

## Responsible Retrenchment and Closure:

### *Managing Layoffs and Closing an NGO with Care and Compliance*

The global aid sector is in a state of uncertainty as the Trump administration moves to halt U.S. foreign assistance. The dismantling of USAID and suspension of awards will have significant consequences for many countries, including Cambodia. In addition to their vital work being stopped, some NGOs are facing staff layoffs and even closure of their own operations. Below are some essential considerations regarding law and best practice for managing layoffs and closing NGO operations with care and compliance.

**Legal Landscape.** Understanding Cambodia's laws, regulations and practices provides an important framework to guide the process of staff terminations and organization closure. Critical legal aspects for retrenchment are set out in the Labor Law and include:

- **Termination of employment contracts.** The Law sets out different rights and protections that organizations must apply to effectively terminate employment depending on different factors and conditions, including the relevant type of employment contract: fixed duration contract (FDC) or undetermined duration contract (UDC).
- **Mass layoff procedures.** If terminations constitute "mass layoffs" as defined under the Law, then special procedures must be followed on the order of layoffs, worker consultations, engagement of the Ministry of Labor, and priority for re-hiring.
- **Considerations for prior notice, termination payments and other obligations to workers.** Organizations should pay particular attention to the Law's provisions on prior notice, calculation of payments, including severance pay and seniority indemnity, and provision of certain employment completion requirements for all workers.

In addition to the Ministry of Labor, organizations must engage with other Ministries and agencies and be familiar with their respective requirements for effective termination and closedown in Cambodia.

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**Key practice points:** Check for any amendments and updates to national legislation and regulations. Remember that a thorough review of the organization's labor contracts, HR policies and any collective agreements is an essential part of ensuring legal compliance. Seek legal advice if needed.

#### **Agreements, Contracts and Assets**

Organizations should review and decide whether to invoke the terms governing the suspension or termination of agreements with their partners, including funding or grant agreements, partnership agreements, consultancy contracts, procurement and supplier contracts, and lease agreements. In addition, foreign NGOs may consider notifying their respective Ministry- or agency-partner on the suspension of the underlying MoU that enables the NGO to conduct its activities in Cambodia.

In the event of a closedown, NGOs must also consider how to deal with their remaining resources and assets. As guided by the Law on Associations and NGOs, the remaining resources and assets of the NGO shall be disposed of in accordance with



its statute, funding agreements with donors, and laws in force.

**Planning and Communication.** Strategic planning and transparent communication with staff are critical for managing layoffs and closure responsibly.

- **Strategic (Rapid) Review and Planning.** Prior to any announcement of layoffs or closedown, carry out a review of the organization's financial situation, workforce needs and alignment of the directives that must be followed, and establish clear objectives for the process.
- **Communication Strategy.** Develop a communication plan with key messages on the need for the layoffs, timing, compensation and benefits, and how to obtain more information or support in case of questions or concerns. Clear compassionate communication is essential throughout the process, as is honesty and frankness.

*Key practice points:* Consult with representatives of workers in the preparation and implementation of layoffs and closure; provide accurate and complete information and obtain their input on plans and potential options or alternatives.

**Providing Support and Resources.** Layoffs and closure can have a profound impact on employees' lives, professionally and personally. To the extent possible, prioritize provision of support and resources to ease the transition for affected individuals.

- **Outplacement Services:** If possible, offer outplacement services such as resumé

coaching, job search support, interview preparation, professional references and letters of recommendation.

- **Benefits Continuation:** Explain the termination package in detail, including any continuation of benefits and their terms and conditions.
- **Emotional Support:** Allow employees the opportunity to process their feelings, and consider provision or referral to counselling services.

#### **Note on Organization Suspension or Closure.**

The formal process and compliance requirements for an orderly closure of NGOs in Cambodia is complex, can be prolonged and requires navigation of the respective requirements and procedures of several different government bodies, including:

- Notification to **General Department of Taxation** to undergo tax audit
- For domestic NGO, notification on dissolution to **Ministry of Interior**
- For foreign NGO, notification of activity suspension to **Ministry of Foreign Affairs and International Cooperation**
- Declaration of closing to **Ministry of Labor**
- Notification to **National Social Security Fund**
- Notification to **Ministry of Economy and Finance**
- Notification to **Accounting and Auditing Regulator**

### **Further information**

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