

Cabinet Resolution No. (69) of 2023, Regulating the Issuance of the Government Guarantee

The Cabinet,

Having reviewed:

- The Constitution;
- Federal Law No. (1) of 1972 regarding the Competences of Ministries and the Powers of Ministers, as amended;
- Federal Decree-Law No. (9) of 2018 regarding Public Debt, as amended;
- Federal Decree-Law No. (15) of 2018 regarding the Collection of Public Revenues and Funds;
- Federal Decree-Law No. (26) of 2019 regarding Public Finance, as amended; and
- Based on the proposal of the Minister of Finance and the Cabinet’s approval thereof,

Hereby resolves as follows:

Article (1)

Definitions

For the purpose of applying the provisions of this Resolution, the following words and expressions shall have the meanings assigned thereto respectively, unless the context requires otherwise:

- State (UAE)** : The United Arab Emirates
- Government** : The Federal Government of the State
- Minister** : The Minister of Finance
- Ministry** : The Ministry of Finance
- The Federal Government Entity** : Any of the Federal Government entities specified in Federal Decree Law No. (9) of 2018 regarding Public Debt, as amended and Federal Decree-Law No. (26) of 2019 regarding Public Finance, as amended;
- Public Debt** : Direct and indirect outstanding liabilities, denominated in UAE dirhams or any foreign currency, owed by the Government, in accordance with

the provisions of Federal Decree-Law No. (9) of 2018 regarding Public Debt, as amended.

- Government** : A written undertaking issued by the Minister on behalf of the Government, in accordance with the provisions of this Resolution, whereby the government is committed to meeting the obligations specified in it.
- Outstanding Government Guarantee:** The total outstanding liabilities owed, at any time, by the Government under one or more government guarantees.

Article (2)

Objectives of the Resolution

This Resolution aims to lay down the general rules and conditions that regulate the issuance and management of government guarantees.

Article (3)

The Authority Concerned with Issuing Government Guarantees

1. The Cabinet may, based on the recommendation of the Minister, issue a resolution approving the granting of a government guarantee.
2. The Minister shall issue the government guarantee in accordance with the conditions stipulated in the Cabinet' resolution approving the granting of the Government Guarantee and the provisions hereof.

Article (4)

Entities that can Obtain the Government Guarantee

The government guarantee shall be issued on behalf of:

1. Any of the Federal Government Entities.
2. Any of the Federal Government Entities in its capacity as a shareholder/partner in

another entity, subject to the provisions of Clause (3) of Article (9) of this Resolution.

3. Any other entity specified by a federal law or in accordance with the provisions of a federal law.

Article (5)

Purposes of Issuing a Government Guarantee

The government guarantee shall be issued to achieve any of the following purposes:

1. Supporting the financing of infrastructure projects, development projects, and projects of economic or social value which are implemented or supervised by the Government or to which the Government or any Federal Government Entity contributes, whether directly and indirectly;
2. Reducing the cost of establishing, managing or operating projects adopted by the Government;
3. Improving the feasibility of projects or activities adopted by the Government;
4. Meeting the requirements in cases where the government guarantee is a precondition for obtaining loans from banks or export credit agencies or projects of partnership with the private sector, in accordance with the legislation regulating such cases;
5. Contributing to increasing the productivity of facilities that perform public services and improving the quality of such services in addition to monitoring their financial performance and ensuring their effective management;
6. Executing projects that give economic value to production or service facilities;
7. Reducing the burdens on the general budget, represented in cash balances for the implementation of projects; and
8. Any other purposes approved by the Cabinet upon the recommendation of the Minister.

Article (6)

Controls for Issuing a Government Guarantee

The government guarantee shall be issued in accordance with the following controls:

1. The government guarantee shall aim to achieve any of the purposes specified in Article (5) of this Resolution.

2. The government guarantee shall be compatible with the government guarantee management policy as part of the public debt in accordance with the best sound and safe practices.
3. A high level of transparency and reliability shall be adopted to achieve the purposes for which the government guarantee is issued.
4. A balanced risk level shall be maintained in the public debt portfolio.
5. The financial needs of projects adopted by the Government shall be met in accordance with the bases and standards for the management of risks associated with the issuance of each government guarantee separately.
6. The credit rating of the entity in which the Federal Government Entity is a shareholder or partner shall be high, or the project for which the government guarantee is issued shall have economic feasibility that qualifies it for borrowing.
7. The degrees of failure shall be classified to determine the risk of failure to meet any of the obligations contained in the government guarantee.
8. Any other controls issued by a resolution of the Minister.

Article (7)

The Ceiling of the Public Debt Resulting from Government Guarantees

The total amounts secured by outstanding government guarantees may not, when added to the outstanding public debt of the Government, exceed the percentage specified for the public debt in the applicable laws and regulations.

Article (8)

The Ceilings Specified for Specific Types of Government Guarantees

Subject to Article (7) of this Resolution, the ceilings of the following outstanding government guarantees may not exceed the percentage assigned thereto respectively:

1. The government guarantee issued to guarantee the financing of capital projects wholly owned by the government at (80%) of the value of each project.
2. The government guarantee issued to guarantee any of the financial liabilities of a

Federal Government Entity in energy or water production and distribution projects or any other projects approved by the Cabinet, based on the recommendation of the Minister, at (100%) of the value of the liability.

3. The government guarantee issued to the Federal Government Entity in its capacity as a partner or shareholder in another entity, in accordance with the provisions of Paragraph (d) of Clause (3) of Article (9) of this Resolution.

Article (9)

Requirements and Procedures for Applying for the Issuance of Government Guarantees

1. The Federal Government Entity desiring to issue a government guarantee shall submit an application to the Ministry on the forms approved by the Ministry. Such application shall meet all the requirements for issuing the government guarantee referred to below, and any other requirements that the Ministry may request.
2. The Federal Government Entity shall clearly specify the type, value and duration of the government guarantee and the extent to which it can meet the obligations contained in the government guarantee as well as the alternative plans for meeting the same in the event of any emergency that prevents it, even temporarily, from fulfilling any of such obligations.
3. If the government guarantee required to be issued includes an undertaking to guarantee the payment of cash amounts, the application shall be accompanied by a written undertaking from the Federal Government Entity on whose behalf the government guarantee is issued that it indicates in each of its fiscal years the financial appropriations necessary for covering its financial liabilities contained in the government guarantee and in the relevant fiscal year if the obligation to meet is fulfilled once.
4. If the government guarantee required to be issued is on behalf of the Federal Government Entity in its capacity as a shareholder/partner in another entity, the application shall be accompanied by evidence that the following conditions are met:
 - a. A unanimous resolution shall be issued by all partners or shareholders of the

- entity in which the Federal Government Entity is a shareholder/partner that they are committed to issue one or more financial guarantees to meet their obligations.
- b. A resolution shall be issued by the other shareholders/ partners in the entity in which the Federal Government Entity is a shareholder/ partner that each of them is committed to issue a financial guarantee whose conditions are not less than the government guarantee required to be issued on behalf of the Federal Government Entity.
 - c. The entity in which the Federal Government Entity is a shareholder/partner shall submit proof that the rest of its shareholders/partners have issued the financial guarantee pro rata to the Federal Government Entity's share or contribution to the capital paid to such entity.
 - d. The government guarantee required to be issued shall be within the limits of the Federal Government Entity's share or contribution to the capital paid to such entity.
5. The Ministry shall undertake an extensive review of the application and the documents submitted thereto, and assess the extent to which the application and documents comply with the requirements for issuing the government guarantee. Further, the Ministry may request the requesting entity to submit any necessary documents, and then the Ministry shall submit the application to the Cabinet if the application complies with the requirements for issuing the government guarantee, including its recommendations, accompanied by a report issued by the Ministry confirming that the government guarantee required to be issued conforms to the controls contained in this Resolution and any other attachments necessary to decide on the application.
 6. The Cabinet shall consider the application after being submitted thereto in accordance with the form approved by the General Secretariat of the Cabinet which shall notify the Ministry of the Cabinet's resolution. If the Cabinet approves the application, the Ministry shall complete the necessary procedures to issue the government guarantee.

Article (10)

Registration, Saving and Destruction of Government Guarantee Documents

The Ministry shall develop a system for registering, saving and destroying all papers, correspondence, and financial and administrative documents related to each government guarantee, subject to the provisions of Federal Decree-Law No. (9) of 2018 regarding Public Debt, as amended, and Federal Decree-Law No. (26) of 2019 regarding Public Finance, as amended.

Article (11)

Procedures for Recovering Funds Paid to Implement the Government Guarantee

1. The entitlements specified in the resolution to issue the government guarantee shall be considered an obligation on the Government and shall be paid from its resources, in accordance with the terms and conditions specified in the same resolution.
2. Subject to the provisions of Federal Decree-Law No. (15) of 2018 regarding the Collection of Public Revenues and Funds and Federal Decree-Law No. (26) of 2019 regarding Public Finance, as amended, the Ministry shall take all necessary administrative, legal and judicial measures and procedures to ensure the recovery of any funds paid by the Government in implementation of its obligations contained in the government guarantee.

Article (12)

Exemption from Payment

The Cabinet may, upon a recommendation of the Minister, exempt the Federal Government Entity on whose behalf the government guarantee was issued from all or part of the funds paid by the Government in implementation of its obligations contained in the government guarantee.

Article (13)

Control and Audit

1. The Ministry shall control and audit the performance and management of the government guarantee, from the time the government guarantee is issued until the fulfillment of the obligations specified therein, including ensuring that the entity on whose behalf the government guarantee has been issued fully performs all actions and takes all necessary precautions to comply with the terms and conditions of the government guarantee.
2. The Federal Government Entity on whose behalf the government guarantee is issued shall notify the Ministry of any facts, cases or circumstances that may lead to failure to meet any of its obligations contained in the government guarantee, and to perform the actions or measures it recommends to be taken to avoid such failure.

Article (14)

Periodic Reports and Notifications

1. The Federal Government Entity on whose behalf the government guarantee is issued shall provide all data, information and documents required by the Ministry, whether related to the issuance of the government guarantee, its performance, or the extent to which the Federal Government Entity meets any of the obligations contained in the government guarantee, and that it fully performs all actions and takes all necessary precautions to comply with the conditions specified in the government guarantee.
2. The Federal Government Entity on whose behalf the government guarantee is issued shall submit monthly or periodic reports to the Ministry on the performance of the debts related to the government guarantee issued thereto.

Article (15)

Annual Report on Government Guarantees

1. The Minister shall submit to the Cabinet an annual report on the government guarantees issued for the past fiscal year, within the first three months from the beginning of the following fiscal year.

2. The report shall include the following:
 - a. The value of each governmental guarantee or its outstanding balance and the reasons for issuing same.
 - b. In the event of the failure of the Federal Government Entity or the entity in which the Federal Government Entity is a shareholder/ partner and in whose favor the government guarantee has been issued to fulfill all or some of the obligations contained in the government guarantee, the degree of such failure shall be assessed and the Ministry's opinion on providing the necessary financial coverage to meet the government guarantee shall be indicated.

Article (16)

Implementing Resolutions

The Minister shall issue the resolutions necessary for implementing this Resolution.

Article (17)

Publication and Entry into Force

This Resolution shall be published in the Official Gazette, and shall enter into force from the day following the date of its publication.

Mohammed bin Rashid Al-Maktoum

Prime Minister

Issued by Us

On: 22 Dhu al-Hijjah 1444 (AH)

Corresponding to: 10 July 2023 A.D