



On approval of the Rules for the transfer of information constituting state secrets in connection with the performance of joint secret work

Unofficial translation

Decree of the Government of the Republic of Kazakhstan dated May 31, 2001 N 743.

Unofficial translation

Footnote. The title - as amended by the Decree of the Government of the Republic of Kazakhstan dated 12.06.2024 № 458 (shall come into effect upon expiry of ten calendar days after the day of its first official publication).

In accordance with paragraph 4 of Article 26 of the Law of the Republic of Kazakhstan dated March 15, 1999 "On State Secrets", the Government of the Republic of Kazakhstan **decides to:**

Footnote. Preamble - as amended by the Decree of the Government of the Republic of Kazakhstan dated 12.06.2024 № 458 (shall be brought into force ten calendar days after the day of its first official publication).

1. To approve the attached Rules for the transfer of information constituting state secrets in connection with the performance of joint secret work.

Footnote. Paragraph 1 as amended by the Decree of the Government of the Republic of Kazakhstan dated 12.06.2024 № 458 (shall come into effect upon expiry of ten calendar days after the date of its first official publication).

2. This decree comes into force from the date of signing and is subject to publication.

*Prime-Minister of the
Republic of Kazakhstan*

Approved
by the Decree of the Government of the
Republic of Kazakhstan dated May 31,
2001 № 743

Rules for the transfer of information constituting state secrets in connection with the performance of joint secret work

Footnote. The Rules - as amended by the Decree of the Government of the Republic of Kazakhstan dated 12.06.2024 № 458 (shall come into effect upon expiry of ten calendar days after the day of its first official publication).

1. These Rules for the transfer of information constituting state secrets in connection with the performance of joint secret work (hereinafter referred to as the Rules) have been developed in accordance with Article 26 of the Law of the Republic of Kazakhstan "On State Secrets" (hereinafter referred to as the Law) and shall determine the procedure for the transfer

of information constituting state secrets of the Republic of Kazakhstan (hereinafter referred to as State secrets) in connection with the performance of joint secret work.

2. The following concepts shall be used in these Rules:

1) joint secret work – work carried out by the customer and the contractor using state secrets;

2) the customer - a government agency or organization that orders work related to the use of state secrets;

3) the executor of the order – a non-governmental (commercial) organization or a citizen of the Republic of Kazakhstan executing an order, the execution of which requires the use of state secrets.

3. The transfer of state secrets by the customer to the contractor in connection with the performance of joint secret work shall be carried out in the following sequence:

1) the receipt by the customer from the state body, which, in accordance with Article 15 of the Law, holds state secrets, of written permission on the possibility of transferring the relevant information to the contractor and only to the extent necessary to perform these works ;

2) the conclusion by the customer and the contractor of the order of an agreement for the performance of joint secret work;

3) sending by the customer a written notice to the national security agencies of the Republic of Kazakhstan (hereinafter referred to as the National Security Agencies) at the location of the contractor's activities regarding the concluded agreement for the performance of joint classified work and the transfer of the necessary state secrets.

4. To obtain written permission to transfer state secrets to the contractor, the customer shall send a written request to the government agency authorized to classify information as state secrets.

The request shall specify:

1) the full name, business identification number, and legal address of the contractor with the last name, first name, patronymic (if any) of its director, or the last name, first name, patronymic (if any) of the citizen with the individual identification number, place of work (study), position held and place of residence, as well as the body that issued the identity document;

2) a list of state secrets planned for transfer, names of their carriers, classification markings, account numbers, copy numbers, number of sheets of secret documents or other secret materials;

3) justification of the need to transfer state secrets;

4) the period for which it is planned to transfer state secrets;

5) information on the availability of a permit to carry out work using state secrets and (or) access of an official or citizen of the Republic of Kazakhstan to state secrets (number, date, validity period and by whom issued).

Attached to the request shall be a draft agreement for the performance of joint secret work, concluded between the customer and the contractor.

5. The state body whose director has the authority to classify information as state secrets shall, within ten working days from the date of its receipt, review the customer's request and send to the customer a written response signed by the director or the person acting for him regarding the possibility of transferring state secrets to the contractor, or a reasoned refusal indicating the reasons preventing the transfer of state secrets to the contractor.

6. The transfer of state secrets to organizations or citizens of the Republic of Kazakhstan shall be carried out based on an agreement for the performance of joint secret work, concluded between the customer and the contractor.

In a contract for the performance of joint secret work, concluded between the customer and the contractor, in accordance with civil legislation, it shall be necessary to regulate the following issues:

1) the procedure for the implementation of control by the customer and the responsibility of the contractor to ensure the safety of state secrets both during the work and upon its completion;

2) conditions for financing work (services) to protect state secrets;

3) information on the availability of a permit from national security agencies to carry out work using state secrets or a formal clearance of an official or citizen of the Republic of Kazakhstan to access state secrets (number, date, validity period and by whom issued);

4) a list of state secrets planned for transfer (the list shall be drawn up as an independent appendix to the agreement on joint secret work, which specifies the names of the documents (carriers) being transferred, security classifications, registration numbers, copy numbers, and number of sheets).

In cases where the subject of the contract for the performance of joint classified work is the servicing of information systems in a secure design, classified as state secrets, belonging to the customer, instead of the names of the transferred documents (carriers), a certificate in any form shall be attached to the contract for the performance of joint classified work, which reflects a brief description of the circulating information constituting state secrets in the serviced information systems.

The structural unit responsible for agreeing to carry out joint secret work, as well as monitoring its implementation, shall be determined by the head of the customer.

7. Until written permission is received from a government agency empowered to dispose of state secrets on the possibility of transferring their state secrets, the conclusion of an agreement to conduct joint secret work and the transfer of state secrets shall be prohibited.

8. Within the framework of the implementation of joint secret work, the organization of activities to protect state secrets carried out by the contractor shall be assigned to the units for the protection of state secrets:

1) an order executor operating without foreign participation;

2) the customer at the place where joint secret work is carried out;

3) entities of the quasi-public sector concerning legal entities (individuals) affiliated with them in accordance with the legislative acts of the Republic of Kazakhstan;

4) other organizations located within the same city (town) as the contractor, functioning without foreign participation and with 100% state participation in their authorized capital and vested with powers determined by the Government of the Republic of Kazakhstan to provide services in the field of protecting state secrets (in this case, the contractor concludes an agreement with this organization, actually located within the same city (town) as the contractor, on the use of the services of its department for the protection of state secrets, about which a corresponding note is made in the permit for carrying out work using state secrets of both contracting parties).

The organization shall inform the branches of the state courier service of the Republic of Kazakhstan and the special postal service in writing about the conclusion of an agreement for the provision of services in the field of protecting state secrets.

9. The organization of control over the protection of state secrets during the conduct of joint secret work shall be assigned to the customer of this work in accordance with the provisions of the agreement concluded by the parties.

If the contractor violates the obligations assumed to protect state secrets during joint secret work, the customer shall have the right to suspend the execution of the order until the violations are eliminated, and in case of repeated violations - to raise the issue of cancelling the order and permission to carry out work using state secrets and bringing the guilty persons to justice. In this case, the material damage caused to the state by the contractor in the person of the customer is subject to recovery in accordance with the legislation of the Republic of Kazakhstan.

10. In cases of change of functions, forms of ownership, liquidation or termination of work using state secrets of the customer with the contractor, an addendum to the contract shall be drawn up indicating the legal successor of the customer of joint secret work, if this legal successor has the authority to carry out work using the specified information. In this case, the national security agency at the place of activity of the contractor and state bodies in the event of the use of their state secrets shall be notified in writing.

In cases of change of functions, forms of ownership, liquidation or termination of works using state secrets of the contractor, the customer together with the contractor takes measures to ensure the protection of state secrets and their carriers. In this case, state secrets transferred to the contractor under the contract for joint secret works shall be returned to the customer.

11. The transfer of state secrets to the contractor without obtaining permission from the national security agencies to carry out activities related to the use of state secrets and without obtaining clearance for an official or citizen of the Republic of Kazakhstan to access state secrets shall be prohibited.

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