereby announced as follows:

I. Registration

Where a non-publicly owned enterprise (非公有制企业) applies to participate, or already participates, in national defense science, technology and industry construction, it shall register with a provincial-level Administration of Science, Technology and Industry for National Defense (hereinafter referred to as a local COSTIND agency).

II. Information Access

Relevant information required by non-publicly owned enterprises for participation in national defense science, technology and industry construction can be accessed by going to local COSTIND agencies, and can also be accessed through the COSTIND government website (www.costind.gov.cn).

III. Qualification Criteria and Approvals

(i) Non-publicly owned enterprises that are to engage in scientific research and production activities within the scope permitted in the Catalog of Weapons and Equipment Scientific Research and Production Subject to Licensing must obtain a license for the scientific research and production of weapons and equipment in accordance with the provisions of the *Measures for the Implementation of the Scientific Research and Production Licensing of Weapons and Equipment*.

Obtaining secrecy qualification certification (limited to units that take on classified tasks) and quality system certification, and meeting the corresponding work safety criteria, etc., are necessary conditions to apply for a license for the scientific research and production of weapons and equipment.

The Office for the Administration of Licenses for the Scientific Research and Production of Weapons and Equipment (located in the Economic Coordination Department of COSTIND) is responsible for handling Class A license applications, and the respective local COSTIND agencies are responsible for handling local Class B license applications.

(ii) Non-publicly owned enterprises that are to engage in national defense science, technology and industry construction outside the scope of the licensing catalog, depending on the different areas of activities they participate in, must meet the corresponding qualifications and conditions.

1. If it is necessary to obtain the corresponding level of secrecy qualification certification, and to apply for Level I secrecy qualification review and certification, the application may be submitted to the Secrecy Qualification Certification Committee for National Defense Weapons and Equipment Scientific Research and Production Units, the office of which is located in the Security and Secrecy Department of COSTIND. To

apply for Level II or Level III secrecy qualification review and certification, an application may be submitted to the provincial-level Secrecy Qualification Certification Committee for Weapons and Equipment Scientific Research and Production Units, the offices of which are located in the respective provincial-level secrecy departments within local COSTIND agencies.

2. If it is necessary to obtain Military Product Quality System Certification, a quality assurance system must be established in accordance with relevant national regulations, and an application must be submitted to a certification body within the national defense system with quality system certification qualifications.
3. If it is necessary to meet work safety criteria, the corresponding work safety criteria must be met in accordance with relevant national regulations.

IV. Scope of Participation and Approvals

(i) For investment by non-publicly owned capital (非公有制资本) in military product scientific research and production projects and infrastructure, after preliminary review by a defense industry enterprise group or local COSTIND agency, the review, approval or filing procedures shall be handled by the General Planning Department of COSTIND.

(ii) Non-publicly owned enterprises can participate in National Defense Basic Scientific Research Program projects, and can prepare project proposals in accordance with the project guidelines. The review and approval procedures will be handled by the Technology and Quality Department of COSTIND following review and evaluation by a local COSTIND agency.

Non-publicly owned enterprises can participate in military product-related supporting scientific research projects, and can prepare feasibility study reports, based on the project guidelines and the general requirements of the tasks. After review, summarization and reporting by a local COSTIND agency, the review and approval procedures will be handled by the Economic Coordination Department of COSTIND.

(iii) Non-publicly owned enterprises can participate in military product scientific research and production activities by means of mutual cooperation with defense industry enterprises and public institutions¹ or with the military organization that uses their services (军队使用单位), or by participating in military product task tendering.

(iv) Non-publicly owned enterprises can conclude agreements with defense industry enterprises to participate in the reorganization and restructuring of defense industry enterprises, and after reporting by a defense industry enterprise group or local COSTIND agency, the review and approval procedures will be handled by the Institutional Reform Department of COSTIND.

¹ Translator's note: "Public institutions" (事业单位) are organizations created and led by PRC government departments that provide social services. Unlike state-owned enterprises (SOEs), public institutions do not create material products and do not generate income. Public institutions are not considered government agencies, and their employees are not civil servants. Most public institutions are fully or partially government-funded, but some fully privately funded (but still government-led) public institutions exist. Public institutions typically provide services in areas such as education, science and technology, culture, health, and sanitation.

(v) Non-publicly owned enterprises can participate in the development of dual-use high technology and its industrialization by using various means of cooperation with defense industry enterprises.

V. Related Policies

(i) Where a non-publicly owned enterprise is to take on a military product scientific research and production task and meets the criteria, it shall apply to COSTIND for national investment after preliminary review by the local COSTIND agency, and the relevant approval procedures will be handled by the General Planning Department of COSTIND.

(ii) A non-publicly owned enterprise taking on a military product scientific research and production task can submit an application to a local COSTIND agency, in accordance with relevant regulations, for preferential tax policies, and after the Economic Coordination Department of COSTIND affixes its seal, the [COSTIND] Finance Department will handle the approval procedures together with the relevant department(s) in accordance with relevant regulations.

(iii) Where, in the course of military product scientific research and production, a non-publicly owned enterprise produces technological accomplishments that involve national defense interests and have a potential role to play in national defense construction, and classification is required, it can apply to the national defense patent institution in accordance with the provisions of the *Regulation on National Defense Patents*.

Attachment: Procedures and instructions for participation by the non-publicly owned sector in national defense science, technology and industry construction

Attachment

Procedures and instructions for participation by the non-publicly owned sector in national defense science, technology and industry construction

In order to provide greater convenience to non-publicly owned enterprises, the guidelines for handling matters relating to participation by the non-publicly owned sector in national defense science, technology and industry construction are further broken down and refined as follows:

I. Registration procedures and instructions

(i) Non-publicly owned enterprises applying to participate in national defense science, technology and industry construction shall go to a local COSTIND agency to register. The content of registration mainly includes: The name of the enterprise, its legal representative, the nature of its business, its technological strengths, scale of assets, personnel composition, scope of main business, various types of qualifications and certifications, and other such circumstances.

(ii) Non-publicly owned enterprises that have already entered national defense science, technology and industry construction fields, and taken on corresponding military product scientific research and production tasks and other activities, shall report the progress of tasks undertaken and resulting technological achievements (including intellectual property) to the registration authority.

(iii) A non-publicly owned enterprise that has already registered can inquire to the registration authority for relevant information, and the local COSTIND agency shall provide the relevant information services to it.

II. Qualification criteria application procedures and instructions

(i) Where it is necessary to obtain a license for the scientific research and production of weapons and equipment

1. For the criteria that must be met and the documents and materials that must be submitted when applying for a license for the scientific research and production of weapons and equipment, the provisions of the *Procedures for Handling Weapons and Equipment Licenses* shall be followed (see the guide on the COSTIND government website for details.)

2. For a Type One license, application acceptance and review and the decision whether or not to grant the license should be handled directly by COSTIND; for a Type Two license, after application acceptance and review, the decision whether or not to grant the license should be handled by COSTIND after application acceptance and review by a local COSTIND agency.

(ii) Where it is necessary to obtain corresponding qualifications and conditions

1. Procedures and instructions for applying for secrecy qualification

(1) Preparation of relevant supporting materials

First: Where a military product scientific research and production task has already been taken on, it is necessary to produce certification of the classification of the development project or product, provided by the contracting party; where it is planned to take on a military product scientific research and production task, it is necessary to provide certification of contract intent and certificate of classification provided by the intended contracting unit (a non-publicly owned enterprise taking on a military product scientific research and production project or product involving state secrets may get a certification form at a local COSTIND agency).

Second: Enterprise business license;

Third: Current capital verification report and articles of association of the company;

Fourth: Certificate of title or lease contract for the scientific research and production site;

Fifth: Other materials that review and certification bodies require to be provided.

(2) When an applying unit submits an application, it must attach the above supporting materials. In the case of applications for Level I secrecy qualification, application

acceptance, review and approval shall be handled by the Secrecy Qualification Certification Committee for Weapons and Equipment Scientific Research and Production Units; in the case of an application for Level II or Level III secrecy qualification, application acceptance shall be handled by the local provincial-level Secrecy Qualification Certification Committee for Weapons and Equipment Scientific Research and Production Units, and where the review is passed, it shall be submitted to the [central] Secrecy Qualification Certification Committee for Weapons and Equipment Scientific Research and Production Units for review and filing. The Secrecy Qualification Examination and Certification Committee for Weapons and Equipment Scientific Research and Production Units regularly issues the *Secrecy Qualification List for Weapons and Equipment Scientific Research and Production Units* together with certificates and licenses.

2. Procedures and instructions for military product quality system certification applications

Before a non-publicly owned enterprise's certifications are examined, it must have established a quality assurance system, in accordance with National Military Standard *Quality Management Systems Requirements*, and have had it in operation for at least three months.

A non-publicly owned enterprise must submit a certification application, a letter of recommendation from a resident military representative, or an opinion letter and a commissioned certification contract (certification applications and contracts may be downloaded by going to the websites of certification bodies), and apply for quality system certification to a certification body within the national defense system with quality system certification qualifications.

3. Procedures and instructions for review of work safety requirements

A Type One non-publicly owned enterprise that engages in any of the five types of industries stipulated in the *Regulation on Safe Production Licenses* must produce a *Safe Production License* issued by a work safety regulatory authority at the provincial level or higher.

A Type One non-publicly owned enterprise that engages in the research and production of dangerous military-related chemical products, military explosives and their products, rocket propellants and other military products with high safety risks, besides providing the above compliance certificates, shall also provide a safety evaluation report issued by an intermediary safety institution with "weapons and ammunition" safety evaluation qualifications.

A Type Two non-publicly owned enterprise shall provide a labor and safety evaluation report, or other relevant documents on work safety compliance with standards and requirements, issued by a work safety supervision administration authority at the county level or higher.

III. Application procedures and instructions with regard to scope of participation

(i) Application procedures and instructions for participation in investment projects

Investment in military product scientific research and production projects and infrastructure by private capital shall be in accordance with the requirements and procedures of the Investment Catalog for Social Investment² in the Defense Science and Technology Industry and relevant regulations.

(ii) Application procedures and instructions for participation in the National Defense Basic Scientific Research Program

1. A non-publicly owned enterprise that intends to participate in national defense basic scientific research activities may, in accordance with corresponding qualification requirements, obtain the corresponding basic scientific research project guidelines and general requirements through local COSTIND agencies.

2. A non-publicly owned enterprise shall compile and submit a project proposal in accordance with the project guidelines and general requirements; the local COSTIND agency shall organize the review and preparation of a verification report for project establishment, and submit a project establishment application to COSTIND within the stipulated time.

3. The Science and Technology and Quality Department of COSTIND shall organize assessment of project establishment applications after it receives them; a project that passes its review shall be entered in the reserve project library, and after it is approved based on its merits, it will be entered into the annual plan in accordance with budget arrangements, and a project task statement will be issued.

(iii) Application procedures and instructions for participation in military product-related supporting (配套) scientific research projects

1. A non-publicly owned enterprise that intends to participate in military product-related supporting scientific research may, in accordance with corresponding qualification requirements, obtain the corresponding project guidelines and general requirements through local COSTIND agencies.

2. A non-publicly owned enterprise can prepare a project feasibility study report, based on the project guidelines and the general requirements of the task, and following review and summarization by a local COSTIND agency, it will be submitted to COSTIND.

3. The Economic Coordination Department of COSTIND will organize the review or evaluation, and a notice of the evaluation result will be given. After the Economic Coordination Department of COSTIND handles the approval procedures, relevant units can sign research and development contracts.

² Translator's note: The Chinese term 社会投资, translated literally as "social investment," and its synonyms 社会资本 "social capital" and 社会资金 "social funding," refer to any source of funding outside of government budget outlays. These terms encompass investment by private individuals and private institutions. However, investment from state-funded entities such as state-owned enterprises (SOEs), including state-run banks, also falls under the umbrella of "social capital" or "social funding."

(iv) Application procedures and instructions for participation in the reorganization and restructuring of defense industry enterprises

1. Where a non-publicly owned enterprise participates in the reorganization and restructuring of a defense industry enterprise and implements categorized administration (分类管理), it shall do so in accordance with the relevant implementation methods and catalog for guidance issued by COSTIND.

2. A non-publicly owned enterprise that participates in the reorganization and restructuring of a defense industry enterprise must reach a relevant intent agreement with the defense industry enterprise. In particular, where the participation is in the reorganization and restructuring of a subsidiary of a defense industry group company, it shall be reported to COSTIND for approval following initial review and evaluation by the defense industry group company; where the participation is in the reorganization and restructuring of a local defense industry enterprise, it shall be reported to COSTIND for approval following initial review and evaluation by a local COSTIND agency.

3. Non-publicly owned enterprises must provide the following materials to review units:

(1) Enterprise business license;

(2) Articles of association ;

(3) Report on the enterprise's basic circumstances and its vision for reorganization and restructuring;

(4) Financial statements for the most recent three years;

(5) A secrecy agreement signed with the enterprise to be reorganized and restructured;

(6) Other materials that COSTIND believes should be submitted.

The applicant shall bear responsibility for the truthfulness, lawfulness and completeness of the documents and information it submits.

IV. Procedures and instructions for applying for relevant policies

(i) Application procedures and instructions for guarantee of conditions

1. Where a non-publicly owned enterprise is to take on a military product scientific research and production task and complies with national regulations, it can report it to the local COSTIND agency, and following initial review and consent, the approval procedures will be handled by the relevant department within COSTIND.

2. For the conditions and methods of a non-publicly owned enterprise in an application for state investment, and the assets and revenues formed therefrom, the implementation should be in accordance with *Opinions of the Commission of Science,*

Technology and Industry for National Defense on the Administration of Defense Industry Project Investment by Non-Publicly Owned Enterprises ([2006] No. 569).

(ii) Procedures and instructions for applying for preferential policies

1. Where a non-publicly owned enterprise is to take on a military product scientific research and production task and meets the criteria, it can submit the signed military product scientific research and production contract and relevant materials to a local COSTIND agency; following review and the signing of an intent agreement, they shall be reported to the Economic Coordination Department of COSTIND for review and affixing of seals, and relevant preferential policies shall be handled by the Financial Department of COSTIND together with the relevant departments in accordance with regulations.

2. Where a non-publicly owned enterprise applies for military product scientific research and production contract review and affixing of seals, it shall provide the following materials:

(1) Where it is to provide equipment products directly, it shall submit the ordering contract and *Application Form for Military Product Ordering Contract Review and Affixing of Seals* (which may be obtained from a local COSTIND agency).

(2) Where it is to provide specialized supporting products for military products, it shall submit an *Ordering Contract for Weapons and Equipment Research and Production Supporting Products* and an *Application Form for Military Product Ordering Contract Review and Affixing of Seals* (contract text, and forms to apply for affixing of seals, can be downloaded from the COSTIND government website).