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**Guangzhou Municipal Provisions on Major Administrative**

**Decision-Making Procedures**

**Order No. 39 of the Guangzhou Municipal People’s Government**

Adopted October 18, 2010 and Effective January 1, 2011

**Chapter I. General Principles**

Article 1. In order to standardize major administrative decision-making behavior by the government, promote scientific, democratic and law-based decision-making, safeguard the lawful rights and interests of citizens, legal persons and other organizations, and in accordance with the *People’s Republic of China Organization Law for Local People's Congresses and Local Governments at All Levels* and other relevant laws and regulations, and based on the actual circumstances of this Municipality, these Provisions are hereby formulated.

 Article 2. These Provisions shall apply to the major administrative decision-making procedures of the Municipal People’s Government and of people’s governments at the district and county levels (hereafter collectively referred to as the “government”).

If according to law a major administrative decision-making matter must be submitted to a higher-level organ for approval, then after the government has proposed a major administrative decision-making plan in accordance with these Provisions, it should submit a reportto the higher-level organ for approval.

If according to law a major administrative decision-making matter should be submitted to the people’s congress at the same level or its standing committee for review and decision, then after the government has proposed a major administrative decision-making plan in accordance with these Provisions, it should submit it to the people’s congress at the same level or its standing committee for review and decision.

Article 3. Major administrative decision-making should adhere to the principles of science, democracy and lawfulness, and to administrative decision-making mechanism that combines public participation, expert consultation, risk assessment, legality examination and collective decision-making.

Article 4. The general office of the government shall be responsible for organizing and implementing these Provisions.

The government legislative affairs office shall be responsible for the work of legality examination.

Administrative supervision organs shall be responsible for administrative supervision of decision-making formulation, implementation and other relevant work by government functional departments and lower levels of government.

**Chapter II. Decision-Making Scope**

Article 5. Major administrative decision-making as referred to in these Provisions means decisions made by the government within the legally mandated scope of its authority on major matters that concern the overall economic and social development of its administrative area, have extensive social ramifications, and are closely linked to the interests of citizens, legal persons and other organizations.

Article 6. Major administrative decision-making (hereafter “decision-making”) as referred to in these Provisions includes the following:

 (1) Formulation of major policy measures for economic and social development;

(2) Creation and revision of all types of master plans for economic, social and cultural development and public services;

(3) Use of major financial funding, arrangements for major government investment projects, and disposal of major state-owned assets;

(4) Development and use of major natural resources;

(5) Formulation of major policy measures in such areas as urban construction, environmental protection, land management, labor and employment, social security, culture and health, science and technology education, housing security, and transportation management;

(6) Formulation of major measures for administrative management system reform;

(7) Other major administrative management matters that require decision-making by the government.

 Article 7. These Provisions do not apply to the following:

(1) Formulation of government rules and drafting of proposed drafts of local regulations;

 (2) Government personnel appointments and dismissals;

 (3) Formulation of government internal affairs management measures;

 (4) Emergency handling of sudden incidents;

(5) Other matters already provided for decision-making procedures of existing laws, regulations and rules.

**Chapter III. Decision-Making Procedures**

**Section 1. Decision Drafting**

Article 8. The government chief executive or leader in charge may directly put forward decision-making suggestions, and designate a department to draft the decision.

The government general office and the various functional departments may put forward decision-making suggestions to the government; governments at the next lower level may put forward decision-making suggestions to the next higher level of government; and citizens, legal persons or other organizations may put forward decision-making suggestions to the government directly or through the various government functional departments. After the government chief executive or leader in charge receives a decision-making suggestion that they approve for initiating the decision-making procedure, they should designate the decision-drafting department.

Article 9. The decision-drafting department may organize and prepare a decision draft on its own; it may also entrust relevant experts or professional research institutions to prepare the decision draft. The decision draft should include such content as the objectives of the decision, work responsibilities, measures and methods, timetable for completion, decision implementation department(s) and coordinating department(s), the budget and a plan for evaluation following the decision, and should have appended to it an explanation of the draft decision.

In preparing the decision draft, there should be a legal and policy basis, and investigation and research shall be launched so as to fully grasp and analyze all circumstances relevant to the decision-making matters.

For major administrative decision-making that requires comparative study of different plans, two or more alternative plans for decision-making should be prepared.

Article 10. The decision-drafting department should conduct a decision-making risk assessment of the decision draft. The decision-making risk assessment may be entrusted to relevant professional research institutions according to its classification.

The decision-making risk assessment should, in light of the decision-making requirements, undertake a cost-benefit analysis of the decision draft, assess risks in such areas as finance and economics, social stability, the environmental ecosystem or legal disputes, and propose corresponding preventative, mitigating or curative measures.

Article 11. The decision-drafting department should organize an expert advisory committee, inviting five or more experts in relevant fields or entrusting professional research institutions to advise on such issues as the necessity and feasibility of the decision. When experts or professional research institutions conclude their “demonstration,” they should produce signed or stamped written advisory opinions.

 The government should establish a database of decision-making advisory experts.

Article 12. The decision-drafting department should solicit the opinions of other concerned functional departments at the same level and lower level governments regarding the decision draft.

With regard to feedback opinions on the draft from other departments and lower level governments, the decision-drafting department should consult with the units that raised opinions that it proposes not to adopt; if consensus still cannot be reached after consultation, the decision-drafting department should produce a special explanation.

The decision-drafting department should, on the basis of the risk assessment report, expert advisory opinions and the opinions of other departments and lower level governments, revise and formulate a Decision Draft for Comment.

**Section 2. Public Participation**

 Article 13. The decision-drafting department should obtain government agreement to disclose the Decision Draft for Comment to solicit public opinions; concrete procedures shall be implemented in accordance with provisions of the Municipal People’s Government concerning consulting public opinion on major decision-making related to people’s livelihood.[[1]](#footnote-1)

 Article 14. When a Decision Draft for Comment is to be disclosed to solicit public opinions, the decision-drafting department should utilize mass media including newspapers and periodicals, the Internet or radio and television. The time period for soliciting public opinions may not be less than 20 days.

 The public may offer opinions and suggestions regarding the Decision Draft for Comment, and may also propose other decision-making plans.

 Article 15. In addition to soliciting public opinions in accordance with Article 14 of these Provisions, the decision-drafting department may also solicit public opinions through hearings, workshops, questionnaires or other methods.

 Article 16. When the method of hearings is used to solicit public opinions, these should be carried out according to the following requirements:

(1) Hearings shall be organized by the decision-drafting department;

(2) Hearings shall consist of hearing moderators, hearing presenters, and hearing representatives;

(3) Hearings should be held publicly; the organizing department should publicize the hearing time, location, content, and criteria for signing up to be a hearing representative at least 10 days in advance, and accept public sign-ups.

(4) The organizing department shall select a proportional number of hearing representatives from different interest groups, based on the hearing’s content and scope of impact. No person who is currently employed in a civil service position shall be eligible for selection as a hearing representative.

(5) The Decision Draft for Comment, Explanation of the Draft and other relevant materials should be delivered to hearing representatives at least five days prior to the hearing.

(6) A written hearing record and hearing report should be produced for the hearing. The decision-drafting department should fully consider and adopt reasonable suggestions from hearing representatives, and provide an explanation when suggestions are not adopted.

(7) Seats for auditors should be provided at the hearing, allowing the public to observe and the news media to interview and report.

 The Municipal People’s Government shall separately formulate provisions for decision-making hearing procedures in accordance with this Article of these Provisions.[[2]](#footnote-2)

 Article 17. When the method of workshops is used to solicit public opinion, the decision-drafting department should invite interested citizens, legal persons or other social organizations with an interest in the matter to organize representatives to participate.The Decision Draft for Comment and Explanation of the Draft should be delivered to workshop representatives at least five days in advance.

 When the method of public opinion surveys is used to solicit public opinions, an independent survey research organization should be entrusted to conduct them and to produce a written survey report.

 Article 18. When the work of public participation is completed, the Decision Draft for Comment should be examined by the legislative affairs office of the decision-drafting department, and following collective discussion and approval by decision-drafting department leaders, a Draft Decision and Explanation of the Draft should be produced.

 The Draft Decision’s Explanation of the Draft should explain the situation regarding adoption of public opinions.

**Section 3. Legality Examination**

 Article 19. The decision-drafting department should submit the Draft Decision for government review, and submit to the government general office with the following materials:

 (1) Request for government review;

 (2) Draft Decision and Explanation of the Draft;

 (3) Legal and policy basis for the Draft Decision;

(4) Collected opinions solicitation materials, risk assessment report, expert advisory opinions, hearing report and other relevant materials.

Article 20. The government general office should handle the matter within five business days of receiving the decision-drafting department’s materials for review. If it considers the materials complete, it should send the Draft Decision to the legislative affairs office of the government at the same level for legality examination; if it considers the materials incomplete, it should send them back to the decision-drafting department for supplementation.

Draft Decisions that have not been examined by the government legislative affairs office shall not be submitted for government review.

 Article 21. The government legislative affairs office should present an opinion on the legality examination within 10 business days of receiving the materials for examination.

 Article 22. The government legislative affairs office should examine legality from the following aspects:

(1) Whether the decision-making matter falls within the government’s statutory jurisdiction;

 (2) Whether the contents of the Draft Decision are legal;

 (3) Whether the drafting process conformed to stipulated procedures.

 In the process of legality examination, the government legislative affairs office may require the decision-drafting department to provide relevant supplementary materials.

 Article 23. During legality examination, the government legislative affairs office may, when it deems necessary, invite relevant experts to “demonstration” the Draft Decision’s legality. The demonstration on legality should serve as one of the bases for the government legislative office’s examination opinion.

 Article 24. The government legislative affairs office should, in accordance with different situations, present the following recommendations concerning the Draft Decision:

 (1) Recommend that it be submitted for government review;

(2) Recommend that it be submitted for government review but that certain contents be revised and perfected;

(3) Where the Draft Decision exceeds the government’s legally prescribed authority, or there are major problems in the Draft’s content or drafting procedure that require revision and perfection, recommend that it not be submitted for government review for the time being.

 **Section 4. Review and Decision**

 Article 25. The Draft Decision should be reviewed and decided upon by a plenary meeting or executive meeting of the government.

 The general office of the government should handle the matter within 10 business days of receiving the government legislative affairs office’s legality examination recommendation. If it believes that the Draft Decision may be submitted for government review, it should request that the government chief executive arrange a plenary meeting or executive meeting of the government; if it believes that the Draft Decision cannot be submitted for government review for the time being, it should send the Draft Decision back to the decision-drafting department with the requirement that it be revised and perfected.

 Article 26. The plenary or executive meeting of the government should decide to approve, not approve, revise, discuss again or table the Draft Decision.

 During the period that that a Draft Decision is tabled, the decision-drafting department may act in accordance with changes in the actual circumstances to request another government review; the government chief executive shall decide whether another review will be made. Draft Decisions tabled for longer than one year shall not be reviewed again.

 Article 27. Except where the law prohibits disclosure, decision-making matters, bases and results should be disclosed through mass media including government websites and newspapers.

 Article 28. The decision-drafting department should act in accordance with the *Archives Law of the People's Republic of China* and other relevant provisions to organize and archive relevant materials from the decision-making process promptly.

**Chapter IV. Decision-Making Management**

 Article 29. A decision implementation and post-decision assessment system shall be implemented. Post-decision assessment work should be organized in accordance with the following provisions:

(1) The assessment-organizing unit shall be the department undertaking decision implementation;

(2) Periodic assessments should be conducted; the periods shall be based on the time frame for decision implementation or validity as established in the decision;

(3) Where assessments are entrusted to professional research institutions, those institutions should not have participated in the relevant demonstrations or assessments during the drafting phase;

(4) The public’s opinions should be solicited for assessments. Citizens, legal persons or other organizations may offer assessment opinions and suggestions on decision implementation; the assessment-organizing unit should produce a written response concerning their adoption and explain the reasons therefor;

(5) The assessment-organizing unit should produce a post-decision assessment report and submit it to the government; the post-decision assessment report should assess the decision’s content and implementation, and make implementation recommendations such as to continue, stop or temporarily suspend implementation, or to revise the contents of the decision.

 In the implementation process, when *force majeure* or other major changes in the objective situation may partially or completely prevent realization of decision objectives, the department undertaking decision implementation should promptly organize and adopt temporary remedial measures, as well as organize a post-decision implementation assessment in accordance with the provisions of the preceding items (1), (3), (4) and (5) of this Article.

 Article 30. When the post-decision implementation assessment report recommends ceasing or temporarily suspending implementation of the decision, following discussion and agreement by a plenary meeting or executive meeting of the government, implementation should be ceased or temporarily suspended.

 When the post-decision implementation assessment report recommends major revisions to the contents of the decision, the procedure shall follow that stipulated in Chapter III of these Provisions.

 When the government decides to cease or temporarily suspend implementation of the decision or to revise it, the department undertaking implementation should take effective measures to avoid or minimize economic losses and adverse social consequences as far as possible.

 Article 31. The general office of the government, administrative supervisory organ and government legislative affairs office should organize and launch inspection and supervision of the decision’s drafting, implementation and assessment, and shall act based on the decision’s contents and the government’s work arrangements to adopt such measures as follow-up inspection, and supervising and urging fulfillment of relevant tasks to ensure that the decision is formulated and implemented in accordance with stipulated procedures, and shall promptly report the supervision and inspection situation to the government.

 Article 32. Citizens, legal persons and other social organizations have the right to supervise the formulation and implementation of decisions, and may offer opinions and suggestions to the government, drafting departments, departments undertaking implementation, and coordinating departments.

 People’s congress delegates and people's political consultative conference members shall supervise decision formulation and implementation in accordance with the law.

 Article 33. If administrative organs and relevant personnel violate these Provisions, or in the process of decision drafting, implementation or supervision commit such legal or disciplinary violations as dereliction of duty, resorting to deception for personal gain, or engaging in embezzlement and bribe-taking, they shall be held legally accountable in accordance with *Regulations on the Punishment of Civil Servants in Administrative Organs* and other relevant provisions; where the case constitutes a crime, said case shall be transferred to judicial organs for prosecution of criminal liability.

**Chapter V. Supplementary Provisions**

 Article 34. Government functional departments, township governments and neighborhood street committee offices should, based on the actual circumstances of their units and localities, formulate and perfect decision-making work procedures with reference to these Provisions.

 Article 35. These Provisions shall come into force as of January 1, 2011.

1. The Guangzhou Municipal Government adopted on April 4, 2013 the Interim System on Committees for Seeking Public Opinions on Major Decisions on People’s Livelihood [广州市重大民生决策公众意见征询委员会制度(试行)], <http://zwgk.gd.gov.cn/007482532/201304/t20130418_372604.html>. [↑](#footnote-ref-1)
2. Guangzhou Municipal Interim Measures on Major Administrative Decision-making Hearings [广州市重大行政决策听证试行办法], issued August 5, 2011, at: <http://www.gz.gov.cn/publicfiles/business/htmlfiles/GZ00/2.2/201110/864697.html>. [↑](#footnote-ref-2)