

THE GOVERNMENT

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THE SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

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DECREE

DETAILING THE IMPLEMENTATION OF SEVERAL PROVISIONS OF THE LAW ON BIDDING REGARDING THE SELECTION OF CONTRACTORS

Pursuant to the Law on Government organization dated December 25, 2001;

Pursuant to the Law on Bidding No.43/2013/QH13 dated November 26, 2013;

At the request of the Minister of Planning and Investment,

The Government promulgates the Decree on detailing the implementation of several provisions of the law on bidding regarding the selection of contractors

Chapter I

GENERAL PROVISIONS

Section 1: GOVERNING SCOPE

Article 1: Governing scope

1. This Decree hereby details the implementation of several provisions of the Bidding Law regarding the selection of contractors who are eligible to be awarded contracts which are governed by the regulations stated in Clause 1 and Clause 2 Article 1 of the Bidding Law.
2. The selection of contractors for petroleum contracts as stipulated in Clause 4 Article 1 of the Bidding Law shall be applicable to the investment and development projects as regulated in Point a, b and c Clause 1 Article 1 of the Bidding Law, except for the selection of contractors directly involved in petroleum exploration, extraction and mine development.
3. In case international treaties and agreements provide for the application of procedures for the selection of contractors, regulations specified in Clause 3 and Clause 4 of Article 3 of the Bidding Law shall apply. Procedures for submission, verification and approval shall be followed in accordance with this Decree.
4. In case international treaties and agreements do not provide for procedures for selection of contractors, regulations specified in the Bidding Law and this Decree must be observed.

Section 2: ENSURING COMPETITIVENESS IN BIDDING

Article 2: Ensuring competitiveness in the bidding

1. The contractors submit their EOI (expression of interest) responses or applications for the prequalification held by the procuring entity must adhere to Clause 1 and Clause 2 Article 6 of the Bidding Law.
2. Contractors who bid for mixed contracts must be legally and financially independent from those who conduct feasibility study reports, technical design proposals and construction drawings for the purpose of the contract award, except for these accepted as a part of mixed contracts.
3. Consulting service suppliers participating in the bidding can provide one or a lot of consulting service(s) for the same project or contract, including the formation of pre-feasibility study reports, feasibility study reports, technical design documents, construction drawing records as well as the provision of consultancy and supervision services.
4. Contractors shall be considered legally and financially independent from other contractors, consulting service providers, investors or procuring entities as regulated in Clause 1, 2 and 3 of Article 6 of the Bidding Law when they meet the following requirements:
 - a) They must come from different agencies or are not directly managed by the same organization if they are public service providers;
 - b) Contractors, investors and procuring entities do not hold more than 30% of shares or contributed capital of each other;
 - c) Contractors do not hold more than 20% shares or contributed capital of each other when all of bidders participate in selective bidding for a contract;
 - d) Bidders and contractors who provide consulting services for that contract are not allowed to hold mutual shares and contributed capital; shares and contributed capital of either bidder or consulting contractor held by other organizations and individuals account for above 20%.
5. In respect of state-owned economic corporations, if products and services specified in the contract are defined as their main production and trading sectors which are considered the outflow of this company and the inflow of the other company affiliated with these corporations, their subsidiaries have the right to participate in the selection of contractors held by each of these subsidiaries. In case products and services are the outflow of this company and concurrently the inflow of the other company as well as are seen as the exclusive ones on the market, the bidding must comply with the Prime Minister's regulations.

Section 3: BID PREFERENCES IN THE SELECTION OF CONTRACTORS

Article 3. Rules of bid preferences

1. In case bid package and proposal documentation are ranked at the same position after bid preferences that has been counted, bidders who quote more domestic expenses or employ more local employees (based on their wage and salary).
2. In case bidders are granted more than one bid preference, they are only allowed to get access to the optimal bid preference as prescribed in the bidding documents and request for proposals.
3. With respect to mixed contracts, bid preferences are based on all of bidder's proposals for the contracts for consulting service and goods supply as well as construction works. Bidders shall be granted proper bid preferences if they propose expenses incurred by the execution of domestic contracts (consulting services, goods and construction works) which account for more than 25% of the total value of the contracts.

Article 4. Bid preferences for the international bidding

1. In terms of contracts for the consulting service supply:

- a) In case of the application of lowest bid method, bidders who are not granted bid preferences must provide an additional monetary amount accounting for 7,5% of these bidders' quoted bid after correction of errors, adjustment of deviations and deduction of discounts (if any) in order to carry out bidder's comparison and rating;

- b) In case of the application of fixed price method or technical method, bidders who receive the bid preferences are given additional 7.5% of technical score to these bidders' total technical score to serve the purpose of comparison and rating;

- c) In case of the application of combined technical and price-based method, bidders who receive the bid preferences are given additional 7.5% of combined scores to total combined scores of these bidders for comparison and rating.

2. In terms of contracts for non-consulting service supply, construction works and mixed contracts:

- a) In case of the application of lowest bid method, bidders who are not granted bid preferences must provide an additional monetary amount accounting for 7.5% of these bidders' quoted bid after correction of errors, adjustment of deviations and deduction of discounts (if any) for comparison and rating;

- b) In case of the application of lowest bid method, bidders who are not granted bid preferences must add a monetary amount accounting for 7.5% of these bidders' quoted bid after correction of errors, adjustment of deviations and deduction of discounts (if any) to the evaluated price of these bidders for comparison and rating;

- c) In case of the application of combined technical and price-based method, bidders who receive the bid preferences are given additional 7.5% of combined scores to total combined scores of these bidders for comparison and rating.

3. In terms of the contract for goods procurement, the bid preference applied to domestic goods shall be implemented as regulated in Article 5 of this Decree.

Article 5. Bid preference for domestic goods

1. Goods are eligible for bid preferences provided that bidders prove that domestic production costs account for above 25% of total price. Percentage (%) of domestic production cost of goods is calculated according to the following formula:

$$D (\%) = G^*/G (\%)$$

Where:

- G*: Domestic production cost calculated by quoted price of goods defined in the bid envelope and proposal which subtracts tax values and external costs, inclusive of fees and charges;
- G: Quoted price of goods defined in the bid envelope and proposal subtracting tax values;
- D: Percentage (%) of domestic production cost of goods. D³ gains the rate of 25%, which can enable goods to receive the bid preferences as regulated in Clause 2 of this Article.

2. Bid preference calculation:

a) In case of the application of lowest bid method, goods that do not receive bid preferences must add a monetary amount accounting for 7.5% of quoted bid after correction of errors, adjustment of deviations and deduction of discounts (if any) of these goods to the quoted bid price after correction of errors, adjustment of deviations and deduction of discounts (if any) of bidders for comparison and rating;

b) In case of the application of evaluated price method, goods that do not receive bid preferences must add a monetary amount accounting for 7.5% of quoted bid after correction of errors, adjustment of deviations and deduction of discounts (if any) of these goods to the evaluated price of these bidders for comparison and rating;

c) In case of the application of combined technical and price-based method, goods that receive the bid preferences are given additional preferential scores to total combined scores as follows:

$$\text{Preferential score} = 0.075 \times (\text{preferential goods price} / \text{bid price}) \times \text{combined scores}$$

Where: Preferential goods price is quoted bid after correction of errors, adjustment of deviations and deduction of discounts (if any) of goods that receive bid preferences.

Article 6. Bid preferences for the domestic bidding

1. In terms of the contract for goods procurement, the preference applied to domestic goods shall be implemented according to the regulations specified in Article 5 of this Decree.

2. Bid envelopes and proposals from bidders who employ total female workers and wounded soldiers or invalid employees accounting for above 25% and signing minimum 03 month's labor contracts and who are small enterprises granted bid preferences as regulated in Clause 3 Article 14 of the Bidding Law shall achieve higher ranks than those of bidders who are not granted bid preferences in case their bid envelopes and proposals are ranked at the same position.

3. In case of construction contracts worth less than VND 05 billion, only small and ultra small enterprises are allowed to participate into the bidding as stipulated by laws.

4. In case bid envelopes and proposals from bidders achieve the same rank after bid preferences that have been granted, those of local bidders shall be given priority over others during the contract award.

Section 4: INFORMATION SUPPLY, ADVERTISEMENT AND DISSEMINATION; INCURRED EXPENSES; SAFE CUSTODY FOR BIDDING DOCUMENTS DURING THE SELECTION OF CONTRACTORS

Article 7. Supply, advertisement and dissemination of the bidding information

1. Responsibility for the information supply:

a) Ministries, ministerial-level agencies, Governmental agencies, Central bodies, provincial People's Committees and competent persons are responsible to disseminate the bidding information mentioned at Point g Clause 1 Article 8 of the Bidding Law on the national bidding network or the Vietnam Public Procurement Review Journal;

b) Ministries, ministerial-level agencies, Governmental agencies and other centrally-governed bodies, provincial People's Committees are responsible to advertise the bidding information mentioned at Point h Clause 1 Article 8 of the Bidding Law on the national bidding network;

c) Procuring entities are responsible to supply the bidding information regulated at Point a Clause 1 Article 8 of the Bidding Law on the national bidding network;

d) Procuring entities are responsible to provide the bidding information regulated at Point b, c, d and dd Clause 1 Article 8 of the Bidding Law as well as other information regarding the change in the bidding schedule (if any) on the national bidding network or the Vietnam Public Procurement Review Journal;

dd) Bidders are responsible to provide and update the information about their competence and experience into the database of bidders on the bidding network system according to regulations stated at Point d Clause 1 Article 5 and Point k Clause 1 Article 8 of the Bidding Law;

e) Bidding training institutions, lecturers and experts who hold certificates of the bidding practices are responsible to provide the information regarding their bidding training, lecturing and practice for the Ministry of Planning and Investment to post on the national bidding network system as stipulated in Point k Clause 1 Article 8 of the Bidding Law.

2. Responsibility for the information dissemination:

The Ministry of Planning and Investment is responsible for the advertisement of the bidding information;

b) All of proper information shall be advertised on the national bidding network system or the Vietnam Public Procurement Review Journal. Whenever any improper information is detected, the Ministry of Planning and Investment is responsible to make their announcement on the national bidding network system or the Vietnam Public Procurement Review Journal in order for information suppliers to make any possible adjustment, correction and completion prior to postings.

3. The information about the online selection of contractors shall be disseminated by procuring entities on the national bidding network system but must ensure the compliance with regulations specified at Point b Clause 2 of this Article.

4. In case of projects or contracts identified in the list of national secrets, the dissemination of information to the public must be carried out according to the laws on national secret protection.

5. The supply and dissemination of bidding information posted on the national bidding network, the Vietnam Public Procurement Review Journal and through other means of mass media are encouraged for the contracts that are not regulated by the Bidding Law.

Article 8. Time limit and procedures for the supply and dissemination of the bidding information

1. In case of the self-advertisement of information posted on the national bidding network:

a) Concerned entities who are responsible to supply information as regulated at Clause 1 Article 7 of this Decree carry out the registration of participants into the national bidding network system according to regulations specified in Article 87 of this Decree and perform the self-advertisement of their information on the national bidding network system according to the guidance from the Ministry of Planning and Investment;

b) In respect of the information regulated in Point b, c Clause 1 Article 8 of the Bidding Law, procuring entities shall release the Request for Expression of Interest (hereinafter abbreviated as EOI), Prequalification, Invitation for Bids and Request for Proposals, which complies with the bidding schedule announced in the notification of EOI Request, Prequalification, Invitation for Bids and Request for Offers but takes place within a minimum of 03 working days from the first date on which the information is posted on the national bidding network system;

c) In respect of the information regulated in Point a, d, dd, g and h Clause 1 Article 8 of the Bidding Law, organizations responsible for the advertisement of bidding information must ensure that their self-advertisement of bidding information is not later than 07 working days from the date on which the bidding documents are released.

2. 2. In terms of the supply of bidding information to the Vietnam Public Procurement Review Journal:

a) As regards the information regulated in Point b, c Clause 1 Article 8 of the Bidding Law, the time limit for the Vietnam Public Procurement Review Journal's receipt of the information is not later than minimum 05 working days before the proposed date on which the Request for EOI, Prequalification, Invitation for Bids and Request for Proposals are released. These pieces of information must be posted on 01 publication of the Vietnam Public Procurement Review Journal;

b) In respect of the information regulated in Point d, dd and g Clause 1 Article 8 of the Bidding Law, the time limit for the Vietnam Public Procurement Review Journal's receipt of the information is not later than 07 working days from the date on which the bidding documents are released. These pieces of information must be posted on 01 publication of the Vietnam Public Procurement Review Journal.

3. Within a period of 02 working days from the date of the self-advertisement of information as regulated in Point b, c, d, dd and g Clause 1 Article 8 of the Bidding Law to be posted on the national bidding network system, the Vietnam Public Procurement Review Journal is responsible to disseminate their received information on 01 publication of the Vietnam Public Procurement Review Journal.

4. Within a period of 02 working days from the date on which the Vietnam Public Procurement Review Journal receives the information as regulated in Point b, c, d, dd and g Clause 1 Article 8 of the Bidding Law, the Vietnam Public Procurement Review Journal is responsible to post these pieces of information on the national bidding network system and their publication as well. In respect of the information regulated in Point b, c Clause 1 Article 8 of the Bidding Law, procuring entities shall release the Request for EOI, Prequalification, Invitation for Bids and Request for Proposals, which complies with the bidding schedule identified in the notification of EOI Request, Prequalification, Invitation for Bids and Request for Goods Quotations but ensures that it is received within a minimum of 03 working days from the first date on which the information is posted on the national bidding network system or the Vietnam Public Procurement Review Journal;

5. The supply and dissemination of information in the aim of the online bidding shall observe the regulations specified in Clause 2 Article 88 of this Decree.

Article 9. Expenses incurred during the selection of contractors

1. Based on the size and nature of the contracts, investors decide the selling price of one set of bidding documents and request for proposals (taxes included) for the domestic bidding, including the maximum price of VND 2,000,000 for the bid envelope and VND 1,000,000 for the Request for Proposals; as for the international bidding, such selling prices shall adhere to the international bidding practices.

2. Expenses incurred by the composition and evaluation of the Request for EOI and Prequalification:

a) Expenses incurred by the composition of the Request for EOI and Prequalification account for 0.05% of the bid price but are identified at the minimum price of VND 1,000,000 and the maximum price of VND 30,000,000;

b) Expenses incurred by the evaluation of the Request for EOI and Prequalification account for 0.03% of the bid price but are identified at the minimum price of VND 1,000,000 and the maximum price of VND 30,000,000;

3. Expenditure on compilation and evaluation of the Invitation for Bids and Request for Proposals:

a) Expenses incurred by the composition of the Invitation for Bids and Request for Proposals account for 0.1% of the bid price but are identified at the minimum price of VND 1,000,000 and the maximum price of VND 50,000,000;

b) Expenses incurred by the evaluation of the Invitation for Bids and Request for Proposals account for 0.05% of the bid price but are identified at the minimum price of VND 1,000,000 and the maximum price of VND 50,000,000;

4. Expenses incurred by the evaluation of the EOI Response, Prequalification, Bid Envelope and Proposals:

a) Expenses incurred by the evaluation of the EOI Response and Prequalification account for 0.05% of the bid price but are identified at the minimum price of VND 1,000,000 and the maximum price of VND 30,000,000;

b) Expenses incurred by the evaluation of Bid Envelopes and Proposals account for 0.1% of the bid price but are identified at the minimum price of VND 1,000,000 and the maximum price of VND 50,000,000.

5. Expenses incurred by the evaluation of the result of the selection of contractors, even when there are none of selected contractors, account for 0.05% of the bid price but are identified at the minimum price of VND 1,000,000 and the maximum price of VND 50,000,000.

6. In respect of the contracts that elaborate the same contents in the same project and purchase estimate as well as the contracts that require redoing the selection of contractors, expenses incurred by the composition and evaluation of the Request for EOI and Prequalification; Invitation for Bids and Request for Proposals account for maximum 50% of the expense regulated in Clause 2 and Clause 3 of this Article. In case of the contracts that require another selection of contractors, expenses on the selection of contracts for the project and purchase estimates must be accounted for and supplemented to meet the actual requirements mentioned in the contracts.

7. Expenses prescribed in Clause 2, 3, 4, 5 and 6 of this Article shall be applicable to investors and procuring entities who are directly involved in the bidding. In case bidder's consultants are hired to carry out the contents specified in Clause 2, 3, 4, 5 and 6 of this Article, expenses are defined on the basis of the content, scope of work, execution period, competence and experience of consultants and other elements.

8. Expenses paid to a council in charge of considering the contractor's recommendations on the selection of contractors (hereinafter referred to as Advisory Council) account for 0.02% of the quoted bid of the bidders who have made recommendations but are identified at the minimum price of VND 1,000,000 and the maximum price of VND 50,000,000.

9. Expenses incurred by the dissemination of bidding information and participation in the national bidding network and the use of receipts during the selection of contractors shall follow the instructions from the Ministry of Planning and Investment and the Ministry of Finance.

Article 10. Safe custody for bid packages during the selection of contractors

1. All of documents regarding the selection of contractors shall be kept to a minimum of 03 years after the contract finalization, except for those prescribed in Clause 2, 3 and 4 of this Article.

2. If the Proposals for financial contents by the bidders that do not pass the technical evaluation shall be fully returned to the bidders as scheduled below:

a) In terms of consulting service supply contract: Within the period of 10 days from the date on which the contract with selected contractors are signed;

b) In terms of the contracts for non-consulting service, goods purchase, construction works and mixed contracts applying the single-stage two-envelope bidding process: scheduled at the same time when the tender guarantee of eliminated bidders is refunded or cleared.

Within the time limit regulated at Point a, b of this Clause, if bidders that do not reclaim their financial proposals, procuring entities shall consider and decide the cancellation of financial proposals but ensure the confidentiality of information enclosed in these financial proposals.

3. In case of the bid cancellation, all of relevant documents shall be kept within the period of 12 months from the date on which the decision on the bid cancellation is made.

4. Financial statements, as-built dossiers and other documents regarding the selected bidders shall be kept in a safe manner according to legal regulations on the document custody.

Chapter II

THE SINGLE-STAGE PROCESS OF OPEN AND LIMITED BIDDING FOR NON-CONSULTING SERVICE, GOODS PURCHASE, CONSTRUCTION WORKS AND MIXED CONTRACTS

Section 1: SINGLE-STAGE ONE-ENVELOPE BIDDING PROCESS

Article 11. Specific process

1. Pre-selection of contactors must include:
 - a) Composing bidding document;
 - b) Verifying and approving the bidding document.
2. Selection of contactors must include:
 - a) Soliciting bidders;
 - b) Issuing, amending and clarifying the bidding documents;
 - c) Preparing, submitting, receiving, managing, amending and withdrawing the bid envelope;
 - d) Opening the bid packages.
3. Evaluation of the bid envelope must include:
 - a) Examining and evaluating the validation of the bid envelope;
 - b) Specifically evaluating the bid envelope;
 - c) Rating the bidder.
4. Discussing the agreement.
5. Reporting, verifying, approving, and announcing the result of contractor selection.
6. Completing and signing the contract.

Article 12. Composition of the bidding documents

1. Bases of the composition of bidding documents:
 - a) Decision on Project Approval or the Investment Certificate for the project; Decision on the Approval of Purchase Estimates for the recurring purchase and other documents. In respect of the contracts that need executing prior to the decision on the approval of the project, the decisions made by the heads of project or unit in charge of the project preparation shall be followed if the investor of the project has not been defined yet;
 - b) Approved plan for the selection of contractors;

c) Technical dossiers along with approved estimates for the construction or engineering contracts; required standards of technical features and specifications for commodities (if applicable);

d) Bidding regulations and other relevant laws; international treaties and agreements (if applicable) for the projects funded by the official development assistance capital or concessional loans;

dd) State policies on taxes, fees and the bid preferences in the selection of contractors and other relevant regulations.

2. Bidding documents must provide for the evaluation criteria of the bid envelopes including bidder's competence and experience; technical capability; the definition of lowest bid (in case of the application of the lowest bid method); the identification of evaluated price (in case of the application of evaluated price method). The bidding documents are not allowed to mention any terms and conditions that aim to restrict the participation of bidders or give priority to one or several bidder(s), which can cause unfair competition among bidders.

3. Criteria of the bid evaluation for the goods purchasing contracts include:

a) Competence and experience

“Pass” or “fail” system shall be used to form the evaluation criteria of bidder’s competence and experience in which the minimum criteria are set to give "pass" score for each content of bidder’s competence and experience. The criteria are specified as follows:

- Experience in implementing the same contracts; experience in performing their main production and business regarding the contract execution;
- Manufacturing and trading capability, facilities, skill and expertise of those who are involved in the contract execution;
- Financial competence: Total asset and liability, short-term asset and liability, revenue, profit, work-in-progress value and other essential criteria.

The definition of specific requirements that must be obtained for each criterion or standard as prescribed in this Point should rely on the requirements of a single contract. If bidders shall be given the “pass” criteria of all contents mentioned in this Point, it means that they have met all requirements for their competence and experience.

b) Technical capability

When using the pass, fail criteria system or 100 or 1,000-point grading scale to set standards of the technical evaluation, the minimum and maximum point of each general and specific standard in the grading scale must be defined. The criteria setting for the technical evaluation shall be based on relevant factors like the satisfaction with requirements for amount, quality and expiry

date of delivery, shipping, installation, warranty and reliability of bidders through their previous performance of similar projects and other requirements mentioned in the bidding solicitation. Based on each contract, the bidding documents must provide criteria to serve as the basis of technical evaluation, including:

- Technical features and specifications of goods as well as production, fabrication and technological standards;
- Practicality and economic efficiency of technical solutions, goods supply and assembling methods;
- The satisfaction with requirements for warranty and maintenance;
- Geographical and environmental adaptation;
- Environmental impact and solutions;
- Possibility of financial provision (if required);
- Other requirements for trading, execution duration, training and technology transfer;
- Punctuality of goods supply;
- Bidder's trust defined by evaluating their execution of previous contracts;
- Other essential factors.

c) Determination of lowest bid (in case of the application of lowest bid method):

- Determination of quoted bid;
- Error correction;
- Deviation adjustment;
- Discount deduction (if any);
- Conversion of quoted bid into a common currency (if any);
- Determination of preferential value (if any);
- Comparison of bidding documents to determine the lowest bid.

d) Criteria for determining evaluated price (in respect of the application of evaluated price):

Formula of the determination of evaluated price:

$$G_{DG} = G \pm \Delta_G + \Delta_{UD}$$

Where:

- G = (quoted bid \pm value of errors \pm value of deviations) – value of discounts (if any);

Δ_G denotes value of elements embedded on the same level for the life circle of goods, including:

+ Operation and maintenance cost;

+ Loan interest (if any);

+ Progress;

+ Quality (efficiency and capacity);

+ Origin;

+ Other factors (if any).

Δ_{UD} denotes the added value for those who are not granted bid preferences according to the regulations mentioned at Point b Clause 2 Article 5 of this Decree.

4. Criteria of the bid evaluation for the construction contracts include:

a) Competence and experience

“Pass” or “fail” criteria system shall be used to form the evaluation criteria for bidder’s competence and experience in which the minimum requirements are set to give "pass" score for each of these contents. The criteria are specified as follows:

- Experience in implementing contracts with the same size, technical features, geographical, geological and site conditions (if any); experience in performing their main production and business regarding the contract execution;

- Technical capability: Amount and qualification of key personnel and engineers who will directly execute the contracts and quantity of available construction equipment, capability of construction facility mobilization for the contract execution;

- Financial competence: Total asset and liability, short-term asset and liability, revenue, profit, work-in-progress value and other essential criteria.

The determination of specific requirements for each criteria prescribed in this Point should rely on requirements of each contract. Those who are evaluated to pass all criteria mentioned in this point shall satisfy the requirements for their competence and experience.

b) Technical capability

When using the pass or fail criteria or 100 or 1,000-point grading scale to set standards of technical evaluation, the minimum and maximum point of each overall and specific standard in the grading scale must be defined. The criteria setting for the technical evaluation shall be based on relevant factors like the satisfaction with requirements for design documentation, bill of quantities, bidder's quality of performance on the previous contracts and other requirements mentioned in the bidding documents. Based on each contract, the bidding documents must provide detailed criteria as the basis of technical evaluation, including:

- Suitability and feasibility of technical solutions, construction arrangement and method in conformity with proposals for the construction progress;

Except the case in which bidders are requested to adhere to the construction method specified in the bidding documents due to a particular contract, the bidding documents should provide regulations on enabling bidders to propose a construction method different from the one specified in the bidding documents.

- Construction progress;

- Quality assurance methods;

- Assurance about environmental hygiene and other requirements like fire fighting, prevention and occupational safety;

- Satisfaction with requirements for warranty and maintenance;

- Bidder's quality of previous performance on similar contracts;

- Other essential factors.

c) Determination of lowest bid price (in case of the application of lowest bid price) shall adhere to the regulations mentioned in Point c Clause 3 of this Article;

d) Criteria for determining evaluated price (in respect of the application of evaluated price method)

Formula of the determination of evaluated price:

$$G_{DG} = G \pm \Delta G + \Delta U_D$$

Where:

- G = (quoted bid \pm value of errors \pm value of deviations) – value of discounts (if any);

- ΔG denotes value of elements embedded on the same level for the life circle of construction works, including:

+ Operation and maintenance cost;

+ Loan interest (if any);

+ Progress;

+ Quality;

+ Other factors (if any).

- ΔUĐ denotes the added value for those who are not granted bid preferences according to the regulations mentioned at Point b Clause 2 Article 4 of this Decree.

5. In terms of non-consulting service supply and mixed contracts

Based on the size and nature of contracts as well as regulations specified in Clause 2, 3 and 4 of this Article, the evaluation criteria of competence and experience; technical capability and lowest bid price (in case of the application of lowest bid price method) or standards in the determination of evaluated price (in case of the application of evaluated price method) shall be properly defined.

6. The application of combined technical and price evaluation method for the contractor selected through single-stage one-envelope bidding process shall not be applied.

7. Bidding documents are not permitted to inquire about the brand and origin of goods. In case of failure to describe the specifications according to technical features, technological designs and standards, brand and catalogue of a specific product can serve as a reference and illustration for technical features of goods but must write the phrase “or equivalences” after brand and catalogue as well as clearly specify equivalent contents of such illustrating and reference goods in terms of technical features, functions, technological standards and other contents (if any) to facilitate the preparation of the bid packages. Bidders are requested to submit the License or Authorization of goods sale from manufacturers or the Certificate of Partnership only if particular and complicated goods require the obligations of manufacturers to supply the after-sale services such as warranty, maintenance, repair and replacement components or materials.

8. Regulations on employee recruitment and utilization:

a) In terms of the international bidding, the bidding documents must set out the regulations on the recruitment of domestic employees if these employees are qualified and the domestic market is able to supply employments, especially manual labors. The employment of foreign workers in the contracts is only permitted when domestic workers are not qualified. Bidders who do not observe the regulations on the employee utilization upon the contract execution, depending on

the severity of their violations, shall be prohibited from participating in the bidding in Vietnam under the regulations specified in Clause 4 Article 122 of this Decree;

b) In terms of the contract that needs a lot of manual labors, the bidding documents must require bidders to propose their solutions to the use of their local workers at which their projects or contracts are executed;

c) Investors take legal responsibility for their compliance with regulations specified in Point a of this Clause during the composition of the bidding documents, evaluation of bid packages, approval of the contractor selection result, signing and execution of the contracts;

d) Bid envelopes that fail to satisfy the requirement for the employee utilization specified in the bidding documents as prescribed in Point a of this Clause shall be eliminated.

Article 13. Verification and approval of the bidding documents

1. Bidding documents must be verified as prescribed in Article 105 of this Decree prior to approval.

2. The approval for the bidding documents must be in writing with reference to the submission statement on the approval and report on verification of the bidding documents.

Article 14. Arrangement for the selection of contactors

1. Soliciting bidders:

Procuring entities advertise the bid solicitation as prescribed in Point d Clause 1 Article 7 and Point b Clause 1 or Point a Clause 2 Article 8 of this Decree.

2. Issuing, amending and clarifying the bid solicitation:

a) The bidding documents are released for contractors to participate in the open bidding or for those who are short-listed bidders. In case of bidders as joint ventures or consortiums, only one of the partners is required to purchase or receive the bid solicitation, even if the joint venture or consortium has not been founded yet when purchasing or receiving the bid solicitation;

b) In case of correcting the bid solicitation after release, procuring entities must make the decision on this correction as well as specify the corrected contents in the bid solicitation, which shall notify the bidders who have purchased or received the bid solicitation;

c) In case the bid solicitation need to be clarified, bidders must send the written requests to procuring entities within a minimum period of 03 working days (applicable to domestic bidding) and 05 working days (applicable to international bidding) before the deadline for the submission of bid packages for any possible consideration and solution. The clarification of the bid solicitation shall be undertaken by procuring entities by means of one or more form(s) as follows:

- Dispatch their clarification in writing to bidders;
- When necessary, a pre-bid conference must be held to discuss and clarify these confusing contents. Discussion contents for the clarification of the bid solicitation must be recorded in the form of the minutes and documented to send to bidders;
- Clarified contents must not contrast with approved contents in the bid solicitation. If the bid solicitation needs amending or modifying after this clarification, this amendment or modification to the bid solicitation must be carried out as prescribed in Point b of this Clause;

d) The written decision on the amendment or modification as well as the record of the bid solicitation constitutes the bid solicitation.

3. c) Preparing, submitting, receiving, managing, amending and withdrawing the bid packages:

a) Bidders are responsible for the preparation and submission of their bid packages as prescribed in the bidding documents;

b) Procuring entities shall receive and monitor the bid packages, which adheres to the regulations on the management of confidential files until the result of contractor selection is made known to the public; under no circumstances is the information of the bid packages revealed to any other bidders, except for the information that need disclosing during the bid opening. Those sent to procuring entities after the deadline for the bid submission shall not be opened and considered invalid and subject to being eliminated. Any further document that arrives after the deadline for bid submission with the aim of amending the existing bid packages shall be invalid, except for any document sent to clarify the bid packages as requested by the procuring entities or any of such documents that serve to certify the validation, competence and experience of the bidders;

c) Upon wishing to amend or withdraw the bid packages, bidders must lodge a written request to procuring entities. Procuring entities shall only give consent to this amendment or withdrawal from bidders if written requests are submitted prior to the deadline for the submission of bid packages;

d) Procuring entities are obliged to receive all of the bid packages from all bidders that arrive before the deadline for bid submission, even those who have not purchased or received the bid solicitation directly released by the procuring entities. In case bidders have not yet purchased the bidding documents, they must pay a sum equal to the selling price of the bidding documents to procuring entities to enable the bid packages to be accepted.

4. d) Open the bid packages:

a) The opening of the bid packages must be performed in the witness of all bidders and start in 01 hour after the deadline for bid submission expires. Only bid packages that have been submitted by the required deadline shall be opened in the witness of legal representatives of bidders who attend the bid-opening session, which is not dependent on the presence or absence of bidders;

b) Bid packages shall be opened in the alphabetical order of bidder's names and the following processes must be observed:

- Request each legal representative of bidders to confirm whether letter of discount is attached to the bid packages or not;

- Check whether the seal is broken;

- Open the bid packages and clearly read the information regarding bidder's names, amount of originals and copies of the bid packages; the quoted bid specified in their bid packages; discount value (if any); validity period of the bid packages; defined time of contract execution; value and validity of tender guarantee and other relevant information;

c) Records on the bid opening: All information mentioned in Point b of this Clause must be recorded. Records on the bid opening must be countersigned by representatives of procuring entities and bidders who participate in the bid opening session. Such records must be delivered to the participating bidders;

d) Representatives of procuring entities must also append their signature in the original bid, letter of discount (if any), authorization letter conferred on bidder's legal representatives (if any); joint venture or consortium agreement (if any); tender guarantee; financial proposals as well as other significant contents of the bid packages.

Article 15. Rules for the bid evaluation

1. The evaluation of the bid packages must follow the standards of the bid evaluation, different requirements specified in the bidding documents, the bid envelopes, demonstration or explanation of the bid envelopes to select the right contractors who prove their proper competence, experience and feasible solutions to executing contracts.

2. Since the evaluation is based on the bid copies, bidders must be responsible to ensure that they are identical to the originals. In case of any difference between the originals and copies without leading to any change in the rating of bidders, the originals are important to make critical evaluations.

3. In case of any difference between the originals and copies which leads to the difference between the evaluation result of original bid packages and that of duplicate bid packages as well as change to the rating of bidders, such bid packages shall be eliminated.

Article 16. Clarification of the bid packages

1. Upon completion of the bid opening, bidders are responsible to clarify their bid packages as requested by the procuring entities. In case bidder's evidence for their validation, competence and experience have been lacked, procuring entities request bidders to clarify and provide further documents to prove their validation, competence and experience. In respect of technical and

financial proposals of bidders, the clarification must ensure no change in the basic contents of bid packages and quoted bids.

2. In case bidder's evidence for their validation, competence and experience have been lacked after the bid closing, bidders are allowed to send further documents for clarification. Procuring entities are responsible to accept the documents on clarification for consideration and evaluation; further documents on clarifying bidder's validation, competence and experience shall be considered a part of the whole bid packages.

3. This clarification is only involved by procuring entities and participating bidders, which must ensure rules for no change to the actual nature of concerned bidders. The clarification contents must be shown in writing and kept by procuring entities as a part of the bid packages.

Article 17. Error correction and deviation adjustment

1. Error correction involves correcting errors contained in the bid packages including numerical errors and others, which shall be performed under the following rules:

a) Numerical errors include those incurred in the inaccurate operations of addition, abstraction, multiplication and division during the estimation of quoted bid. In case the bidding documents require the detailed analysis on unit price, the figures in the detailed breakdown of quoted bid must be used as the basis of the correction of numerical errors. In case there is some inconsistency between unit price and total price, unit price shall serve as the basis of the error correction; if any dramatic errors in unit price has been found due to decimal errors (i.e., the decimal powers like 10, 100 or 1,000), total price shall serve as the basis of the error correction;

b) Other errors:

- At the column of total price that has been fully calculated without equivalent unit price, the unit price shall be additionally defined by dividing the total price by the quantity; when unit price has been defined but total price remains blank, the value in the total price column shall be identified by multiplying the quantity by unit price; if the unit price and the value of any item has been defined in the total price column but the quantity remains blank, this blank value shall be filled with the number generated by dividing the value in the total price column by the unit price of that item. In case the aforesaid quantity that has been additionally defined is different from the quantity mentioned in the bid packages, that value difference is the deviation in the scope of supply, which shall be adjusted under regulations specified in Clause 2 of this Article;

- Error or mistake of calculating unit must be corrected to satisfy the requirements specified in the bidding documents;

- In case there is any difference in the contents of technical and financial proposals, technical proposals shall serve as the basis of the error correction.

2. Adjustment of deviation:

a) In case there exists the deviation in the scope of supply, the deficient quoted value shall be added and the excess quoted value shall be subtracted to correspond to the equivalent unit price specified in the bid packages containing such deviations;

In the event of no unit price defined in the bid packages, the highest quoted price out of that of other bid packages that pass the technical evaluation shall be accepted as the basis of deviation adjustment on the same item; in case the bid packages of bidders that have passed the technical evaluation are provided with no unit price, the unit price specified in the bid estimates shall serve as the basis of the deviation adjustment; in case there is no bid estimate, the unit price forming the bid price shall serve as the basis of the deviation adjustment;

In the event that only one bidder passed the technical evaluation, the deviation adjustment shall be carried out on the basis of accepting the equivalent offer price; if the bid packages do not specify the unit price, the unit price in the bid estimate shall be accepted; if there is no bid estimate, the unit price forming the bid price shall be used as the basis of deviation adjustment;

b) If the offer price is quoted with a deficiency in taxes, fees and charges payable as requested in the bidding documents, procuring entities must add these expenses to the quoted bid. These expenses shall not be amounted to the negative deviation according to the regulations specified in Point d Clause 1 Article 43 of the Bidding Law;

c) If bidders present their letters of discount, error correction and deviation adjustment shall be performed on the basis of the quoted bid before discount. Percentage (%) of the negative deviation is determined on the basis of the quoted bid specified in the bid packages;

d) If the bid packages with adjusted deviations are ranked at the first position to be eligible for the contract negotiation, the lowest quoted offer out of other bid packages that pass the technical evaluation shall be accepted to negotiate the negative deviation.

3. After error correction and deviation adjustment as prescribed in Clause 1 and Clause 2 of this Article, procuring entities must send a written notification to concerned bidders about these corrections and adjustments. Within a period of 03 working days from the date on which bidders receive written notification from procuring entities, bidders must send their written notice to procuring entities about their consents to these error corrections and deviation adjustments. If bidders refuse to accept the result of error corrections and deviation adjustments on receipt of written notification from procuring entities, the bid package of these bidders shall be eliminated.

Article 18. Evaluation of the bid packages

1. Examining the validation of the bid packages must include:

a) Check the number of original and duplicate bid packages;

b) Examine ingredients of the bid packages, including the bid letter, agreement on founding joint venture or consortium (if any), authorization for the validation of the bid letter (if any); tender

guarantee; proof of bidder's validation; proof of bidder's competence and experience; technical proposal; financial proposal; other relevant ingredients.

c) Examine the consistency of contents described in the original and duplicate, which supports the detailed evaluation of bid packages.

2. Evaluation of the validation of bid packages:

A bid package is considered valid when it fully meets the following requirements:

a) Keep an original of the bid package available;

b) Hold the bid letter signed and sealed by a bidder's legal representative (if any) as required in the bidding documents; identify definite time for the contract execution specified in the bid letter to correspond to the technical proposal; detail and fix the offer price in numbers and words, which must logically match total offer price quoted in the general pricelist; do not propose different quoted bids or invent any disadvantageous terms and conditions to investors or procuring entities. As for a bidder as a joint venture or consortium, the bid letter must be signed and sealed by a legal representative of each partner (if any) or the head on behalf of joint venture or consortium must sign the bid letter with reference to the duties assigned in the agreement on founding joint venture or consortium;

c) Validate the bid package to conform to the regulations specified in the bidding documents;

d) Hold the tender guarantee with its validity and expiry date conforming to requirements given in the bidding documents. In the event of the tender guarantee in the form of a guarantee letter, it must be issued by the legal representative of credit institutions or foreign bank's branches in compliance with Vietnam laws, which specify the value, expiry date and beneficiary as required by the bidding documents;

dd) Do not take part in two or more bid packages in which they are considered the main contractor (independent contractor or a partner of joint venture or consortium);

e) Show the agreement on founding the joint venture or consortium, signed and sealed by every partners (if any);

g) Prove that bidders are not prohibited from participating in the bidding according to bidding laws;

h) Ensure their valid status under regulations specified in Clause 1 Article 5 of the Bidding Law.

Those who submit their validated bid packages shall be considered and evaluated to verify their competence and experience.

3. Evaluation of competence and experience:

a) Competence and experience evaluation shall comply with the evaluation criteria prescribed in the bidding documents;

b) Bidders with satisfactory competence and experience shall be considered and evaluated to examine their technical capability.

4. b) Technical and price-based evaluation:

a) Evaluation of bidder's offer price and technical capability must adhere to the evaluation standards and methods prescribed in the bidding documents;

b) Bidders who satisfy technical requirements shall be considered to define the lowest price (in respect of the application of the lowest bid price method) and evaluated price (in respect of the application of evaluated price method).

5. After finalizing the rating of bidders, the expert group shall compile reports to procuring entities for their consideration. Reports must clarify the following contents:

a) List of bidders who have been qualified for further consideration and rating together with bidder's positions in this rating;

b) List of bidders who are not qualified and eliminated; reasons for elimination;

c) Remarks on bidder's competitiveness, fairness, transparency and economic efficiency of the contractor selection. If competitiveness, fairness, transparency and economic efficiency have not been ensured, reasons and recommendations for any possible solution must be stated as well;

d) Any content of the bidding documents that has not conformed to bidding laws, which can result to any possible confusion or ambiguity in further implementation or lead to any possible deviations on the result of contractor selection; recommendations and solutions.

Article 19. Contract negotiation

1. The bidder who has seized the first position in the bidder's rating shall be eligible for the contract negotiation. If any bidder who is invited to negotiate the contract has not turned up or refused to proceed to the contract negotiation, they are not allowed to reclaim their tender guarantee.

2. Contract negotiation shall be based on the followings:

a) Report on evaluation of the bidding documents;

b) Bid package and bidder's records of clarification of bid package;

c) Bidding solicitation.

3. Rules of the contract negotiation:

- a) Contents of the bid package that satisfy the requirements of the bidding documents do not need to be negotiated;
- b) Contract negotiation is not allowed to change the quoted bid after error correction, deviation adjustment and discount deduction (if any). While evaluating bid packages and negotiating contracts, if workloads specified in the bill of quantities are lower than these mentioned in the design documentation, the soliciting party must request contractors to make up for this inadequacy on the basis of the quoted price; if a bid package has not provided the quoted price, procuring entities shall send reports to investors for consideration and decision on fixing the price in the approved estimate for these inadequate workloads or the price quoted by other bidders who have passed the technical evaluation
- c) Negotiation over the negative deviation value shall comply with regulations specified in Point d Clause 2 Article 17 of this Decree.

4. Contents of contract negotiation:

- a) Unspecified, inappropriate and inconsistent contents between bidding documents and bid packages or in the same bid package shall be negotiated to prevent any possible dispute or unexpected impact on the contractual obligations of contracting parties;
- b) Deviations that have been found by the contractor and contractor's recommendations (if any), including possible alternatives which contractors are allowed to provide according to relevant bidding regulations;
- c) Personnel issues in respect of construction and mixed contracts:

In the course of negotiation, selected bidder is not allowed to change their key personnel as proposed in the bid package for those who are in charge of design and survey (in respect of construction and mixed contracts that require contractors to implement one or two design steps prior to construction), construction site, except the case in which the evaluation time is extended longer than the regulated time or because of unexpected events that dissuade these key personnel from participating in the contract execution. In such case, contractors have the right to change other personnel but must ensure the substitute employees prove qualification, experience and capability equivalent to or higher than proposed personnel and bidders are not allowed to change their quoted bids;

d) Any issue that arises during the selection of contractors (if any) in the aim of completing detailed contents of the contract;

dd) Other necessary issues.

5. In the course of contract negotiation, negotiating parties must proceed to draft and complete the official agreement, specific terms and conditions and annexes that determine detailed list of workloads, price list and contract execution progress (if any).

6. If the negotiation fails, procuring entities must report investors for their consideration and decision on soliciting bidders who are ranked at the next positions for contract negotiation; if the successive negotiations also fail, procuring entities must report investors for their consideration and decision on the bid cancellation as regulated in Clause 1 Article 17 of the Bidding Law.

Article 20. Report, verification, approval and announcement of the result of contractor selection.

1. On the basis of the report on the result of the evaluation of bid packages, procuring entities must submit the contractor selection result in which opinions on the evaluation contents performed by expert group must be clarified.

2. Result of contractor selection must be verified as prescribed in Clause 1 and Clause 4 Article 106 of this Decree prior to approval.

3. Result of contractor selection must be approved in writing and adhere to the documents on applying for the approval as well as the reports on verification of contractor selection.

4. If the winning contractor has been selected, the documents on approving the result of contractor section must include the followings:

a) Winning contractor's name;

b) Winning bid;

c) Type of contract;

d) Contract execution period;

dd) Other notes (if any).

5. In case of the bid cancellation as prescribed in Clause 1 Article 17 of the Bidding Law, documents on approving the result of contractor selection or deciding the bid cancellation must clarify reasons for this cancellation and responsibility for concerned parties.

6. On receipt of the decision on approving the result of contractor selection, procuring entities must disseminate the information about the result of contractor selection according to Point d Clause 1 Article 7 and Point c Clause 1 or Point b Clause 2 Article 8 of this Decree; send a written notification about the result of contractor selection to the bidding contractors within the required period as regulated in Point n Clause 1 Article 12 of the Bidding Law. The notification must specify the following contents:

- a) Information specified in Point a, b, c and d Clause 4 of this Article;
- b) List of unselected bidders and a summary of reasons for elimination;
- c) Plan for completing and signing the contract with selected bidders.

Section 2: SINGLE-STAGE ONE-ENVELOPE BIDDING PROCESS

Article 21. Specific process

1. Pre-selection of contactors must include:

- a) Short-listing (when necessary);
- b) Composing the bidding documents;
- c) Verify and approve bidding documents.

2. Selection of contactors must include:

- a) Inviting bidding contractors;
- b) Issuing, revising and clarifying bidding solicitation;
- c) Preparing, submitting, receiving, managing, adjusting and withdrawing bid packages;
- d) Opening technical proposals.

3. Evaluation of technical proposals must include:

- a) Examining and evaluating the validation of technical proposals;
- b) Specifically evaluating technical proposals;
- c) Approving list of bidders who satisfy the technical requirements.

4. Opening and evaluation of financial proposals must include:

- a) Opening financial proposals formulated by bidding contractors in the approved list;
- d) Examining and evaluating the validation of financial proposals;
- c) Specifically evaluating financial proposals;
- d) Ranking bidding contractors.

5. Negotiating the contract.
6. Reporting, verifying, approving, and announcing the result of contractor selection.
7. Completing and signing the contract.

Article 22. Short-listing

Based on the size and nature of a contract, short-listing process can be performed to select the qualified contractors who have proper competence and experience for the contract execution to send out the Invitation for Bids. The application of short-listing process shall be decided by competent entities and must be clarified in the plan for the contractor selection.

1. In terms of open bidding:

a) Composing application for the prequalification:

- Application for prequalification must include the following contents: Summary of project or contract information; instructions on preparing and applying for the prequalification; standards in the competence and experience of the bidding contractors;

- Pass/fail system shall be used to set standards in the evaluation of application for prequalification. In the criteria for evaluating applications for prequalification, the minimum requirement must stipulate that all specific contents of bidder's competence and experience must receive "pass" score;

b) Approving the applications for prequalification must be performed in writing and based on the statements on approving and reporting verification of the request for prequalification;

c) Request for prequalification must observe regulations stated in Point d Clause 1 Article 7 and Point b Clause 1 or Point a Clause 2 Article 8 of this Decree;

d) Releasing the requests for prequalification:

Requests for prequalification shall be released free of charge to bidders prior to the deadline for bid submission;

dd) Receiving and managing the applications for prequalification:

Procuring entities must receive and manage the prequalification applications according to regulations on the management of confidential documents till the announcement of the prequalification result;

e) Opening and evaluating applications for prequalification:

- Applications for prequalification that have been submitted at the venue and time as regulated in the request for prequalification shall be opened right after the deadline for bid submission. The opening of application for prequalification shall be documented and records on the bid opening shall be sent to participating contractors. Any application for prequalification after the deadline for bid submission is not eligible to be opened and is considered invalid or eliminated;

- Evaluation of applications for prequalification shall be implemented as prescribed in the request for prequalification; Contractors whose applications for prequalification are given "pass" score in terms of all contents regarding contractors' competence and experience shall be short-listed.

g) Reporting, verifying and approving the prequalification result:

- On the basis of the report on the result of the evaluation of prequalification applications, procuring entities must seek the approval of prequalification result in which expert group's opinions on the evaluation result must be clarified;

- Prequalification result must be verified as prescribed in Clause 1 and Clause 2 Article 106 of this Decree prior to approval;

- The approval of prequalification result must be conducted in writing with reference to the statements on approving and reporting the verification of prequalification result.

- In case short-listed bidders have been selected, the document on approving the prequalification result must include selected bidder's name and other notes (if any). In case short-listed bidders have not been selected, the document on approving the prequalification result must determine the reasons why they are not short-listed.

h) Announcement of the short-list: The short-list must be publicized as prescribed in Point d Clause 1 Article 7 and Point c Clause 1 or Point b Clause 2 Article 8 of this Decree and contractors who apply for the prequalification shall be notified as well.

2. In terms of limited bidding:

a) Defining and approving the short-list: the short-list must include minimum 03 bidders who prove their proper competence and experience to satisfy the requirements of the contract and wish to be awarded the bids;

b) Announcement of the short-list: After approval, the short-list must be publicized as prescribed in Point d Clause 1 Article 7 and Point c Clause 1 or Point b Clause 2 Article 8 of this Decree.

3. Short-listed bidders are not allowed to enter into a joint venture when participating in the same bidding.

Article 23. Composition of the bidding solicitation

1. Bases of the composition of bid solicitation shall adhere to regulations mentioned in Clause 1 Article 12 of this Decree.

2. The evaluation criteria of the bid packages must include contractor's competence and experience; technical capability; identification of lowest price (in case of the application of the lowest bid price method); identification of evaluated price (in case of the application of evaluated price method); identification of pricing score and general evaluation standards (in case of the application of combined technical and price-based method). As for the contract that has undergone the prequalification, it is not necessary to regulate the evaluation standards of contractor's competence and experience but bidder's information about their competence must be updated. The bidding documents are not allowed to mention any terms and conditions that aim to restrict the participation of bidders or give priority to one or several bidder(s), which can cause unfair competition among bidders.

3. Criteria for evaluating bidder's competence, experience and technical credentials shall adhere to regulations stated in Point a, Point b Clause 3 and Point a, Point b Clause 4 Article 12 of this Decree.

4. Determination of lowest bid price (in case of the application of lowest bid price method) shall adhere to the regulations mentioned in Point c Clause 3 Article 12 of this Decree.

5. Criteria for identifying evaluated price (in case of the application of evaluated price method) shall comply with regulations mentioned in Point d Clause 3 and Point d Clause 4 Article 12 of this Decree.

6. Criteria of the general evaluation (in case of the application of technical and price-base method) shall comply with regulations stated in Article 24 of this Decree.

7. Brand and origin of goods must comply with regulations set out in Clause 7 Article 12 of this Decree.

8. The recruitment and hire of employee must comply with regulations stated in Clause 8 Article 12 of this Decree.

9. In terms of non-consulting service supply and mixed contracts:

Based on the size and nature of the contract as well as regulations stated in Clause 2, 3, 4, 5, 6, 7 and 8 of this Article, the evaluation criteria of contractor's competence and experience; technical capability; identification of lowest price (in case of the application of the lowest bid price method); identification of evaluated price (in case of the application of evaluated price method); identification of pricing score and general evaluation standards (in case of the application of combined technical and price-based method) shall be properly set.

Article 24. General evaluation criteria

The general evaluation criteria set out for the application of combined technical and price-based method shall be specified as follows:

1. Identifying the pricing score:

100 or 1,000 – point system is made identical to technical point scales to identify the pricing score. Pricing score is calculated by the formula:

$$\text{Pricing score}_{\text{under consideration}} = \frac{G_{\min} \times (100 \text{ or } 1,000)}{G_{\text{under consideration}}}$$

Where:

- Pricing score_{under consideration}: the pricing score of technical proposal in consideration;
- G_{min}: the lowest quoted bid after error correction, deviation adjustment and discount deduction (if any) out of the quoted bids whose financial proposals are evaluated;
- G_{in consideration}: the bid after error correction, deviation adjustment and discount deduction (if any) specified in the financial proposal that has been taken into account.

2. General evaluation criteria:

General evaluation criteria are set on the basis of the combined technical and price-based method. Depending on the size and nature of each contract, the proportion of technical and price-based scores must be identified to ensure that both are added together to equal 100%, which is specified as follows:

- a) In respect of the construction contract: Proportion of technical score (K) ranging from 10% to 15% and proportion of price-base score ranging from 85% to 90%;
- b) In respect of the goods procurement contract: Proportion of technical score (K) ranging from 10% to 30% and proportion of price-base score ranging from 70% to 90%;
- c) In respect of the medicine purchase contract: Proportion of technical score (K) ranging from 20% to 30% and proportion of price-base score ranging from 70% to 80%;

d) Identifying the overall score:

$$\text{Overall score}_{\text{under consideration}} = K \times \text{Technical score}_{\text{under consideration}} + G \times \text{Price-based score}_{\text{under consideration}}$$

Where:

- Technical score_{under consideration} is identified at the technical evaluation step;

- Price-based score under consideration is identified at the price-based evaluation step;
- K: Proportion of technical scores regulated in the overall scoring scale;
- G: Proportion of price-based score regulated in the overall scoring scale;
- $K + G = 100\%$. Proportion of technical score (K) and price-based score (G) must be specifically identified in the bid solicitation.

Article 25. Verifying and approving the bidding documents

1. Bidding documents must be verified as prescribed in Article 105 of this Decree prior to obtaining the approval.
2. The approval of bidding documents must be granted in writing with reference to the statements on approving and reporting the verification of bidding documents.

Article 26. Contractor selection

1. 1. Soliciting contractors;

a) Notification of Invitation for Bids shall be applied in the event that the short-listing is not carried out and this shall be performed according to the regulations specified in Point d Clause 1 Article 7 and Point b Clause 1 or Point a Clause 2 Article 8 of this Decree;

b) Send out the Invitation for Bids to short-listed contractors.

2. Releasing, correcting and clarifying the bidding documents:

The release, adjustment and clarification of bidding documents shall comply with regulations specified in Clause 2 Article 14 of this Decree.

3. Preparing, submitting, receiving, managing, adjusting and withdrawing bid packages:

This process shall comply with regulations specified in Clause 3 Article 14 of this Decree.

4. 4. Opening technical proposals:

a) Opening technical proposals must be public and starts within 01 hour from the bid closing. Technical proposals that are submitted prior to the deadline shall be opened as required in the bidding solicitation and witnessed by bidder's participating representatives without reference to the presence or absence of bidders;

b) The bid opening shall be carried out in the alphabetical order of bidder's name and follow the processes hereunder:

- Check the seal of bid packages;

- Open the bid packages and clearly read the information about bidder's name; quantity of originals and copies of technical proposals; bid letter contained in technical proposals; validity period of technical proposals; time of contract execution; validity and expiry date of tender guarantee and other relevant information;

c) A record on the bid opening: All information specified in Point b of this Clause must be recorded in the record on the bid opening. The record on the bid opening shall be countersigned by representatives of procuring entities and participating bidders. This record must be sent to participating bidders;

d) Procuring entity's representatives must be countersigned in the bid letter, authorization of bidder's legal representatives (if any); agreement on founding the joint venture or consortium (if any); tender guarantee and other significant contents enclosed in each technical proposal;

dd) Financial proposals from all of bidders must be sealed in a separate envelope by the procuring entity and countersigned by representatives of procuring entities and participating bidders.

Article 27. Rules of evaluation and clarification of bid packages as well as error correction and deviation adjustment

1. Rules of evaluation of bid packages shall comply with regulations specified in Article 15 of this Decree.

2. The clarification of bid packages must adhere to regulations specified in Article 16 of this Decree.

3. Error correction and deviation adjustment shall adhere to regulations specified in Article 17 of this Decree.

Article 28. Evaluation of bidder's technical proposals

1. a) Examining the validation of bidder's technical proposals must include:

a) Examine the amount of original and duplicate technical proposals of bidders;

b) Check all parts of a technical proposal, including bid letter and agreement on founding the joint venture or consortium (if any), authorization of the signing on the bid letter (if any); tender guarantee; proofs of bidder's valid status; proofs of bidder's proper competence and experience; technical proposals and others contained in the technical proposals;

c) Check the consistent contents of originals and copies to serve as the detailed evaluation of technical proposals.

2. Evaluating the validation of technical proposals:

Bidder's technical proposals shall be considered valid when they can satisfy the following requirements:

- a) The original technical proposal is kept available;
- b) Their bid letter contained in the technical proposal must be signed and sealed by bidder's legal representatives (if any) as required in the bid documents; in the bid letter, bidders must specify the progress of contract execution which matches requirements of technical proposal. As for joint venture or consortium bidders, bid letter must be signed and sealed by legal representatives of joint venture or consortium partners (if any) or the heads of joint venture or consortium according to the duties assigned in the agreement on founding joint venture or consortium;
- c) The validity of technical proposals is enabled to meet the requirements specified in the bidding documents;
- d) The tender guarantee is shown in which the value and validity period must meet requirements specified in the bidding documents. In case the tender guarantee is required in the form of the guarantee letter, this letter must be signed by legal representatives of credit institutions or foreign bank's branches that have been founded under Vietnam laws, which must determine the value, validity period and beneficiary of the tender guarantee according to requirements specified in the bidding documents;
- dd) They are not involved in two or more technical proposals in which they serve as the main contractor (independent contractor or partner of joint venture or consortium);
- e) Agreement on founding the joint venture or consortium is signed and sealed by each partner's legal representatives (if any);
- g) Contractors are not affected by any ban on participating in the bidding according to legal regulations on bidding;
- h) Contractors must ensure their valid status according to regulations specified in Clause 1 Article 5 of the Bidding Law.

Contractors who have sent their valid technical proposals shall be considered and evaluated to confirm their competence and experience. As for a contract that has passed the prequalification stage, their competence and experience do not need to be evaluated.

3. Evaluating bidder's competence and experience:

- a) Evaluation of bidder's competence and experience shall adhere to regulations specified in the bidding documents;

b) Contractors who have proved their proper competence and experience shall be considered and evaluated to confirm their technical credentials.

c) Bidders that have passed the prequalification stage, shown their valid technical proposals and had their current competence meet the requirements of contracts shall be considered and evaluated to confirm their technical capability.

4. Evaluation of technical capability:

a) Evaluation of bidder's technical capability shall adhere to the evaluation standards set out in the bidding documents;

b) Contractors who have proved their proper technical capability shall be considered and evaluated to confirm their financial credentials.

5. List of bidders who can meet technical requirements must be approved in writing and referred to the statement on approving and reporting the verification of technical evaluation result. Procuring entity must announce the list of bidders who meet technical requirements to all of participating bidders, in which those who meet the technical requirements shall be invited to open their financial proposals.

Article 29. Opening the financial proposal

1. Examining the sealed envelope containing financial proposals.

2. Opening the financial proposal:

a) Only financial proposal that meets the technical requirements shall be opened in the witness of participating bidders who attend the opening of financial proposal without reference to the presence or absence of bidders;

b) The representative of bidders who participate in the opening of financial proposals shall be requested to certify that their discount letters attached to their financial proposals are available or not;

c) The opening of financial proposals shall be done in the alphabetical order of bidders who meet the technical proposal and follow the processes hereunder:

- Examining the unbroken seal of proposal envelope;

- Opening and reading aloud the information about bidder's names; quantity of originals and copies of financial proposals; bid letter contained in the financial proposal; effective date of financial proposal; quoted bids specified in the bid letter; discount value (if any); technical scores of the bid packages that meet the technical requirements and other relevant information.

3. The record on the opening of financial proposal:

a) All information specified Clause 1 and Clause 2 must be recorded in the record on the opening of financial proposals. The record on the opening of financial proposals must be countersigned by representatives of procuring entity and participating bidders. This record must be sent to bidders who meet the technical requirements;

b) Representatives of procuring entity must append their signature on all pages of the original financial proposals.

Article 30. Evaluating the financial proposal

1. Examining the validation of bidder's financial proposals must include:

a) Examine the amount of original and duplicate financial proposals;

b) Examine all parts of the financial proposal, including the bid letter contained in the financial proposal; overall and detailed price list; analysis of unit price (if any) and other parts contained in the financial proposal;

c) Examine the consistency of originals and duplicates to serve for the purpose of performing the specific evaluation of financial proposals.

2. Evaluating the validation of financial proposals:

Financial proposals of bidders shall be considered valid when satisfying the following requirements:

a) The original of financial proposal is kept available;

b) Their bid letter contained in the financial proposal must be signed and sealed by bidder's legal representatives (if any) as required in the bidding documents; in the bid letter, the quoted bid must be specified and fixed in numbers or words and must correspond to total bid specified in the overall price list as well as is not allowed to make different quotations or provide terms and conditions that cause disadvantages to investors or procuring entities. As for joint venture or consortium bidders, financial proposal must be signed and sealed by legal representatives of joint venture or consortium partners (if any) or the heads of joint venture or consortium according to the duties assigned in the agreement on founding joint venture or consortium;

c) Validity of financial proposals must meet the requirements specified in the bidding documents;

Those who keep valid financial proposals shall be qualified for the detailed evaluation.

3. Detailed evaluation of financial proposals and rating of bidders:

a) Detailed evaluation of financial proposals and rating of bidders shall comply with the evaluation standards regulated in the bidding documents;

b) After finalizing the rating of bidders, expert group shall compile the report to procuring entities for consideration. The report must specify the following contents:

- List of bidders who are put under consideration, ranked as well as bidder's ranks;
- List of bidders who fail to meet the requirements and are eliminated; reasons for this elimination;
- Remarks on the competitiveness, equality, transparency and economic efficiency of the selection of contractors. In case of a lack of competitiveness, equality, transparency and economic efficiency, reasons and handling measures should be clarified and suggested;
- Any content that fails to conform to legal regulations on the bidding, possibly results to ambiguity or controversies during the implementation or create certain deviations of the contractor selection result (if any); any recommendation and handling measures.

Article 31. Negotiating the contract; submitting, verifying, approving and publicly announcing the result of contractor selection.

1. The bidder who is ranked at the first position shall be invited to negotiate the contract with procuring entities.
2. The contract negotiation shall comply with the regulations specified in Article 19 of this Decree.
3. Submitting, verifying, approving and publicly announcing the result of contractor selection shall adhere to regulations specified in Article 20 of this Decree.

Chapter III

OPEN AND LIMITED BIDDING PROCESSES FOR THE CONTRACT FOR CONSULTING SERVICE SUPPLY

Section 1: BIDDERS AS ORGANIZATIONS

Article 32. Specific process

1. Pre-selection stage must include :
 - a) Short-listing bidders (when necessary);
 - b) Composing the bidding solicitation;
 - c) Verifying and approving the bidding documents.
2. Contractor selection stage must include :

- a) Soliciting contractors ;
- b) Releasing, amending and clarifying the bidding documents;
- c) Preparing, submitting, receiving, managing, adjusting and withdrawing bid packages;
- d) Opening technical proposals.

3. Evaluation of technical proposals must include:

- a) Examining and evaluating the validation of technical proposals;
- b) Evaluating details of technical proposals;
- c) Approving list of bidders who prove their proper technical capability.

4. Opening and evaluating the financial proposal must include:

- a) Opening financial proposals of bidders who are present in the approved list;
- b) Examining and evaluating the validation of financial proposals;
- c) Evaluating details of financial proposals;
- d) Rating bidders.

5. Negotiating the contract.

6. Submitting, verifying, approving and publicly announcing the result of contractor selection.

7. Completing and entering into the contract.

Article 33. Short-listing

Based on the size and nature of the contract, the short-listing can be applied to select the bidder who prove their proper competence and experience as required in the contract for participation in the bidding. The application of the short-listing process shall be decided by competent persons as well as clarified in the plan for the selection of contractors.

1. In respect of the open bidding :

a) Generating the request for Expression of Interest :

- The request for EOI must include the following contents: a summary of project and contract information ; instructions on the preparation and submission of EOIs; required standards in

contractor's competence and experience which consists of requirements for the amount, capability and experience of bidding experts;

- 100-point scoring system shall be applied to set the evaluation criteria of responses to EOIs, which must stipulate that the minimum score is not lower than 60% of the total score as well as provide the specific evaluating scores for competence, experience and personnel, which must not be lower than 50% of maximum score of such contents.

b) Approving the request for EOI must be performed in writing and referred to the statements on approving and reporting the verification of the request for EOI;

c) The notification of EOI requests must comply with regulations specified in Point a Clause 1 Article 7 and Point b Clause 1 or Point a Clause 2 Article 8 of this Decree;

d) Releasing the EOI requests:

The EOI request shall be released free of charge to contractors prior to the deadline for bid submission;

dd) Receiving and managing EOIs:

Procuring entities must receive and manage EOIs according to the regulations on the secret file management till the result of EOIs is given;

e) Opening and evaluating EOIs:

- EOIs that have been submitted at the time and venue regulated in the request for EOIs shall be opened right after the deadline for bid submission. The opening of EOIs must be recorded and the record on the bid opening shall be sent to contractors who respond to these EOIs. EOIs that have arrived after the deadline for bid submission are considered ineligible to be opened, invalid and will be eliminated ;

- Evaluation of EOIs shall adhere to the evaluation standards set out in the request for EOIs. EOIs of contractors that gain evaluating scores not lower than the minimum required score shall be accepted in the short list ; any EOI that gains the highest score shall be ranked at the first position ; if there are more than 06 contractors who meet the requirements, only 06 top bidders shall be accepted to present in the short list;

g) Submitting, verifying and approving the EOI result :

- Based on the report on the evaluation result of the EOIs, procuring entities shall submit the approval of the result of EOIs which must clarify procuring entity's opinions about the evaluation contents given by the expert group;

- The result of EOIs must be verified as prescribed in Clause 1 and Clause 2 Article 106 of this Decree prior to the approval;

- Result of EOIs must be approved in writing and referred to the statements on approving and reporting the verification result of EOIs;

- As for the short-listing, the written approval of the EOI result must comprise short-listed bidder's name and notes (if any). In case the short-listing is failed, documents on approving the EOI result must clarify reasons for the failure to short-listing the contractors;

h) Publicly announcing the short list : The short list must be widely disseminated as prescribed in Point a Clause 1 Article 7 and Point c Clause 1 or Point b Clause 2 Article 8 of this Decree and sending notifications to contractors who have submitted their responses to EOIs.

2. In respect of the limited bidding:

a) Determining and approving the short list : The determination and approval of the short list must be carried out to minimum 03 bidders who prove their proper competence and experience to match the requirements of the contract and wish to participating in the bidding;

b) Publicly announcing the short list: after approval, the short list must be publicly announced according to regulations specified in Point d Clause 1 Article 7 and Point c Clause 1 or Point b Clause 2 Article 8 of this Decree.

3. Bidders present in the short list are not allowed to form the joint venture or consortium together to participate in the same bidding.

Article 34. Composing the bidding solicitation

1. The composition of bidding documents must adhere to regulations stated in Clause 1 Article 12 of this Decree.

2. Standards in the evaluation of bid packages comprise technical standards; identification of lowest quoted price (in case of the application of the lowest price method); identification of fixed price (in case of the application of fixed price method); identification of pricing score and overall evaluation standards (in case of the application of combined technical and price-based method). The bidding solicitation is not allowed to provide any terms and conditions to restrict bidder's participation in the bidding or aim to give priority to one or several bidders, which causes unfair competitiveness.

3. Technical evaluation criteria: 100 or 1,000-point system shall be used for evaluation as follows:

a) Experience and competence of bidders must obtain the score accounting for 10% to 20% of total score;

b) Solution and methodology of the contract execution must obtain the score accounting for 30% to 40% of total score;

c) Personnel for the contract execution must obtain the score accounting for 50% to 60% of total score;

d) Total score proportion of the content specified in regulations stated in Point a, b, c of this Clause must equal 100%;

dd) Technical proposals are evaluated to meet the technical requirements when their technical scores are not lower than 70% (equivalent to 80% of total score in terms of the consulting contracts that set out high and particular technical criteria). Additionally, the score of each content in terms of the competence, experience, solution, methodology and personnel of bidders is not lower than 60% (equivalent to 70% applied to the consulting contracts that set out high and particular technical criteria) of the maximum score that that content can obtain.

4. The identification of lowest price (in case of the application of the lowest bid price method) shall be carried out as prescribed in Point c Clause 3 of this Decree.

5. The identification of fixed price (in case of the application of the fixed bid price method) shall be based on :

a) Determining the quoted bid price;

b) Correcting errors ;

c) Adjusting deviations ;

d) Deducting discounts (if any);

dd) Converting the quoted bid price into a common currency (if any);

e) Identifying the winning quoted price, not exceeding the bid price that has been specified and fixed in the bidding documents.

6. Standards in the overall evaluation (in case of the application of the combined technical and price-based method) shall be set out as follows :

a) Determining the pricing score:

100 or 1,000-point scale shall be used to correspond to the technical scoring system. The pricing score shall be identified as follows:

$$\text{Pricing score under consideration} = \frac{G_{\min} \times (100 \text{ or } 1,000)}{G \text{ under consideration}}$$

Where:

- Pricing score _{under consideration} : The pricing score of financial proposal that has put under consideration;

- G_{min} : The lowest quoted bid price out of the quoted bid price of bidders of which their financial capability is specifically evaluated after error correction, deviation adjustment and discount deduction (if any);

- $G_{under\ consideration}$: The quoted bid price after error correction, deviation adjustment and discount deduction (if any), specified in the financial proposal under consideration.

b) Overall evaluation criteria:

Overall score shall be identified as follows:

Overall score _{under consideration} = $K \times$ Technical score _{under consideration} + $G \times$ Pricing score _{under consideration}

Where:

- Technical score _{under consideration} : The score identified in the technical evaluation stage;

- Pricing score _{under consideration} : The score identified in the price-based evaluation stage;

- K : The proportion of technical score regulated in the overall scoring scale that accounts for 70% to 80%;

- G : The proportion of price-based score regulated in the overall scoring scale that accounts for 20% to 30%;

- $K + G = 100\%$.

Article 35. Verifying and approving the bidding documents

1. Bidding documents must be verified as prescribed in Article 105 of this Decree prior to the approval;

2. b) Approving bidding documents must be performed in writing and referred to the statements on approving and reporting the verification of bidding documents;

Article 36. Contractor selection

1. Soliciting contractors;

a) The notification of Invitation for Bids is applied to the case in which the short-listing is not performed and adheres to the regulations stated in Point d Clause 1 Article 7 and Point b Clause 1 or Point a Clause 2 Article 8 of this Decree;

b) Send out Invitation for Bids to contractors who are present in the short list.

2. Release, amend and clarify the bidding documents;

Releasing, amending and clarifying bidding documents must adhere to regulations specified in Clause 2 Article 14 of this Decree.

3. Prepare, submit, receive, manage, adjust and withdraw bid packages:

Preparing, submitting, receiving, managing, adjusting and withdrawing bid packages shall be implemented as prescribed in Clause 3 Article 14 of this Decree.

4. Open technical proposals:

The opening of technical proposals must adhere to regulations specified in Clause 4 Article 26 of this Decree and shall not include the content regarding the tender guarantee.

Article 37. Rules of evaluation and clarification of bid packages as well as error correction and deviation adjustment

1. The evaluation of bid packages shall comply with rules regulated in Article 15 of this Decree.

2. The clarification of bid packages must adhere to regulations specified in Article 16 of this Decree.

3. Error correction and deviation adjustment shall adhere to regulations specified in Article 17 of this Decree.

Article 38. Evaluation of technical proposals

1. a) Examining and evaluating the validation of technical proposals:

a) The examination and evaluation of the validity of technical proposal shall be implemented as prescribed in Clause 1 and Clause 2 Article 28 of this Decree, except for the content regarding the evaluation of the validity of tender guarantees;

b) Those who keep valid technical proposals shall be qualified for the next specific evaluation.

2. Evaluating details of technical proposals:

a) Evaluation of bidder's technical capability shall adhere to the evaluation standards set out in the bidding documents;

b) Bidders who have met the technical requirements or gained the highest technical score (in case of the application of the technical method) shall be considered and their financial proposals shall be evaluated;

c) List of bidders who have met technical requirements or gained the highest technical score (in case of the application of technical method) must be approved in writing and referred to the statements on approving and reporting the verification of list of bidders who meet technical requirements. Procuring entity must announce the list of bidders who meet technical requirements or gain the highest technical score (in case of the application of the technical method) to all of participating bidders in which those who meet the technical requirements or gain the highest technical score (in case of the application of technical method) shall be invited to open their financial proposals.

Article 39. Opening and evaluating the financial proposal

1. The opening of financial proposals shall be implemented as prescribed in Clause 2 Article 29 of this Decree.

2. The evaluation of financial proposals shall be implemented as prescribed in Article 30 of this Decree.

Article 40. Negotiating the contract

1. The contract negotiation shall comply with the regulations specified in Clause 1 and Clause 2 of this Decree.

2. Rules of contract negotiation:

The bidders' proposals that satisfy the requirements of the bidding documents shall not be negotiated.

3. The content of contract negotiation:

a) Unclear and improper contents or those that cause inconsistency between bidding documents and bid packages as well as different contents of the same bid package during the contract execution;

b) Deviations that have been detected and recommendations on possible adjustment in the bid package (if any), including the proposals for changes or alternatives of bidders if bidding documents set out regulations on allowing bidders to provide the alternatives;

c) Negotiation on personnel issue:

In the course of negotiation, contractors are not allowed to change their proposed personnel, except for the case in which the evaluation of bid packages is prolonged more than the regulated time or, due to the unexpected reasons that prevent their key proposed personnel from participating in the contract, bidders are allowed to use different personnel provided that these substitutes can prove expertise, experience and capability equivalent to or better than the proposed personnel. Despite this change, bidders are not allowed to adjust their quoted bid price;

d) Any issue that arises during the selection of contractors (if any) in the aim of providing full of detailed contents given in the bid package;

dd) Any expense incurred by the provision of consulting services on the basis of satisfying the requirements set out in the bid package as well as actual conditions;

e) Other essential contents.

4. In the course of contract negotiation, negotiating parties must draft the official contract; terms and conditions of contract, annexes consisting of detailed list of workloads, price list and the implementation progress (if any).

5. In the event that the negotiation fails, procuring entities shall send reports to investors so that they can decide whether another bidder who is ranked at the second position will be invited to negotiate the contract; if the consecutive negotiation with the second bidder is not successful, procuring entities must compile report to investors for consideration or decision on the bid cancellation as prescribed in Clause 1 Article 17 of the Bidding Law.

Article 41. Submitting, verifying, approving and publicly announcing the result of contractor selection

Submitting, verifying, approving and publicly announcing the result of contractor selection shall be carried out as prescribed in Article 20 of this Decree.

Section 2: BIDDERS AS INDIVIDUALS

Article 42. Providing, submitting and approving reference terms and list of consultants of individual bidders

1. Procuring entities must provide the reference terms and draft contract for the position of consultants of individual bidders that need to be selected as well as determine the list from 03 to 05 of consultants of individual bidders that will be then submitted for approval. In case there is only one consultant of individual bidders that meet the expected requirements for the contract execution, procuring entities send a report to investors for their consideration and decision. The content of reference terms must include:

a) A concise description of projects;

b) Requirements for coverage, workload, quality and time of the contract execution;

c) Requirements for capability and expertise of the consultants;

d) Conditions and venues for the contract execution;

dd) Other essential contents (if any).

2. Consultants of bidders as individuals may include one individual consultant or a group of consultants. If the consulting party is a group of consulting experts, they must appoint their representatives to carry out transactions with procuring entities and investors.

3. Based on all documents that procuring entities submit, investors must consider and approve reference terms and list of consultants of individual bidders.

Article 43. Sending out the invitation letters and evaluating the scientific background record of consultants of individual bidders ; approving and signing the contract

1. After reference terms and list of consultants of individual bidders have been approved, procuring entities shall send out the invitation letters and reference terms to consultants of individual bidders in the list in which the deadline and address for the receipt of scientific background record must be clarified.

2. Submitting the scientific background record:

Consultants of individual bidders must prepare their scientific background records as required in the reference terms as well as technical proposals (if any) submitted to procuring entities according to the time and venue specified in the invitation letters.

3. Evaluating the scientific background record:

Based on the content mentioned in the reference terms, procuring entities must evaluate the scientific background record of each consultant of individual bidder. Individual bidder's consultants, who have their legal status as stipulated in Clause 2 Article 5 of the Bidding Law as well as keep their best scientific background record and technical proposal (if any) in compliance with the reference terms, shall be invited to negotiate and complete the contract with procuring entities.

4. Negotiating and completing the contract.

5. Approving the result of the selection of individual bidder's consultants must be carried out in writing and referred to the statements on approving and reporting the result of evaluating the scientific background records of individual bidder's consultants as well as the result of contract negotiation. The official contract must accord with the decision on approving the result of the selection of individual bidder's consultants, the result of contract negotiation and contents enclosed in the reference terms.

Chapter IV

TWO-STAGE PROCEDURES FOR OPEN BIDDING AND SELECTIVE BIDDING FOR SALE CONTRACTS, CONSTRUCTION CONTRACTS, AND MIXED CONTRACTS

Section 1: TWO-STAGE ONE-EVELOPE PROCEDURES

Article 44. Preparation for the first stage of bidding

1. Depending on the scale and nature of the contract, the short-listing method may be employed to invite capable and experienced contractors that satisfy the requirements of the contract to bid for the contract. The employment of short-listing method shall be decided by a competent person, and must be specified in the bidding plan; bidders shall be short-listed in accordance with Article 22 of this Decree.

2. Making the invitation for bids in the first stage:

a) The basis for making the invitation for bids is specified in Clause 1 Article 12 of this Decree;

b) The invitation for bids in the first stage contains: summary of the project/contract; instructions on preparation and submission of bids in the first stage; technical requirements of the contract; financial requirements in order for bidders to propose their technical plans and financial plans, which are the basis for the procuring party to complete the invitation for bids at the second stage; bidders are not requested to submit their bids or take measures to ensure their participation in the bidding.

The invitation for bids must not contain any clause that restricts participation of bidders or gives advantage to certain bidders, which causes unfair competition.

3. Evaluating and approving the invitation for bids:

a) The invitation for bids must be evaluated in accordance with Article 105 of this Decree before it is approved;

b) The approval for invitation for bids must be granted in writing in accordance with the report on evaluation of the invitation for bids.

Article 45. Holding the first stage of bidding

1. a) The first stage of bid invitation shall be carried out in accordance with Clause 1 Article 26 of this Decree;

2. Issuing, adjusting, clarifying the invitation for bids:

The invitation for bids shall be issued, adjusted, and clarified in accordance with Clause 2 Article 14 of this Decree.

3. Preparing, submitting, receiving, managing, adjusting, and withdrawing bid-envelopes:

Bid-envelopes shall be prepared, submitted, received, managed, adjusted, and withdrawn in accordance with Clause 3 Article 14 of this Decree.

4. Bid opening:

a) Bid-envelopes shall be opened publicly within 01 hours from the deadline for submitting bids. Only open the bid-envelopes received by the procuring entity before the bid closing time as required by the invitation for bids in the presence of representatives of bidders during the bid opening ceremony, regardless of the presence of the bidders;

b) Bid envelopes shall be opened one by one in alphabetical order as follows:

- Check the seal;

- Open the envelop, read out loud the name of the bidder, the number of original copies and photocopies, primary information in the bid form; effective date of the bid-envelope, and relevant information.

c) Bid opening record: information mentioned in Point b of this Clause must be written in the bid opening record. The bid opening record must be signed by representatives of the procuring party and bidders that attend the bid opening. The record must be sent to every bidder that attends the bid opening;

d) The representative of the procuring entity must sign the original copy of the bid form, the letter of attorney of the bidder (if any), and the partnership agreement (if any).

5. Discussion about bid-envelopes in the first stage:

While evaluating bid-envelopes in the first stage, according to requirements in the invitation for bids and proposals of bidders in the bid-envelopes, the procuring entity shall discuss with each bidder in order to clarify the technical and financial requirements of the contract, which is necessary for completion of the invitation for bids at the second stage. The procuring entity must ensure that information in bid-envelopes in the first stage of bidders is not revealed.

Article 46. Preparing, organizing the second stage of bidding

1. Making the invitation for bids in the second stage:

a) Basis for making invitation for bids:

Apart from the basis specified in Clause 1 Article 12 of this Decree, when making the invitation for bids in the second stage, it is required to refer to proposals of bidders that participate in the first stage.

b) Contents of the invitation for bids:

The invitation for bids must specify criteria for evaluating bid-envelopes, including criteria for evaluating bidders' competence and experience (If bidders have undergone prequalification, the criteria for evaluating bidders' experience may be omitted in the invitation for bids; however, bidders must be requested to update information about their competence), criteria for technical evaluation; criteria for determination of evaluated prices (if applied), prices, and overall

evaluation criteria (in case of combination of technical and pricing evaluation) and relevant contents mentioned in Clauses 2, 3, 4, 5, 7, 8 of Article 12, and Article 24 of this Decree. The invitation for bids must not contain any clause that restricts the participation of bidders or favor certain bidders, which creates unfair competition.

2. Evaluating and approving the invitation for bids:

a) The invitation for bids must be evaluated in accordance with Article 105 of this Decree before it is approved;

b) The approval for invitation for bids must be granted in writing in accordance with the report on evaluation of the invitation for bids.

3. Holding the bidding:

a) Every bidder who has submitted the bid-envelope in the first stage shall receive the invitation for bids in the second stage. The invitation for bids in the second stage shall be issued, adjusted, and clarified in accordance with Clause 2 Article 14 of this Decree;

b) Preparing, submitting, receiving, managing, adjusting, and withdrawing bid-envelopes:

Bid-envelopes shall be prepared, submitted, received, managed, adjusted, and withdrawn in accordance with Clause 3 Article 14 of this Decree.

4. Bid opening:

Bid-envelopes shall be opened in accordance with Clause 4 Article 14 of this Decree.

Article 47. Evaluation of bid-envelopes and contract negotiation in the second stage

1. Bid-envelopes shall be evaluated in accordance with the rules in Article 15 of this Decree.

2. Bid-envelopes shall be clarified in accordance with Article 16 of this Decree.

3. Error correction and adjustment of deviations shall be carried out in accordance with Article 17 of this Decree.

4. Evaluation of bid-envelopes and contract negotiation shall be carried out in accordance with Article 18 and Article 19 of this Decree.

Article 48. Submitting, verifying, approving, and announcing contractor selection result; drafting and concluding contract

1. The result of contractor selection shall be submitted, verified, approved, and announced in accordance with Article 20 of this Decree.

2. Drafting and concluding the contract:

The contract between both parties must conform to the decision to approve the contractor selection result, the contract negotiation record, the bid-envelope, the invitation for bids, and relevant documents.

Section 2: TWO-STAGE TWO-EVELOPE PROCEDURES

Article 49. Preparation for first stage of bidding

1. Depending on the scale and nature of the contract, the short-listing method may be employed to invite capable and experienced contractors that satisfy the requirements of the contract to bid for the contract. The employment of short-listing method shall be decided by a competent person, and must be specified in the bidding plan; bidders shall be short-listed in accordance with Article 22 of this Decree.

2. Making the invitation for bids of the first stage:

a) The basis for making the invitation for bids is specified in Clause 1 Article 12 of this Decree;

b) Contents of the invitation for bids:

The invitation for bids must specify criteria for evaluating bid-envelopes, including criteria for evaluating bidders' competence and experience (If the bidders have undergone prequalification, the criteria for evaluating bidders' experience may be omitted in the invitation for bids; however, bidders must be requested to update info about their competence), criteria for technical evaluation; request for bidders' financial proposals, and relevant contents mentioned in Clauses 2, 3, 4, 5, 7, 8 of Article 12, and Article 24 of this Decree. The invitation for bids must not contain any clause that restricts the participation of bidders or favor certain bidders, which creates unfair competition.

3. Evaluating and approving the invitation for bids:

a) The invitation for bids must be evaluated in accordance with Article 105 of this Decree before it is approved;

b) The approval for invitation for bids must be granted in writing in accordance with the report on evaluation of the invitation for bids.

Article 50. Holding the first stage of bidding

1. a) The first stage of bid invitation shall be carried out in accordance with Clause 1 Article 26 of this Decree.

2. Issuing, adjusting, clarifying the invitation for bids:

The invitation for bids shall be issued, adjusted, and clarified in accordance with Clause 2 Article 14 of this Decree.

3. Preparing, submitting, receiving, managing, adjusting, and withdrawing bid-envelopes:

Bid-envelopes shall be prepared, submitted, received, managed, adjusted, and withdrawn in accordance with Clause 3 Article 14 of this Decree.

4. Opening technical proposals:

Technical proposals shall be opened in accordance with Clause 4 Article 26 of this Decree. Financial proposals shall be opened in the second stage.

5. Evaluation of technical proposals:

a) Technical proposals shall be evaluated in accordance with Article 28 of this Decree.

b) While evaluating technical proposals, according to requirements in the invitation for bids and technical proposals of bidders, the procuring entity shall discuss with each bidder in order to make technical adjustment to the invitation for bids.

6. The list of bidders that meet technical requirements in the first stage must be approved in writing based on the report on verification of technical evaluation result . The procuring party must send the list of bidders that meet technical requirements to all bidders that participate in the first stage, then invite the bidders that meet technical requirements in the first stage to participate in the second stage.

Article 51. Preparing, organizing the second stage of bidding

1. Making the invitation for bids in the second stage:

a) Basis for making invitation for bids:

Apart from the basis specified in Clause 1 Article 12 of this Decree, when making the invitation for bids in the second stage, it is required to refer to the discussions with bidders that participate in the first stage;

b) Contents of the invitation for bids:

The invitation for bids in the second stage is made based on the invitation for bids in the first stage and must conform to technical adjustments agreed with bidders.

2. Evaluating and approving the invitation for bids:

a) The invitation for bids must be evaluated in accordance with Article 105 of this Decree before it is approved; only the contents related to technical adjustments compared to the invitation for bids in the first stage shall be evaluated;

b) The approval for invitation for bids must be granted in writing in accordance with the report on evaluation of the invitation for bids.

3. Issuing, adjusting, clarifying the invitation for bids:

Every bidder who satisfies technical requirements in the first stage shall receive the invitation for bids in the second stage. The invitation for bids in the second stage shall be issued, adjusted, and clarified in accordance with Clause 2 Article 14 of this Decree.

4. Preparing, submitting, receiving, managing, adjusting, and withdrawing bid-envelopes:

Bid-envelopes shall be prepared, submitted, received, managed, adjusted, and withdrawn in accordance with Clause 3 Article 14 of this Decree. A bid-envelope consists of a technical proposal and a financial proposal as requested in the invitation for bids in the second stage, which are conformable with technical adjustments.

5. Bid opening:

a) Bids shall be opened publicly within 01 hours from dead line for bid submission. Only open the bid-envelopes received by the procuring entity before the bid closing time as required by the invitation for bids in the presence of representatives of bidders during the bid opening ceremony, regardless of the presence of the bidders;

b) Bids shall be opened one by one in alphabetical order as follows:

- Request the representative of each bidder who participates in the bid opening to confirm the inclusion of letter of price reduction in their financial proposal in the first stage and the bid-envelope in the second stage;

- Check the seals of the envelopes that contain financial proposals in the first stage, financial proposals in the first stage of the bidders that participate in the second stage, and bid-envelopes of the bidders that participate in the second stage of bidding;

- Open the financial proposals in the first stage of the bidder that participate in the second stage, and open the bid-envelopes in the second stage, each of which consists of a technical proposal and a financial proposal in the second stage, which are conformable with technical adjustments;

c) Bid opening record: information mentioned in Point b of this Clause must be written in the bid opening record. The bid opening record must be signed by representatives of the procuring entity and bidders that attend the bid opening, and be sent to every bidder that participate in the second stage of bidding;

d) The representative of the procuring entity must sign the original copy of the bid form, the letter of price reduction (if any), the letter of attorney of the bidder (if any), the tender guarantee; the financial proposal, and other contents of each bid-envelope.

Article 52. Evaluation of bid-envelopes and contract negotiation in the second stage

1. Evaluation of bid-envelopes and contract negotiation in the second stage shall be carried out in accordance with Article 18 and Article 19 of this Decree. The technical contents that have been concurred with in the first stage shall not be evaluated again.

2. Every bidder who satisfies technical requirements in the second stage shall have their financial proposal evaluated. Financial evaluation shall be carried out in consideration of the bidder's financial proposal in the first stage and technical proposal in the second stage, technical proposal in the first stage, and technical adjustments proposed by the bidder in the second stage.

Article 53. Submitting, verifying, approving, and announcing contractor selection result; drafting and concluding contract

1. The result of contractor selection shall be reported, verified, approved, and announced in accordance with Article 20 of this Decree.

2. Drafting and concluding the contract:

The contract between both parties must conform to the decision to approve the contractor selection result, the contract negotiation record, the bid-envelope, the invitation for bids, and relevant documents.

Chapter V

NO-BID CONTRACT AWARDING, COMPETITIVE OFFERING, DIRECT PROCUREMENT, AND SELF-SUPPLY

Section 1: NO-BID CONTRACT AWARDING

Article 54: Limits on no-bid contract awarding

Limits on no-bid contract awarding prescribed in Point e Clause 1 Article 22 of the Law on Bidding:

1. Contracts for consulting services, non-consulting services, and public services: VND 500 million; contracts for goods procurement, construction, installation, procurement of medicines, medical equipment, public procurement, mixed contracts: VND 01 billion;

2. Contracts for regular procurements: VND 100 million.

Article 55. Standard process of no-bid contract awarding

1. Preparation for contractor selection:

a) Making the request for proposals:

The request for proposals must be made in accordance with Clause 1 Article 12 of this Decree. The request for proposals shall contain summary of the project/contract; instructions on preparation and submission of the proposal; requirements with regard to the contractor's competence and experience; criteria for technical evaluation and price determination. The contractor's competence and experience shall be assessed as satisfactory or unsatisfactory;

b) Evaluating and approving the request for proposals, selection of the no-bid contractor:

- The request for proposals must be evaluated in accordance with Article 105 of this Decree before it is approved;

- b) The approval for invitation for bids must be granted in writing in accordance with the report on evaluation of the request for proposals.

- The eligible contractor defined in Points a, b, c, d, e and h Clause 1 Article 5 of the Law on Bidding, who is experienced and capable enough to execute the contract, shall receive the request for proposals.

2. Contractor selection:

a) The request for proposals shall be issued to the selected contractor;

b) The contractor shall prepare and submit the proposal as requested in the request for proposals.

3. Proposal evaluation and negotiation:

a) The proposal shall be evaluated in accordance with the criteria specified in the request for proposals. During the evaluation, the procuring entity shall request the contractor to enter into a negotiation, clarify, or adjust information in the proposal in order to prove that the contractor meets all requirements with regard to experience, competence, punctuality, quality, technical solutions, and administration serving the contract execution;

b) The contractor shall be selected when all of the following requirements are satisfied: the contractor has a valid proposal; the bidder's experience, competence, and technical proposal satisfy requirements in the request for proposals; the quoted prices do not exceed the approved estimates.

4. The result of no-bid contract awarding shall be reported, verified, approved, and announced in accordance with Article 20 of this Decree.

5. Drafting and concluding the contract:

The contract between both parties must conform to the decision to approve the no-bid contract, the contract negotiation record, the proposal, the request for proposals, and relevant documents.

Article 56. Shortened process of no-bid contract awarding

1. The shortened process is applied to contracts defined in Point a Clause 1 Article 22 of the Law on Bidding, except for those that must be executed to ensure state secrets:

The investor or the regulatory body in charge of the contract shall appoint an experienced and capable contractor to execute the contract. Within 15 days from the appointment, both parties must complete the no-bid contract awarding procedures, including: preparing and sending the draft contract to the contractor, which specifies the tasks, schedule, quality, and corresponding value, then concluding the contract. According to the result of contract negotiation, the investor or the regulatory body shall approve the no-bid contract and sign the contract with the selected contractor. The contractor selection shall be announced in accordance with Point d Clause 1 Article 7 and Point c Clause 1 or Point b Clause 2 Article 8 of this Decree.

2. If the contract does not exceed the limits on no-bid contracts prescribed in Article 54 of this Decree:

a) In consideration of the targets, tasks, and approved estimates, the procuring entity shall prepare and send the draft contract to the contractor, who is considered experienced and capable enough to execute the contract by the investor. The draft contract shall specify the tasks, schedule, quality, corresponding value, and relevant contents;

b) Based on the draft contract, the procuring entity and the selected contractor shall enter into a negotiation and complete the contract, which is the basis for approving the contractor selection and contract conclusion;

c) Contract conclusion:

The contract signed by the parties must conform to the decision to the contractor selection result, the contract negotiation record, and relevant documents.

Section 2: Competitive offering

Article 57: Scope of competitive offering

1. Standard process of competitive offering applies to any of the contracts defined in Clause 1 Article 23 of the Law on Bidding, the value of which does not exceed VND 05 billion.

2. Shortened process of competitive offering applies to any of the contracts defined in Point a Clause 1 Article 23 of the Law on Bidding whose value does not exceed VND 500 million; any of the contracts defined in Point b and Point c Clause 1 Article 23 of the Law on Bidding whose value does not exceed VND 1 billion; and regular procurement contracts whose value does not exceed VND 200 million.

Article 58. Standard process of competitive offering

1. Preparation for contractor selection:

a) Making the request for proposals:

The request for proposals must be made in accordance with Clause 1 Article 12 of this Decree. The request for proposals shall contain summary of the project/contract; instructions on preparation and submission of the proposal; requirements with regard to the contractor's competence and experience; criteria for technical evaluation and determination of lowest prices. The contractor's competence and experience shall be assessed as satisfactory or unsatisfactory;

b) Evaluating and approving the request for proposals:

- The request for proposals must be evaluated in accordance with Article 105 of this Decree before it is approved;
- The approval for the request for proposals must be granted in writing in accordance with the report on evaluation of the request for proposals.

2. Contractor selection:

a) The procuring entity shall post the request for offers in accordance with Point d Clause 1 Article 7 and Point b Clause 1 or Point a Clause 2 Article 8 of this Decree.

The request for proposals shall be issued to any bidder that wishes to participate by the deadline written in the request for offers (at least 03 working days from the day on which the request is posted on the national procurement system or the Vietnam Public Procurement Review Journal);

b) The request for proposals shall be adjusted and clarified in accordance with Clause 2 Article 14 of this Decree;

c) Bidders shall send their proposals to the procuring entity directly or by post. Each bidder may submit only one proposal;

d) The procuring entity is responsible for protect the confidentiality of information in the proposals submitted by bidders. Right after the deadline for submitting proposals, the procuring entity shall open the proposals and make a bid opening record, which contains: names of bidders, offered prices, validity periods of proposals; values and validity periods of tender guarantee; contract duration. This record shall be sent to every bidder that has submitted their proposals.

3. Evaluation of Proposal evaluation and negotiation:

a) The procuring entity shall evaluate the proposals submitted. A bidder is "passed" if that bidder's proposal is valid, the bidder's experience and competence are satisfactory, and all technical requirements are satisfied.

b) The procuring entity shall compare offered prices in the proposals that satisfy technical requirements in order to determine the proposal that offers the lowest price. The bidder that offers the lowest price which does not exceed the contract value after error correction, adjustment of deviation, and deduction of discount (if any) shall be invited to enter into the contract negotiation;

c) The contract negotiation shall be carried out in accordance with Article 19 of this Decree.

4. Reporting, verifying, approving, and announcing contractor selection result:

The result of contractor selection shall be reported, verified, and announced in accordance with Article 20 of this Decree.

5. Drafting and concluding the contract:

The contract between both parties must conform to the decision to approve the result of competitive offering, the contract negotiation record, the proposal, the request for proposals, and relevant documents.

6. Schedule for standard process of competitive offering:

a) The minimum time limit for preparing the proposal is 05 working days from the day on which the request for proposals is issued;

b) If the request for proposals must be adjusted, the procuring entity must notify the bidder at least 03 working days before the deadline for submitting proposals;

c) Proposals shall be evaluated within 20 days from the bid opening date. Then, the procuring entity shall make a request for approval for the result of contractor selection, which is enclosed with the report on proposal evaluation.

d) The result of contractor selection shall be verified within 07 working days from the day on which the request for verification is received;

dd) The result of contractor selection shall be approved within 05 working days from receipt of request for approval from the procuring entity and the verification report from the verifying unit;

e) Other deadlines are specified in Clause 1 Article 12 of the Law on Bidding.

Article 59. Shortened process of competitive offering

1. Preparing and sending the request for proposals:

a) The request for quotation shall specify the tasks, technical requirements, validity period of the quotation, quotation submission date, requirements with regard to warranty, maintenance, training, transfer, contract drafting, time for preparation and submission of the quotation (at least

03 working days from the date of issue of the request for quotation) and other relevant information. Guarantee for participation in bidding shall be omitted;

b) After the request for quotations is approved, the procuring entity shall post it on a provincial newspaper, or the national procurement system, or send it directly to at least 03 capable bidders. If the request for quotations is send directly, the procuring entity shall send the request to any bidder that wishes to offers their quotations by the deadline for submitting quotations. The request for quotations shall be issued free of charged and sent directly, by post, email, or fax.

2. Submitting and receiving quotations:

a) Each contractor shall prepare and submit 01 quotation as requested. The quotation may be submitted directly, by post, email, or fax;

b) The procuring entity is responsible for protect the confidentiality of information in the quotations submitted by bidders. Right after the deadline for submitting quotations, the procuring entity make a note of receipt of quotations submitted by the deadline, which specify information such as: contains: names of bidders, quoted prices, validity periods of quotations. This note shall be sent to every bidder who has submitted their quotation.

3. Evaluation of quotations:

a) The procuring entity shall compare the quotations according to the request for quotations. Any quotation that satisfies all requirements in the request and the quoted price in which is lowest and does not exceed the contract value after error correction, adjustment of deviation, and deduction of discount (if any) shall be selected;

b) During the evaluation, procuring entity may invite the bidder that offers the lowest price after error correction, adjustment of deviation, and deduction of discount (if any) to enter into a contract negotiation.

4. Reporting, verifying, approving, and announcing contractor selection result:

The result of contractor selection shall be reported, verified, and announced in accordance with Article 20 of this Decree.

5. Drafting and concluding the contract:

The contract between both parties must conform to the decision to approve the result of competitive offering, the contract negotiation record, and relevant documents.

6. Schedule of shortened process of competitive offering:

a) Quotations shall be evaluated within 10 days from the bid opening date. Then, the procuring entity shall make a request for approval for the result of contractor selection, which is enclosed with the report on quotation evaluation.

b) The result of contractor selection shall be verified within 04 working days from the day on which the request for verification is received;

c) The result of contractor selection shall be approved within 03 working days from receipt of the request for approval from the procuring entity and the verification report from the verifying unit;

Article 3: DIRECT PROCUREMENT

Article 60: Direct procurement process

1. Preparation for contractor selection:

a) Making the request for proposals:

The request for proposals must be made in accordance with Clause 1 Article 12 of this Decree. The request for proposals shall contain the summary of the project/contract; request that the contractor update information about their competence; requirements with regard to punctuality and commitment to provide technically satisfactory goods with high quality as described in the invitation for bids, and requirements for the unit prices. If goods in the direct procurement contract is one of those in a similar contract that was signed earlier, the value of such goods must be lower than 130% of the value of the goods in the earlier contract;

b) The request for proposals must be evaluated in accordance with Article 105 of this Decree before it is approved;

c) The approval for the request for proposals must be granted in writing in accordance with the report on evaluation of the request for proposals.

2. The request for proposals shall be issued to the selected contractor; If this contractor is not capable of performing the direct procurement contract, the request for proposals shall be issued to another bidder who satisfies the requirements in Clause 3 Article 24 of the Law on Bidding.

3. The contractor shall prepare and submit the proposal as requested.

4. Proposal evaluation and negotiation:

a) Proposal evaluation:

- Check information about techniques and prices;

- Update information about the bidder's competence;

- Assess the progress, goods supply solution, technical solutions, and measures to perform the contract;

- Other contents (if any).

b) During the evaluation, the procuring entity shall request the contractor to enter into a negotiation, clarify information in the proposal in order to prove that the contractor meets all requirements with regard to experience, competence, punctuality, quality, technical solutions, and measures to perform the contract;

c) The procuring entity must ensure that the prices for items of the direct procurement contracts do not exceed the prices for similar items of an earlier contract, and that they are conformable with market prices at the time of contract negotiation.

5. Reporting, verifying, approving, and announcing contractor selection result:

a) The result of contractor selection must be verified in accordance with Clause 1 and Clause 4 Article 106 of this Decree before it is approved;

b) The result of contractor selection must be approved in writing according to the written request for approval and the verification report;

c) The result of contractor selection shall be notified to every bidder that submits the proposal, and shall be disclosed in accordance with Point d Clause 1 Article 7 and Point c Clause 1 or Point b Clause 2 Article 8 of this Decree.

6. Drafting and concluding the contract:

The contract between both parties must conform to the decision to approve the result of direct procurement, the contract negotiation record, the proposal, the request for proposals, and relevant documents.

Section 4: SELF-SUPPLY

Article 61. Preconditions

The employment of self-supply method must be approved in the contractor selection plan in accordance with Article 25 of the Law on Bidding, and satisfy preconditions below:

1. The licensed business lines are suitable for the contract requirements;
2. The ability to mobilize manpower and equipment to ensure punctuality must be proven in the self-supply plan;
3. The unit appointed to perform the contract must not transfer any part thereof if its value is 10% of the contract value or higher than VND 50 billion, whichever come first.

Article 62: Self-supply process

1. Preparing the self-supply plan and draft the contract or assignment note:

The self-supply plan shall specify the tasks, value, duration, quality thereof, the draft contract or assignment note. If the contract is performed by a financially dependent unit, the plan must include the draft contract. If a financially dependent unit is not available, the plan must include a draft of the assignment note, which assigns an internal unit to perform the contract.

2. Completing the self-supply plan; negotiating, completing the contract or assignment note:

Discuss the information that is not clear or conformable in the self-supply plan, the draft contract, or the assignment note, and other necessary contents.

3. Signing the contract or assignment note:

The procuring entity shall sign the contract or assignment note with a unit to perform the contract.

4. If specialized law prescribes that the contract performance must be supervised, the procuring entity must select a supervisory contractor who is legally and financially independent to supervise the contract performance; If specialized laws do not require this or an independent supervisory contractor is not available because the contract has to be performed in an remote area or the contract value is below VND 01 billion, the procuring entity shall supervise the contract performance itself.

Chapter VI

SELECTION OF CONTRACTORS FOR MINOR CONTRACTS OR CONTRACTS PARTICIPATED BY LOCAL COMMUNITIES

Section 1: SELECTION OF CONTRACTORS FOR MINOR CONTRACTS

Article 63. Limits on minor contracts

A minor contract is a contract for provision of non-consulting services or goods purchase valued at up to VND 10 billion; a construction contract or mixed contract valued at up to VND 20 billion.

Article 64. Selection of contractors for minor contracts

1. The contractor selection process applied to minor contracts is the same at that specified in Section 1 Chapter II and Chapter V of this Decree.

2. Contractor selection schedule:

a) The invitation for bids shall be issued within the time limits in the bidding notice, which is not shorter than 03 working days from the day on which it is posted on the national procurement network or the Vietnam Public Procurement Review Journal;

- b) The time limit for preparing the bid-envelope shall not be shorter than 10 days from the date of issue of the invitation for bids;
 - c) When the invitation for bids must be adjusted, the procuring entity must notify the bidders at least 03 working days before the deadline for submitting bids in order for them to have enough time to prepare their bid-envelopes;
 - d) Bid-envelopes shall be evaluated within 25 days from the bid opening date, then the procuring entity shall submit a written request for approval for the contractor selection result, which is enclosed with a report on contractor selection result;
 - dd) The contractor selection result shall be verified within 10 days from the receipt of the request for verification;
 - e) The
 - g) Other deadlines are specified in Clause 1 Article 12 of the Law on Bidding.
3. The value of tender guarantee varies from 1% to 1.5% of the contract value; the value of performance guarantee varies from 2% to 3% of the agreed price.

Section 2: SELECTION OF CONTRACTORS FOR CONTRACTS PARTICIPATED BY LOCAL COMMUNITIES

Article 65. Eligibility of local communities, associations, group of workers to participate in performance of contracts

1. A local community, association, or group of workers is considered eligible to participate in performance of any of the contracts prescribed in Article 27 of the Law on Bidding when its member performs the contract and benefits from it.
2. The representative of the local community, association, or group of workers must be capable of civil acts, not facing any criminal prosecution, and is designated by other members to sign the contract on their behalf.

Article 66. Selection of a local community, association, or group of workers as a contractor

1. The investor shall draft contract shall specify the tasks, schedule, quality, contract value, rights and obligations of both parties.
2. The investor shall publicly post the invitation at the People's Committee of the commune, through the mass media of the commune, and other public places. The invitation must specify the time for discussing the contract performance plan.

3. The interested communities, associations, or groups of workers shall study the draft contract and prepare introduction documents, specifying the members' names, ages, competence, and experience, which suit the demands of the contract.

4. The investor shall invite the best community, association, or group of workers to enter into a contract negotiation.

If there is only one community, association, or group of workers shows their interest, the investor shall consider giving the contract to such community, association, or group of workers. If the contract cannot be given to a community or association, it shall be given to a group of worker.

5. The contract shall be concluded within 30 days from the day on which the invitation is announced.

Article 67. Advance, payment, project supervision and approval

1. The local community, association, or group of worker shall receive advance and payment from the investor in cash or by wire transfer via a representative thereof in accordance with instructions of the Ministry of Finance.

2. Investor shall supervise the construction, the People's Committee of the commune and other associations shall participate in the supervision.

3. The investor shall carry out an inspection and consider approving the construction after it is finished. Participants in the inspection:

a) A representative of the investor;

b) Representatives of the local community, association, or group of workers that execute the construction;

c) Representatives of the community that benefits from the construction;

d) Other participants decided by the investor.

Chapter VII

BULK PURCHASING, REGULAR PURCHASES, PURCHASES OF MEDICINES, MEDICAL EQUIPMENT, AND PUBLIC PROCUREMENT

Section 1: BULK PURCHASING

Article 68. Rules for bulk purchasing

1. The purchases must be made via a unit specialized in bulk purchasing (hereinafter referred to as bulk-purchasing unit) of a Ministry, ministerial agency, Governmental agency, a central

agency, the People's Committee of a province, or a company. If the bulk-purchasing unit is not capable, it shall hire a professional bidding organizer to select a contractor.

2. With regard to goods and services on the list of goods/services that must be purchased in bulk, the buyer shall recognize the result of contractor selection, the framework agreement, and sign a contract with the selected contractor via competitive offering pursuant to the framework agreement. If the contract is signed with a contractor other than that selected via competitive offering, the contract shall not be paid for.

3. Application of online bidding to bulk purchasing shall be carried out under the roadmap approved by the Prime Minister.

4. When selecting contractors to perform similar contracts within the competence of different persons, such persons shall reach an agreement on authorizing a competent person as prescribed in Article 73 of the Law on Bidding; in this case, the competent person shall appoint a unit capable of selecting a contractor and fulfill other obligations prescribed in Article 69 of this Decree.

Article 69. Responsibilities to bulk purchasing

1. The bulk-purchasing unit shall fulfill the obligations in Article 74 and Article 75 of the Law on Bidding. Regulations in Clause 2 Article 74 and Point c Clause 2 Article 75 of the Law on Bidding shall be implemented as follows:

a) Directly sign a contract with the selected contractor as prescribed in Point a Clause 3 Article 44 of the Law on Bidding;

b) Sign a written agreement as prescribed in Point b Clause 3 Article 44 of the Law on Bidding.

2. The entity superior to the bulk-purchasing unit shall discharge its duties prescribed in Article 73 of the Law on Bidding.

Article 70. Overall bulk purchasing process

1. Overall bulk purchasing process:

a) Survey the needs;

b) Make, evaluate, and approve the contractor selection plan;

c) Prepare for contractor selection;

d) Carry out the contractor selection;

dd) Evaluate bid-envelopes and negotiate the contract;

- e) Verify, approve, and announce the result of contractor selection;
 - g) Complete and sign the framework agreement;
 - h) Complete, sign, and perform the contract with the selected contractor. If the bulk-purchasing unit directly signs a contract with the selected contractor, the framework agreement mentioned in Point g of this Clause may be omitted;
 - i) Pay for and finalize the contract.
2. Depending on the scale and characteristics of the contract, the bulk-purchasing process may be divided into multiple parts, each of which may be performed by a separate contractor.

Article 71: List of goods and services purchased in bulk

1. Goods and services shall be put on the list of goods and services purchased in bulk when:
- a) They are purchased in large quantities or commonly used at many organizations;
 - b) Goods or services must be consistent and modern.
2. Responsibility to issue the list of goods/services purchased in bulk:
- a) The Ministry of Finance shall issue to issue the national list of goods/services purchased in bulk. The Ministry of Health shall issue the list of medicines purchased in bulk;
 - b) Ministries, regulatory bodies, local governments and companies shall issue their own lists of goods/services purchased in bulk.

Article 72. Contents of the framework agreement

Depending on the scale and characteristics of the contract, the bulk-purchasing unit shall specify the contents of the framework agreement in the invitation for bids, which consist of:

1. The goods/services provided; quantities of goods/services;
2. Intended delivery time and location;
3. Conditions for transfer of goods/services; advances, payments, and contract finalization;
4. Ceiling prices of goods/services;
5. Warranty, maintenance; training, instructions on using goods/services;
6. Responsibilities of the goods/services provider;

7. Responsibilities of the unit that directly signs the sale contract;
8. Responsibilities of the bulk-purchasing unit;
9. Effective period of the framework agreement;
10. Penalties for contract breaches;
11. Relevant contents.

Section 2: REGULAR PURCHASING

Article 73. Regular purchases

Regular purchases (except for purchases of supplies and equipment for the project; specialized equipment and vehicles serving national defense and security) include:

1. Purchases of working equipment under government's regulations on standards and limits on working equipment of state agencies, officials and civil servants;
2. Purchases of supplies, tools, and equipment serving regular operation;
3. Purchases of machinery and equipment serving professional operation, assurance of occupational safety and fire safety;
4. Purchases of professional outfits (including payment for materials and tailoring services);
5. Purchases of IT products: machines, equipment, accessories, software, and other IT products, including installation, test run, warranty (if any) IT projects funded by government budget according to government's regulations on management of IT applications funded by government budget.
6. Purchases of means of transport: cars, bikes, ships, boats, and other vehicles (if any);
7. Publications, documents, forms, stamps, books, videos, and propagation products serving professional operation;
8. Maintenance, repair of machines, equipment, vehicles; lease of the office building and other goods; lease of the transmission lines; insurance, supply of electricity, water; telephone line, and other services;
9. Consulting services include: consultancy on technology selection; bid-envelope evaluation, and other consulting services;
10. Industrial property rights, intellectual property rights (if any);

11. Other goods/services purchased for the purpose of sustaining the normal operation of the unit.

Article 74. Regular purchase process

The selection of a contractor for regular purchase must comply with regulations on selection of contractors for the projects mentioned in Chapter II and Chapter II of the Law on Bidding.

Section 3: Purchase of medicines and medical equipment

Article 75: PURCHASE OF MEDICINES AND MEDICAL EQUIPMENT

1. Purchase of medicines by selection of contractor as prescribed in the Law on Investment must comply with the rules below:

a) The selected medicines have reasonable prices and satisfy requirements with regard to quality, delivery, preservation, and relevant clauses;

b) The selected contractor must supply medicines in accordance with the concluded contract;

c) The selected contractor must ensure that the supplied medicines satisfy quality requirements with regard to all stages of the contract, including raw materials, manufacture, packaging, delivery, preservation, and transfer;

d) Medicines that cannot be manufactured in Vietnam shall be purchased in bulk, except for those with negotiable prices;

dd) Single-stage two-envelope bidding process may be applied to minor contracts for medicine supply if both quality and prices of medicines must be considered.

2. The selection of contractor for supply of medical equipment is similar to the process applied to goods purchase contracts.

Article 76. Entitlements to medicine purchase

1. Entitlements to approve the contractor selection plan:

a) Ministers; Heads of ministerial agencies, Heads of Governmental agencies and other central agencies; Presidents of the People's Committee of provinces shall consider approving the plans for selection of medicines supplier of public medical facilities under their management;

b) Legal representatives of non-public medical facilities shall consider approving the plans for selection of their medicine suppliers if contracts for medical services covered by health insurance are signed with social insurance authorities.

2. Entitlements to approve the contractor selection plan:

- a) Heads of public medical facilities shall consider approving invitations for bids, requests for proposals, and result of selection of their medicine suppliers;
- b) When buying medicines in bulk as prescribed in Section 1 of this Chapter, the President of the People's Committee of the province shall delegate the Director of the Service of Health to consider approving the invitation for bids and the selected medicine suppliers of the units under their management as prescribed in Clause 1 Article 69 of this Decree;
- c) Legal representatives of non-public medical facilities shall consider approving the invitations for bids, requests for proposals, and result of selection of their medicine suppliers if contracts for medical services covered by health insurance are signed with social insurance authorities.

Article 77. Responsibilities of various authorities to medicine purchasing

1. The Ministry of Health shall:

- a) Issue lists of medicines purchased via bidding, medicines purchased in bulk, and medicines with negotiable prices according to proposals of the National Medicine Bidding Council;
- b) Hold national bulk purchases of medicines and preside price negotiations;
- c) Formulate a roadmap and provide guidance on purchase of medicines for local governments, ensure bulk purchases of medicines are nationwide from 2016.
- d) Compile a list of medicines that can be manufactured in Vietnam, which meet the requirements with regard to effectiveness, prices, and supply, according to registration numbers, medicine prices declared by domestic manufacturers, minimum registered quantity according to dosage form and compound, and other criteria;
- dd) Annually make a short list of medicine manufacturers and suppliers that are experienced, competent, and reliable, which is the basis for holding selective bidding.

2. The National Medicine Bidding Council, the establishment of which is decided by the Minister of Health, consists of representatives of the Ministry of Health, the Ministry of Finance, Social Insurance Office, Vietnam Pharmacy Company Association, and relevant organizations. The Council shall provide the Ministry of Health with consultancy on:

- a) Compilation of lists of medicines purchased via bidding, medicines purchased in bulk, and medicines with negotiable prices;
- b) Selection of medicine suppliers during national bulk purchasing process;
- b) Selection of medicine suppliers during national price negotiation process;

3. Social Insurance Office shall:

- a) Participate in the selection of medicines suppliers;
- b) Announce prices of selected medicines and average prices of selected medicines that are covered by health insurance fund of each hospital, local budget, and the Ministry of Health on the website of Social Insurance Office.

Article 78. Medicine price negotiation process

1. An invitation to negotiate shall be sent to medicine suppliers (manufacturers, suppliers) specifying the location, time, and types of medicines.
2. Based on the invitation, each invited medicine supplier shall make a quotation for medicines, which specifies their pharmacology, origins, quantity, offered prices, delivery clause, and relevant contents.
3. The negotiation council shall enter into a price negotiation with each medicine supplier to determine the one that satisfy requirements with regard to quality, quantity, preservation, delivery, and other relevant requirements pertaining to specifications, quality, and price determination.
4. If two or more medicine suppliers enter into the price negotiation, the negotiation council shall request the suppliers to make another quotation after the negotiation. The request for another quotation must specify the deadline and location for receiving the quotation, the time for opening quotations, and invite the suppliers to attend the quotation opening ceremony. Prices in the new quotation must not exceed the negotiated prices. The supplier that offers the lowest price shall win the contract.
5. The medical facility that directly uses medicines shall sign a contract with the medicine supplier selected via price negotiation.

Article 79. Shortened no-bid contract awarding

Medicines shall be purchased under no-bid contracts in the following cases:

1. The contract does not exceed the limits on no-bid contracts prescribed in Article 54 of this Decree;
2. The medicines are rare, urgently needed, but not included in the contractor selection plan.
3. The medicines that are used for emergencies (epidemics, natural disasters, hostilities that seriously threaten patients' health) are not on the list of bidding for medicine supply in the year, which is approved by a competent authority,
4. The medicines are on the list of bidding for medicine supply in the year, which is approved by a competent authority, but the result of contractor selection is not available or no contractor is selected while such medicines are urgently needed for emergencies;

5. The medicines are on an approved list of bidding for medicine supply in the year, but the demand exceeds the plan approved by a competent authority.

Article 80. Criteria for medicine evaluation

1. The criteria for evaluating bid-envelopes include criteria for evaluating experience and competence, criteria for technical evaluation, and criteria for overall evaluation.

2. Experience and competence shall be assessed as satisfactory or not satisfactory. The criteria must specify the minimum requirements for being satisfactory. In particular:

a) Experience in performing similar contracts; experience in manufacture/sale of medicines;

b) Competence in manufacturing and sale; technical infrastructure of the medicine factory and the medicine storage;

c) Financial capacity: total assets, total debts, short-term assets, short-term debts, revenue, profit, value of unfinished contracts, and other criteria for evaluating the contractor's financial capacity.

The each criterion mentioned in Points a, b, and c of this Clause depends on the requirements of each contract or category of medicines. Any contractor that satisfies all requirements in this Clause is considered satisfactory in terms of experience and competence.

3. Technical assessment criteria: on a scale from 1 to 100 or 1 to 1,000, particularly:

a) Medicine quality: 60% to 80%

b) Packaging, preservation, delivery: 20% to 40%;

c) The technical proposal is considered technically satisfactory if the technical score is not smaller than 80%, and the score of quality, packaging, preservation, delivery is not smaller than 60%.

Article 81. Selection of medicine suppliers and bulk purchase of medicines

1. The selection of medicine suppliers in the form of open bidding and selective bidding shall comply with Chapter II of this Decree; the selection in the form of no no-bid contract awarding, competitive offering, direct procurement, and self-supply shall comply with Chapter V of this Decree.

2. Bulk purchase of medicines shall comply with Section 1 of this Chapter.

Section 4: SELECTION OF CONTRACTORS SERVING PUBLIC PROCUREMENT

Article 82. Contractor selection process

The selection of a contractor serving public procurement is the same as the selection of a contractor to enter into a contract for non-consulting services or goods procurements of a project.

Article 83. No-bid contracts for public procurement

1. Public procurement shall be carried out under a no-bid contract in the cases below:

a) The value of the public procurement contract does not exceed the limits prescribed in Clause 1 Article 54 of this Decree;

b) There is only 01 contractor who satisfies the requirements of the contract for public procurements.

2. Conditions for no-bid contract awarding:

A contractor selected without bidding to perform a public procurement contract must satisfy requirements of the contract with regard to capital , technology, management capacity, and personnel.

3. Basis for no-bid contract awarding:

a) A decision to approve the plan for contractor selection.

b) A price list of the value of the public procurement contract based on technical/economic norms and budget limits issued by competent authorities. If goods/services in the public procurement contract must be valued, the prices shall be decided by a specialized authority in accordance with regulations of law on pricing and relevant laws;

c) Quantity and quality of goods/services provided, which are approved by a competent person.

d) Time for commencement and completion;

dd) The budget set by a competent person.

4. Procedures for no-bid contract awarding:

a) The shortened process of no-bid contract awarding prescribed in Article 56 of this Decree shall apply to contracts for public services that do not exceed VND 500 million and contracts for public goods that do not exceed VND 01 billion;

b) The standard process of no-bid contract awarding prescribed in Article 55 of this Decree shall apply to public procurement contracts other than those mentioned in Point a of this Clause.

Chapter VIII

SELECTING CONTRACTORS ONLINE

Article 84. Scope and roadmap

1. Selection of contractor online shall apply to consulting services, non-consulting services, goods procurement, construction & installation, and mixed contracts that are awarded through open bidding, selective bidding, competitive offering, direct procurement, and no-bid contract awarding.
2. Online contractor selection shall follow the roadmap issued by the Ministry of Planning and Investment.

Article 85. Rules for selecting contractors online

1. When selecting contractors online, the procuring entity and bidders shall make a registration on the national bidding network.
2. Each procuring entity shall issue free of charge the request for expression of interest, request for prequalification, invitation for bids, or request for proposals on the national bidding network.
3. Each bidder shall submit only one bid-envelope or proposal on the national bidding network for each contract.
4. The procuring entity shall open the bids on the national bidding network right after the deadline for submitting bids. If no bidders are interested, procuring entity shall request the investor to consider rearranging the online contractor selection; If fewer than 03 bidders submit their bids, the procuring entity shall open the bids immediately without following the procedures in Clause 4 Article 117 of this Decree.
5. Electronic transaction documents and information posted on the national bidding network are considered original and as valid as paper documents, which are the basis for evaluation, verification, inspection, audit, and disbursement.

Article 86. Cost of online contractor selection

The cost of online contractor selection consists of: The fee for participation in the national bidding network; fee for submission of bid-envelopes or proposals; fee for contract award; fee for electronic contracts, and fee for using electronic procurement system. Such cost must comply with instructions of the Ministry of Planning and Investment and the Ministry of Finance.

Article 87. Registering participation on national bidding network

1. When participating in the national bidding network, the registered holders of digital certificates prescribed in Clause 5 Article 4 of the Law on Bidding shall register with the network operator .

2. The Ministry of Planning and Investment shall provide detailed instructions on participants, registration procedures, required information, and use of digital certificates on the national bidding network.

Article 88. Online contractor selection process

1. Procuring entity and bidders shall register their participation in the national bidding network as prescribed in Article 87 of this Decree.

2. The procuring entity shall post the notifications of request for expression of interest, request for prequalification, invitation for bids, or request for proposals on the national bidding network. Procuring entity must specify their wanted goods if the contract is a goods procurement contract.

3. The procuring entity shall issue the notifications of request for expression of interest, request for prequalification, invitation for bids, or request for proposals on the national bidding network together with the aforesaid notifications. In case of discrepancy between the electronic document and information on the form, the electronic document shall prevail.

4. Bidders shall submit their application for prequalification, EOI responses, bid-envelopes, and proposals on the national bidding network. The network must confirm the receipt of bidders' documents, display the time and status on the network, which are the basis for dispute settlement (if any). Bidders shall pay for tender guarantee via any bank that connects to the national bidding network. When withdrawing the application for prequalification, bid-envelope, EOI response, or proposal, the bidder shall notify the procuring entity and the guaranteeing bank (if any) before the deadline for submitting bids.

5. The procuring entity shall open and decode applications for prequalification, EOI responses, bid-envelopes, and proposals on the national bidding network right after the deadline for submitting bids. The opening record shall be posted on the national bidding network right within 02 hours from the deadline for submitting bids.

6. After applications for prequalification, EOI responses, bid-envelopes, and proposals are evaluated, the procuring entity shall post the result of contractor selection on the national bidding network. The result of contractor selection shall be publicly posted on the national bidding network after it is approved in writing.

7. The Ministry of Planning and Investment shall specify the time and procedures for selecting contractors online.

Chapter IX

CONTRACT

Article 89. General principles of contracts

1. The written contracts are civil contracts which assign the parties the responsibilities to perform the tasks prescribed in such contracts. The valid contracts which are concluded by the parties and comply with the regulations of the law are the legal documents that assign the parties the responsibilities during the execution of such contracts.

2. The contracts must be drawn up according to the prescribed forms in the invitation for bid, proposals, and suitable to the conclusion of the contract negotiations, the results of the selection of contractors according to the requests of the contracts and guidance given by the regulatory authorities.

3. The parties can choose referees to settle disputes during the execution of the contracts before signing such contracts. The disputes needing settled by the referees must be prescribed in the contracts.

Article 90. Contractual prices

1. The contractual prices must be specifically prescribed in the contracts attached to the management rules about the amendments (if any).

2. The contractual prices must be specific and conformable with the contractual price brackets using the prescribed forms in the invitation for bid, request for proposals and concluded before the contracts are signed.

Article 91. Currency and methods of payment for contracts

1. The currency used for paying any contract must be specifically prescribed in such contract and conformable with the requests of the invitation for bid, request for proposals and the regulations of the law.

2. The expenditures arising within Vietnam's territory shall be paid in VND, others shall be paid in foreign currencies under the regulations in the contract.

3. The contract can be paid in cash, via wire transfer or other methods agreed by the parties under the regulations of the law and prescribed in the contract.

Article 92. Advance

1. An advance on the contract is an amount that is advanced to the contractor to carry out the contractual tasks.

2. The advance shall be determined according to the scope and nature of the contract. A contract must prescribe: the advance, time for advance, advance guarantee, withdrawal of advance; responsibilities of the parties to administer and use the advance; revocation of the guarantee if the advance is used for wrong purposes.

3. The contractor shall administer the advance as long as such advance is effectively used for the right purposes and objects. The advance must not be left idle or used for the wrong purposes.

4. Regarding the production of high value building components, semi-finished products and some materials need seasonally storing, the contract must prescribe the advance plan and the advance to ensure the progress of the contract.

Article 93. Adjustment to contractual prices workload

1. A contract must specify the adjustment to the contractual price including the adjustments, principles, time to calculate the adjustment and database to calculate the adjustment.

2. Adjustment to the unit prices:

Any contract using variable unit prices must specify:

a) The time to calculate the initial unit price (which is usually fixed 28 days before the deadline for bid submission) to determine the difference between the successful unit price and the variable unit prices;

b) The database to adjust the unit prices of which the price indexes to adjust the unit prices is the price indexes provided by the General Statistics Office or the construction price indexes provided by the Ministry of Construction and the People's Committees of provinces;

c) Unit price adjustment formula:

The science-based unit price adjustment formulas must be conformable with the contract. The preferable formula is the popular formula such as the formula of the International Federation of Consulting Engineers (FIDIC), guidance of the World Bank (WB), Asian Development Bank (ADB).

3. Adjustment to the workload:

a) A contract must prescribe the principles to adjust the workload if the workload is not determined at the time such contract is signed;

b) The increased workload due to the subjective faults of the contractor must not be adjusted;

c) If the differential rate of the actual workload and the workload prescribed in the contractual price list is more than 20%, the parties must reach an agreement on suitable principles to adjust the unit price which is conformable with the conditions for the change in the workload when such difference is paid.

d) In case of the workloads that are not prescribed in the initial conditions for the change in the contract or the cases requiring the cooperation of two parties in preventing or minimizing the risks under the responsibility of one party, the parties shall discuss to find the handling measures.

4. Any expenditure arising or change in the progress must be reported to the competent authorities for consideration and the contract must be added appendices which serves as a basis for the implementation.

Article 94. Contract payment

1. A contractor shall be paid depending on the contractual price and specific clauses on payment in the contract. If an investor does not make the payment later than the stipulated time in the contract, (s)he shall be liable to the late payment interest under the term of the contract.

2. The payment does not depend on the estimate as well as the current regulations and instructions of the State on the limits and unit prices; unit prices in the invoice for the purchase items such as materials, machinery, equipment and other items.

3. In case there are various types of contracts in a contract, each type of contract shall be applied corresponding payment principles.

Article 95. Payment for lump sum contracts

1. Payment principles:

A lump sum contract can be paid several times after each inspection in proportion to each completed workload or can be paid in lump sum after the contractor completes all of the work in the contract by subtracting the advance (if any) from the contractual price. In case the specific payment amount in proportion to each work item or inspection stage cannot be determined, such amount can be determined based on the rate (%) of the contract value.

2. Payment documents on a lump sum contract include:

a) A record on the inspection of the workload which is confirmed by the contractor, investor and supervisor (if any). This record shall confirm the completion of the work, work item and work tasks conformable with the design. It is not required to confirm the specific completed workload;

b) With regard to the goods purchase: Depending on the nature of the goods, the payment documents may include: invoices of the contractor, list of packaged goods, transportation receipts, insurance form, Certificate of quality, record on the goods inspection, Certificate of Origin and other relevant documents.

Article 96. Payment for fixed unit price contracts

1. Payment principles:

a) The payment is calculated by multiplying the fixed unit price in the contract and the actual workload that the contractor has completed;

b) With regard to construction, if the actual workload that the contractor has completed following the design is less than the workload prescribed in the contract, the contractor shall be paid the payment for the actual workload. If the actual workload that the contractor has completed following the design is more than the workload prescribed in the contract, the contractor shall receive the payment for such difference using the fixed unit price in the contract;

c) The contractor shall receive the payment calculated on the basis of the record on the inspection of the completed workload which is confirmed by the investor, supervisor and contractor.

2. Payment documents include:

a) A record on the inspection of the workload which is confirmed by the contractor, investor and supervisor (if any);

b) A confirmation of the adjusted workload in comparison with the workload in the contract which is confirmed by the representative of the contractor, investor and supervisor (if any);

c) The spreadsheet of proposed payment based on the confirmed workload that is completed and the unit prices in the contract;

d) The proposal for payment of the contractor specifying the completed workload and value there of, differences compared to the contract, advances, and amounts payable;

dd) With regard to the goods purchase: Depending on the nature of the goods, the payment documents may include: invoices of the contractor, list of packaged goods, transportation receipts, insurance form, Certificate of quality, record on the goods inspection, Certificate of Origin and other relevant documents.

Article 97. Payment for variable unit price contracts

1. Payment principles:

a) The payment is calculated by multiplying the variable unit price in the contract and the actual workload that the contractor has completed;

b) With regard to construction, if the actual workload that the contractor has completed following the design is less than the workload prescribed in the contract, the contractor shall be paid the payment for the actual workload. If the actual workload that the contractor has completed following the design is more than the workload prescribed in the contract, the contractor shall receive the payment for such difference;

c) The contractor shall receive the payment calculated on the basis of the record on the inspection of the completed workload which is confirmed by the investor, supervisor and contractor.

2. Payment documents include:

- a) A record on the inspection of the workload which is confirmed by the contractor, investor and supervisor (if any);
- b) A confirmation of the adjusted workload compared with the workload in the contract which is confirmed by the representative of the contractor, investor and supervisor (if any);
- c) The spreadsheet of proposed payment based on the confirmed workload that is completed and the unit prices in the contract or the adjusted unit price prescribed in the contract;
- d) The proposal for payment of the contractor specifying the completed workload and value thereof, differences compared to the contract, advances, and amounts payable;
- dd) With regard to the goods purchase: Depending on the nature of the goods, the payment documents may include: invoices of the contractor, list of packaged goods, transportation receipts, insurance form, Certificate of quality, record on the goods inspection, Certificate of Origin and other relevant documents.

Article 98. Payment for time based contracts

1. Payment principles:

- a) An expert shall receive the payment which is calculated by multiplying the expert's salary, its relevant expenditures such as social insurance, medical insurance, unemployment insurance, days off, other expenditures prescribed in the contract or adjusted under the regulations and the actual working time (expressed as month, week, day or hour). If the actual working time of an expert is different from the working time prescribed in the contract, the expert shall receive the payment for the actual working time;
- b) The relevant expenditures (excluding the salary of the expert prescribed in Point a this Clause) including: administrative expense of the regulatory unit and employment of experts (if any); expenditures on transportation, survey, leasing working office, communication and other expenditures shall be paid by the payment method prescribed in the contract. The payment for the expenditure must be specified such as paying the expenditure based on the valid invoices and documents provided by the contractor or paying such expenditure based on the unit prices prescribed in the contract.

2. Payment documents include:

Depending on the nature of the consultancy, the payment documents may include the record on the inspection of the result of the consultancy, documents on the progress on the execution of the contract and relevant documents.

Article 99. Contract finalization

1. A contract shall be finalized when:

a) The parties fulfill their obligations under the terms of the contract;

b) The contract is cancelled under the regulations of the law.

2. The contract finalization shall be recorded in writing and such record must be signed by both parties. The record on the contract finalization can be filed separately or part of the record on the final inspection or the record on the consensus on the end of the contract whose contents conformable to the responsibilities of the parties prescribed in the contract. The contract shall be considered to be finalized after 45 days from the day on which the parties to the contract fulfill their responsibilities prescribed in the abovementioned record on the contract finalization. If the contract is big and complicated, it shall be finalized within 90 days.

Chapter X

DIVISION OF RESPONSIBILITY FOR ASSESSMENT AND APPROVAL FOR CONTRACTORS

Article 100. Responsibilities of Ministers; Heads of ministerial-level agencies, Governmental authorities, other central authorities; Presidents of the People's Committees of provinces

1. Regarding the projects approved by the Prime Minister of which they are not the investors:

a) Give written opinions about the plans to select the contractors as required;

d) Perform other tasks to select the contractors with the authorization from the Prime Minister.

2. Regarding the projects approved by themselves:

a) Approve the plans to select the contractors;

b) Perform other tasks under the responsibilities of the competent persons prescribed in Clause 73 of the Law on Bidding.

3. Regarding the projects of which they are the investors:

a) Approve the invitation for bid, request for proposals;

a) Approve the selected contractors;

c) Perform other tasks under the responsibilities of the investors prescribed in Clause 74 of the Law on Bidding.

Article 101. Responsibilities of Presidents of the People’s Committees of districts and communes and Heads of other local authorities

1. Regarding the projects approved by themselves:

a) Approve the plans to select the contractors;

b) Perform other tasks under the responsibilities of the competent persons prescribed in Clause 73 of the Law on Bidding.

2. Regarding the projects of which they are the investors:

a) Approve the invitation for bid or EOI request;

a) Approve the selected contractors;

c) Perform other tasks under the responsibilities of the investors prescribed in Clause 74 of the Law on Bidding.

3. d) Perform other duties to select the contractors with the authorization from the superiors.

Article 102. Responsibilities of Board of Directors and Chiefs of enterprises

1. Regarding the projects approved by themselves:

a) Approve the plans to select the contractors;

b) Perform other tasks under the responsibilities of the competent persons prescribed in Clause 73 of the Law on Bidding.

2. Regarding the projects of which they are the investors:

a) Approve the invitation for bid or EOI request;

a) Approve the selected contractors;

c) Perform other tasks under the responsibilities of the investors prescribed in Clause 74 of the Law on Bidding and with the authorization.

Article 103. Responsibilities of Board of Directors of and Chiefs of joint ventures , joint-stock companies and legal representatives of parties to business agreements

1. Regarding the projects approved by themselves:

a) Approve the plans to select the contractors;

b) Perform other tasks under the responsibilities of the competent persons prescribed in Clause 73 of the Law on Bidding.

2. Regarding the projects of which they are the investors:

a) Approve the invitation for bid or EOI request;

a) Approve the selected contractors;

c) Perform other tasks under the responsibilities of the investors prescribed in Clause 74 of the Law on Bidding.

Article 104. Responsibilities of assessing units

1. The Ministry of Planning and Investment shall assess:

a) The plans to select the contractors within the approval authority of the Prime Minister;

b) The plans to select the contractors in special cases that are considered and decided by the Prime Minister under the regulations in Article 26 of the Law on Bidding and other cases requested by the Prime Minister.

2. The provincial Departments of Planning and Investment shall assess:

a) The plans to select the contractors regarding the projects approved by the Presidents of the People's Committees of provinces, except for the contracts prescribed in Clause 3 this Article;

b) The EOIs, invitations for prequalification, invitation for bid, request for proposals, result of the evaluation of EOIs, applications for prequalification, result of the selection of contractors regarding the contracts of the projects of which the People's Committees of provinces are the investors when required, except for the contracts prescribed in Clause 3 this Article.

3. The provincial Departments of Health shall evaluate the plans to select the contractors regarding the contracts for purchase of medicines and medical materials that are approved by the Presidents of the People's Committees of provinces.

4. The authorities and organizations that is assigned by the Ministers, Heads of ministerial-level authorities, Governmental authorities, other central authorities and Chiefs of enterprises to assess:

a) The plans to select the contractors regarding the projects within the authority of the Ministers, Heads of ministerial-level authorities, Governmental authorities, other central authorities and Chiefs of enterprises;

b) The EOI requests, invitations for prequalification, invitation for bid, EOI request, result of the evaluation of EOIs, applications for prequalification, result of the selection of contractors

regarding the contracts of the projects of which the Ministries, ministerial-level authorities, Governmental authorities, other central authorities and enterprises when required.

5. Divisions of districts in charge of plans and finance shall evaluate the plans to select the contracts regarding the projects within the authority of the Presidents of the People's Committees of districts.

6. Relevant assisting bodies shall evaluate the plans to select the contractors regarding the projects within the authority of the Presidents of the People's Committees of communes, heads of other local authorities, Boards of Directors of joint ventures, joint-stock companies and legal representatives of the parties to the business agreements.

7. b) The investors shall assign the organizations and individuals under their management to evaluate the EOI requests, invitations for prequalification, invitation for bid, EOI request, result of the evaluation of EOIs, applications for prequalification, result of the selection of contractors other than the cases prescribed in Clause 2 this Article.

In case such assigned organizations or individuals are ineligible, the investors shall appoint qualified advisory organizations to conduct assessment. In any case, the investors must be responsible for assessing the EOI requests, invitations for prequalification, invitation for bid, request for proposals, results of the evaluation of EOI response, evaluation of applications for prequalification and the selection of contractors.

Article 105. Evaluation of EOI requests, invitations of prequalification, invitation for bid, request for proposals

1. An application for evaluation and approval includes :

- a) An application form for the evaluation of the EOI request, invitation for prequalification, request for proposals of the procuring entity;
- b) Drafts of EOI request, invitations for prequalification, invitation for bid, request for proposals;
- c) Photocopies of : Decision on approval for the project and budget estimate, Decision on approval for the plan to select the contractor;
- d) Relevant document.

2. Evaluation tasks include:

- a) Reviewing the documents which serve as a basis to file the EOI request, invitation for prequalification, invitation for bid, request for proposals;
- b) Checking the conformity between the EOI request, invitation for prequalification, invitation for bid, request for proposals and the scope, targets of the activities, duration to carry out the project and contract; the dossier on design and budget of the contract, requirements for

characters, technical parameter of the goods (if any); the minutes of the meeting between the procuring entity and the bidders in the first stage (regarding the two-stage bidding); regulations of the law on bidding and other law provisions;

c) Review different opinions (if any) of the organizations and individual filing the EOI request, invitation for prequalification, invitation for bid, request for proposals;

d) Other relevant tasks.

3. A report on evaluation includes:

a) A summary of the project and contract, legal grounds for compiling the EOI request, invitations for prequalification, invitation for bid, request for proposals;

b) Comments and opinions of assessing units about the legal grounds, adherence to the regulations of the law on bidding and other law provisions; consensus about the drafts of the EOI request, application for prequalification, invitation for bid and request for proposals;

c) Suggestions of the assessing unit for the approval for the EOI request, invitation for prequalification, invitation for bid, request for proposals; handling measures in case the EOI request, invitation for prequalification, invitation for bid, request for proposals do not comply with the regulations of the law on bidding and other law provisions; solutions to the cases in which the EOI request, invitation for prequalification, invitation for bid, request for proposals cannot be approved due to lack of information;

d) Other opinion (if any).

4. Any assessing unit can hold a meeting between the parties to deal with the remaining issues before signing the report on evaluation if necessary.

Article 106. Verification of evaluation result of EOI responses, applications for prequalification, lists of bidders meeting technical requirements, result of selection of contractors

1. General principles:

a) The evaluation result of EOI responses, applications for prequalification, result of selection of contractors must be verified before they are approved;

b) Only the result of the selection of contractor shall be verified regarding any single-stage one-envelope contract;

c) The list of bidders meeting technical requirements must be verified before it is approved regarding any single-stage two-envelope contract;

d) With regard to any two-stage one-envelope, only the result of the selection of contractor shall be verified in the second stage (there is no verification in the first stage);

dd) With regard to any two-stage two-envelope, only the list of bidders meeting technical requirements shall be verified in the first stage and only the result of the selection of contractor shall be verified in the second stage and equivalent to the adjusted technical contents compared with that of the first stage;

e) The ranked list of bidders shall not be verified before it is approved, such list shall be approved when the procuring entity requests;

g) The verifying unit may hold a meeting between the parties to remedy the remaining issues before sending the Report on verification if necessary.

2. Verification of result of the evaluation of EOI responses and applications for prequalification:

a) An application for verification and approval includes:

- A written request for the verification of the evaluation result of the EOI response and application for prequalification, of which the opinions of procuring entity about recommendations of the expert group shall be specified;
- A report on the evaluation result of the EOI response and application for prequalification;
- Photocopies of: EOI request, invitation for prequalification, record on the deadline for submitting bids and bid opening, EOI response, applications for prequalification of the bidders and other relevant documents.

b) The verification involves:

- Verifying the documents which serve as a basis for the EOI request and prequalification;
- Checking the compliance with the regulations on the deadlines during the EOI request and prequalification;
- Verifying the evaluation of the EOI responses, applications for prequalification; the compliance with the regulations of the law on bidding and other relevant law provisions during the evaluation of the EOI responses and applications for prequalification;
- Considering different opinions (if any) between the procuring entity and the expert group; among the members of the expert group;
- Other relevant tasks.

b) A report on the verification includes:

- An overview of the main contents of the project and contract, the legal grounds for the EOI request and prequalification;
- A brief summary of the process of the EOI request, prequalification and the request of the procuring entity for the evaluation result of EOI response and application for prequalification;
- Comments and opinions of the verifying unit about the legal grounds, the compliance with the regulations on bidding and other relevant law provisions; guarantee of competitiveness, impartiality and transparency during the EOI request and prequalification; consensus or different opinions about the evaluation of the EOI response and application for prequalification;
- Recommendations of the verifying unit about the evaluation result of the EOI response and application for prequalification; handling measures for noncompliance with the regulations of the law on bidding and other relevant law provisions during the EOI request and prequalification; and handling measures for the cases in which the evaluation result of the EOI response and application for prequalification can not be concluded due to lack of information;
- Other opinions (if any).

3. Verification of the lists of bidders meeting technical requirements:

a) An application for verification and approval includes:

- A written request for the approval for the list of bidders meeting technical requirements of the procuring entity, of which the opinions of the procuring entity about the recommendations of the expert group must be specified;
- A report on the evaluation result of the written technical proposal of the expert group;
- Photocopies of: invitation for bid, request for proposals, records on bid closing and bid opening, written technical proposal of the bidders and other relevant documents.

b) The verification involves:

- Verifying the evaluation of the written technical proposal; compliance with the regulations of the law on bidding and other relevant law provisions during the evaluation of such proposal;
- Considering different opinions (if any) between the procuring entity and the expert group; among the members of the expert group;
- Other relevant tasks.

b) A report on the verification includes:

- A brief summary of the process of selecting the contractor (from the announcement of invitation to bid to the submission of the verification of the list of bidders meeting the technical

requirements) and the request of the procuring entity for the list of bidders meeting the technical requirements;

- Comments and opinions of the verifying unit about the legal grounds, the compliance with the regulations on bidding and other relevant law provisions; guarantee of competitiveness, impartiality and transparency during the compilation of the list of bidders meeting technical requirements; consensus or different opinions about the list of bidders meeting technical requirements; handling measures for the noncompliance with the regulations of the law on bidding and other relevant law provisions during the evaluation of the written technical proposal, handling measures for the cases in which the result of the compilation of the list of bidders meeting technical requirements cannot be concluded due to lack of information;

- Other opinions (if any).

4. Verification of the bidding result:

a) An application for verification and approval includes:

- A written request for the approval for the bidding result of the procuring entity, of which the opinion of the procuring entity about the recommendations of the expert group must be specify;

- A report on the evaluation result of the bid-envelop and written proposal of the expert group;

- A record on the negotiation of the contract;

- Photocopies of: invitation for bid, request for proposals, records on bid closing and bid opening, bid-envelop, written proposals of the bidders and other relevant documents; cases in which the list of bidders meeting technical requirements has been verified, only the record on the opening of the financial proposals and the photocopies of the financial proposals of the bidders meeting technical requirements.

b) The verification involves:

- Verifying the documents which serve as a basis for the selection of contractor;

- Checking the compliance with the regulations on the deadlines during the selection of contractor;

- Verifying the evaluation of the bid-envelopes regarding the single-stage one-envelope contract, two-stage one-envelope contract and two-stage two-envelope contract; the compliance with the regulations of the law on bidding and other relevant law provisions during the evaluation of the bid-envelopes;

- Verifying the evaluation of the financial proposals regarding the single-stage two-envelope contract; the compliance with the regulations of the law on bidding and other relevant law provisions during the evaluation of the financial proposals;

- Checking the compliance with the regulations of the law on bidding and other relevant law provisions during the negotiation of the contract; checking the conformity between the result of the contract negotiation with the bidding result, the ranked list of bidders, invitation for bid, request for proposals and the bid-envelopes and proposals of the bidders entering into the contract negotiation;

- Considering different opinions (if any) between the procuring entity and the expert group; among the members of the expert group;

- Other relevant tasks.

b) A report on the verification includes:

- A summary of the main contents of the project and contract, the legal grounds for the selection of the contractor;

- A brief summary of the selection of the contractor from the short-listing (if any) to the request for the verification and approval for the bidding result, attached with the submitted documents prescribed in Clause 2 and Clause 3 this Article;

- A brief summary of the opinion of procuring entity about the bidding result;

- Comments and opinions of the verifying unit about the legal grounds and the compliance with the regulations of the law on bidding and other relevant law provisions; the guarantee of competitiveness, impartiality and transparency and economic effectiveness during the selection of contractor; consensus or different opinions about the bidding result; handling measures for the noncompliance with the regulations of the law on bidding and other relevant law provisions during the selection of contractor; measures for cases in which the bidding result cannot be concluded due to lack of information;

- Other opinions (if any).

Chapter XI

PROVISION OF TRAINING IN BIDDING, PROFESSIONAL BIDDING ORGANIZERS AND REQUIREMENTS FOR MEMBERS OF EXPERT GROUPS

Section 1: PROVISION OF TRAINING IN BIDDING, PROFESSIONAL BIDDING ORGANIZERS AND REQUIREMENTS FOR MEMBERS OF EXPERT GROUPS

Article 107. Application, verification, recognition and disqualification of training centers for bidding

1. Any training center meeting the requirements prescribed in Points a, b and c Clause 1 Article 19 of the Law on Bidding shall submit an application for recognition as a training center for bidding to the Ministry of Planning and Investment.

2. The Ministry of Planning and Investment shall form a Council to verify such application.
3. The training center confirmed by the Council that is satisfies the requirements prescribed in Points a, b and c Clause 1 Article 19 of the Law on Bidding shall be recognized as training center for bidding and published on the national bidding system.
4. A training center for bidding shall be deleted from the national bidding system when it:
 - a) changes the transaction office without sending any written notification to the Ministry of Planning and Investment within 60 days from such change.
 - b) employs lecturers that are not listed in the national bidding system to deliver lectures to the bidding training classes;
 - c) provides training unconformable with the framework programme of bidding;
 - d) issues Certificates to the persons who do not attending the bidding training classes or persons who do not satisfies all of the requirements prescribed in Clause 1 Article 111 of this Decree;
 - dd) does not store the documents on the bidding training courses that it offers under the regulation;
 - e) does not send annual reports or irregular reports at the request of the Ministry of Planning and Investment on its training activities.

Article 108. Provision of training in bidding

1. Any training center for bidding wishing to offer bidding training courses must:
 - a) be listed in the national bidding system;
 - b) have classrooms and teaching aids that meet the requirements;
 - c) have teaching material conformable with the framework programme under the regulations of the Ministry of Planning and Investment attaching the dossiers on tests of fundamental bidding training programme;
 - d) sign labor contracts or teaching contracts with lecturers in bidding.
2. A bidding training course issuing Certificates must be a fulltime course. There are at most 150 learners in each class. After each course, the Head of the training center shall issue Training certificates of bidding to the qualified learners.
3. After each training course in bidding after which Certificates are issued, the training center shall send the training result attached with a List of learners issued with Certificates to the Ministry of Planning and Investment to be published on the national bidding system.

4. Regarding the courses for the learners living in remote areas or severely disadvantaged areas, the training center can use the adjusted teaching material that is conformable with the peculiar requirements for local bidding but the duration of such courses must follow the framework programme.

Article 109. Requirements for lecturers in bidding

1. Have at least Bachelor's Degrees in law, technology, and economics.
2. Have at least 05 continuous years' experience in bidding or at least 06 years' experience in bidding (in case of discontinuity in the duration).
3. Have practice certificates of bidding.
4. Complete the training courses for lecturers in bidding offered by the Ministry of Planning and Investment.

Article 110. Application, assessment, recognition and disqualification of lecturers in bidding

1. Any lecturer meeting all of the regulations in Article 109 of this Decree shall send an application for recognition as lecturer in bidding to the Ministry of Planning and Investment.
2. The Ministry of Planning and Investment shall form a Council to verify such application.
3. The lecturer in bidding confirmed by the Council that (s)he satisfies the requirements prescribed in Article 109 of this Decree shall be recognized as lecturer in bidding and published on the national bidding system .
4. A lecturer in bidding shall:
 - a) give lectures following the framework programme prescribed by the Ministry of Planning and Investment;
 - b) sharpen their knowledge and learn the policies if there are new policies;
 - c) send annual reports or irregular reports at the request of the Ministry of Planning and Investment on their teaching of bidding.
5. A lecturer in bidding shall be deleted from the national bidding system if (s)he:
 - a) give lectures unconfomable with the framework programme prescribed by the Ministry of Planning and Investment;
 - b) does not learn new knowledge and policies;

c) does not send annual reports or irregular reports at the request of the Ministry of Planning and Investment on their teaching of bidding.

Article 111. Requirements for issuance of Training certificates of bidding and practice certificates of bidding

1. A learner shall be issued with the Training certificate of bidding if (s)he:

a) attends at least 90% of course lectures. If the learner has legitimate excuses for their absence, such learner can continue to take another course offered by the same training center within 03 months from the first day of the previous course;

b) passes the final exam;

c) is capable of civil act and not facing any criminal prosecution.

2. A person shall be issued with the practice certificate of bidding if (s)he:

a) has a certificate of training in bidding;

b) has at least a Bachelor's degree;

c) is capable of civil acts and not facing any criminal prosecution.

d) has at least continuous 04 years' experience in works directly related to the bidding or at least 05 years' experience in bidding (in case of discontinuity in the duration); or directly make or verify the EOI request, invitation for prequalification, invitation for bid, request for proposals; evaluate the EOI response, application for prequalification, bid-envelopes, proposals; verify the evaluation result of EOI response, evaluation result of application for prequalification and the bidding result of at least 05 large-scale contracts or 10 small-scale contracts;

dd) Pass the exam held by the Ministry of Planning and Investment.

3. Each practice certificate of bidding issued by the Ministry of Planning and Investment shall be effective in 05 years from the issuance. If anyone issued with the practice certificate of bidding commits any violation against the law in bidding, their practice certificate shall be revoked depending on the nature and severity of the violations.

Article 112. Responsibilities of the Ministry of Planning and Investment for management of bidding training

1. Create and manage the database of lecturers in bidding, training centers for bidding, persons issued with Training Certificates and practice certificates of bidding.

2. Establish and provide the nationwide framework programme, learning and teaching materials.

3. Give detailed instructions on application, inspection and recognition of bidding training centers and lecturers.
4. Hold examinations to issue the practice certificates of bidding.
5. Provide training and issue Certificates to the lecturers in bidding.
6. Provide the forms for Certificates of lecturers in bidding, training certificates and practice certificates.
7. Issue the Decision on recognition for training centers meeting the requirements prescribed in Points a, b and c Clause 1 Article 19 of the Law on Bidding.
8. Issue Decision on recognition for lecturers meeting requirements prescribed in Article 119 of this Decree.
9. Issue Decision on disqualification of bidding training centers and lecturers committing violations against the regulations in Clause 4 and Clause 5 Article 110 of this Decree.
10. Inspect the compliance of the training centers and lecturers with the regulations of the law on bidding.
11. Summarize the training activities provided by training centers and lecturers according to the Reports on bidding of the Ministries, regulatory authorities and local authorities and Reports of the training centers and lecturers.

Section 2: PROFESSIONAL BIDDING ORGANIZERS

Article 113: Requirements for professional bidding organizations

1. Such organizer must have permits for establishment and operation issued by the competent authorities which allow them to act as bidding agents or bidding consultancy or organizations in charge of bidding.
2. Employ the regulatory bodies meeting the professional requirements to perform the functions and duties as bidding agents, bidding consultancies, or organizations in charge of bidding.
3. Their personnel have professional ethics, honesty and impartiality during their work.
4. They use procedures for management and control of the quality of their work.

Article 114: Consideration, recognition and announcement of professional bidding organizers' information

1. Any organization meeting all of the requirements prescribed in Article 113 of this Decree shall send an application for recognition as professional bidding organizer to the Ministry of Planning and Investment.
2. The Ministry of Planning and Investment shall form a Council in charge of verifying such application.
3. The organization approved by the verifying Council shall be recognized as a professional bidding organizer and announced in the national bidding system.

Article 115: Operation of professional bidding organizations

1. A professional bidding organizer is allowed to operate after it is announced in the national bidding system.
2. A professional bidding organizer can sign contracts to act as bidding agent or provider of bidding consultancy for investors and procuring entities.

Section 3: EXPERT GROUP

Article 116: Expert group

1. Each expert of such group must have a practice certificate of bidding, except for the persons prescribed in Clause 3 and Clause 4 this Article.
2. An expert group may consist of experts in technology, finance, commerce, administrative affairs, legality and relevant fields depending on the nature and complexities of the contract.
3. Any person other than the persons prescribed in Clause 2 Article 16 of the Law on Bidding wishing to participate in the expert group must:
 - a) have a Training certificate of bidding;
 - b) work in the field related to the contract;
 - c) have deep knowledge about the corresponding contents in the contract;
 - d) have at least 03 years' experience in the field related to economic and technical contents of the contract.
4. Cases in which the opinions of other experts are needed, such experts are not required to have training certificates of bidding.

Chapter XII

HANDLING OF BIDDING CASES AND CONSIDERATION OF BIDDING PETITIONS

Section 1: HANDLING OF BIDDING CASES

Article 117: Handling of bidding cases

1. If the value or contents of a contract need adjusting, the plan to select the contractor must be adjusted under the regulations of the law before the bid opening (other than the cases prescribed in Clause 2 and Clause 8 this Article).

2. If the approved contract estimate is different from the contract value in the approved plan to select the contractor, such contract estimate shall replace such contract value as follows:

a) If the approved estimate is higher than the contract value in the plan to select the contractor but such estimate is lower than the total investment of the project and the approved budget estimate, the plan to select the contractor shall not be adjusted. If the approved estimate is higher than the total investment of the project and the approved budget estimate, the plan to select the contractor shall be adjusted; if the method for selecting the contractor in such plan is no longer conformable, such method shall be adjusted;

b) If the approved estimate is lower than the contract value in the plan to select the contractor but the method for selecting the contractor in such plan is not changed, the plan shall not be adjusted; if the method for selecting the contractor needs adjusting to be conformable with the new value of the contract according to the approved estimate, the plan shall be adjusted.

3. If there are fewer eligible short-listed bidders, depending on each contract, such case shall be handled by:

a) Adding more bidders to the short-list;

b) Allowing the invitation for bid to be sent to the short-listed bidders.

4. After the deadline for submitting bids regarding the opening bidding, limited bidding or competitive bidding, there are fewer bidders submitting the bid-envelopes and proposals, such case shall be handled within 04 hours from such deadline by either:

a) extending the deadline in order to attract more bidders to submit the bid-envelopes and proposals. In this case, the new deadline for submitting bids and corresponding deadline must be specified so that the bidders can adjust the submitted bid-envelopes and proposals according to the new requirements;

b) Immediately opening bid-envelopes to carry out evaluation.

5. In case of a contract containing several items:

a) The invitation for bid, request for proposals must prescribed the conditions for submitting bids, measures and value of tender guarantee for each item or various items and method of evaluation of each item or some items so that the bidders can make appropriate bids;

b) The evaluation of bid-envelopes, proposals and consideration for contract award must ensure that the total successful bid for the contract is the lowest bid (if the contract is awarded according to the lowest bid); total evaluated price is the lowest (if the contract is awarded according to the evaluation); overall score is the highest (if the contract is awarded according to the application of combined technical and price-based method) and the successful bid for the contract is lower than the approved price for the contract without compared with the estimated cost of each item of the contract;

c) In case there is an item of some items of a contract which no bidders are interest in or no bidders satisfy the requirements prescribed in the invitation for bid and request for proposals, the investor shall send a report to the competent persons to adjust the plan to select the contractor by making the item(s) into an independent contract whose value is the total estimated cost of such item(s); the selection of contractors meeting the technical requirements with regard to the items to which bidders submitting bid-envelopes must ensure the evaluation principles prescribed in Point b this Clause;

d) There will be one contract if a contractor wins all of the contract items. There will be several contracts if several contractors win different contract items.

6. If the unit prices in the bid-envelope and proposals are remarkably low, which seriously affects the contract, the procuring entity shall request the bidder to make a written explanation for the feasibility of such unit prices. If the explanation of the bidder is not clear and persuasive, such unit prices shall not be accepted. Such case shall be considered deviation and such deviation shall be adjusted under the regulations similar to the regulations on the deficient quoted value and proposals compared with the requirements in the invitation for bid and request for proposals in accordance with the regulations in Article 17 of this Decree.

7. If the bid by the bidder ranked first exceeds the contract value (after error correction, adjustment of deviation, and deduction of discount) and the by one ranked bidder is lower than the contract value (after error correction, adjustment of deviation and deduction of discount), the bidder ranked first shall be invited to the price negotiation provided that the negotiated price shall not exceed the approved contract value. If such negotiation collapses, the bidder ranked next shall be invited.

8. If the bids by the bidders meeting the technical requirements and included in the ranked list exceed the approved contract value (after error correction, adjustment of deviation, and deduction of discount), such case shall be handled by either:

a) allowing such bidders to submit new bids if the contract value includes the constituents of the contractual cost;

b) allowing such bidders to submit new bids and the procuring entity to request the investor to reconsider the approved contract value and invitation for bid, if necessary.

If the bidders are allowed to submit new bids, the deadline for the preparation and submission of new bids must be specified. The bidders shall submit new bids within 10 days from the day on

which the procuring entity send the written request for the submission of new bids. The opening of bid-envelopes submitting new bids shall be specified according to the procedures for bid opening prescribed in Article 29 of this Decree. If the contract value in the approved plan to select the contractor needs adjusting, the competent persons shall give a decision on such adjustment within 10 days from the receipt of such adjustment and before the deadline for the submission of new bids;

c) allowing the bidder ranked first to enter into the price negotiation provided that the negotiated price shall not exceed the bid (after error correction, adjustment of deviation, and deduction of the lowest discount). If the contract value in the approved plan to select the contractor needs adjusting, the competent persons shall give a decision on such adjustment within 10 days from the receipt of the request for such adjustment. If such negotiation collapses, the bidder ranked next shall be invited. This method shall apply on only the open bidding contracts and the investors shall be responsible for the competitiveness, impartiality, transparency and economic effectiveness of the contracts.

9. If a successful bid is lower than 50% of the approved contract value, an interdisciplinary assessing group shall be established to request the contractor to clarify constituents of the contractual cost and to consider relevant evidences such as:

a) the factors related to the execution of work, manufacturing process or provision of services;

b) the applied economic solutions or the considerable advantages of the contractor leading to the advantages in prices;

c) the origin of the goods, services and personnel provided for the contract provides that the regulations of the law must be complied with;

If all requirements prescribed in Points a, b and c this Clause are satisfied, the bid-envelope and proposal of the bidder are accepted to win the contract. The investor can set the value of tender guarantee higher than 10% but less than 30% of the successful bid which must approved by the competent persons. Such approval must be recorded in writing. In case of any bidder supported by any entity, which leads to unhealthy competition, the bid-envelope and proposal of such bidder shall be invalidated.

10. If the invitation for bid allow the bidders to propose construction methods other than the construction methods prescribed in the invitation for bid, the difference between the workload according to the construction methods in the invitation for bid and the workload according to the construction methods proposed by the bidders shall not be adjusted in accordance with the regulations in Article 17 of this Decree. Such difference shall not be considered negative deviation.

11. If the contractor violates the contract or is ineligible to continue executing the contract, which seriously affects the progress, quality and effectiveness of the contract, the investor shall request the competent persons consider approving the cancellation of the contract with such contractor. The remaining work shall be applied the no-bid contract of methods of selection of

another contractor provided that the quality and progress of the contract is ensured. The value of the remaining work given to the new contractor is calculated by subtracting the value of the completed work from the contract value. In case of no-bidding contract awarding, the competent persons must ensure that the contractor must be qualified enough to carry out the remaining work. If the contractor is not responsible for the delay in conducting the contract, the contract signed with such contractor shall not be cancelled. In case the contract signed with the delinquent contractor must be ended, the investor must send a report to the Ministry of Planning and Investment for consideration and announcement of such delinquent contractor on the national bidding system and the Vietnam Public Procurement Review Journal within 05 working days from the issuance of Decision on the contract cancellation; such report must specify the reasons for the contract cancellation, method of selection of new contractor and appointed contractor in case of no-bidding contract awarding.

12. In case any bidder is separated or merged during the bidding, such bidder shall be allowed to continue participating in the bidding.

13. When signing the contract, if the contractor does not satisfy the requirements for technical and financial competence prescribed in Clause 2 Article 64 of the Law on Bidding, the bidder ranked next shall be invited to the contract negotiation. In this case, such bidder must revalidate their bid-envelope and tender guarantee if the bid-envelope is invalid and the tender guarantee is refunded or cleared.

14. That more than one bidder is considered equal after evaluation shall be handled by:

a) Awarding the contract to the bidder that has the highest technical score if the contract is awarded according to the lowest bid;

b) Awarding the contract to the bidder that has the lowest bid if the contract is awarded according to the evaluation or application of combined technical and price-based method.

15. Any case other than the cases prescribed in Clauses 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of this Article arising shall be considered by the investor provided that the bidding must be competitive, impartial, transparent and economically effective.

Section 2: CONSIDERATION OF BIDDING PETITIONS

Article 118. Requirements for consideration of petition

1. The petition is submitted by the bidder.

2. The petition must bear the sign of the person signing the bid-envelopes or legal representative of the bidder and the stamp (if any).

3. The person in charge of considering the competitiveness receives the competitiveness under the regulations in Article 92 of the Law on Bidding.

4. Such proposal has not taken to court by the bidder.

5. The expenditure on handling of the any petition prescribed in Clause 8 Article 9 of this Decree shall be paid by the bidder submitting such petition to the standing assisting division of the Advisory Council in case of petition against the bidding result handled by the competent persons.

Article 119. Advisory Council

1. President of Advisory Council

a) The President of the Central Advisory Council is the competent representative of the Ministry of Planning and Investment. The Central Advisory Council shall give advice on the consideration of the petitions as required by the Prime Minister;

b) The President of the Advisory Council of Ministries, ministerial-level authorities, Governmental authorities and other central authorities (hereinafter referred to as Ministerial Advisory Council) is the competent representative of the units in charge of administering the bidding of such authorities). b) The Ministerial Advisory Council shall give advice on the consideration of the petitions regarding the contracts of the projects approved and administered by the Ministers, Heads of ministerial-level authorities, Governmental authorities and other central authorities other than the contracts prescribed in Point a this Clause;

c) The President of the provincial Advisory Council is the competent representative of the provincial Departments of Planning and Investment. The provincial Advisory Council shall give advice on the consideration of the competitiveness regarding the contracts of the projects in the provinces including the contracts of the enterprises established and operated in such provinces other than the contracts prescribed in Point a this Clause.

2. Members of Advisory Council:

Members of Advisory Council are the representatives of the competent persons and relevant professional association. Depending on the nature of each contract, in addition to the abovementioned members, the President of the Advisory Council can invite other individuals for the Advisory Council. The members of the Advisory Council must not be the relatives (biological parents, parents in law, biological children, adopted children, in-laws, biological sisters and brothers) of the persons signing the petition, of the persons directly evaluating the bid-envelopes and proposals, of the persons directly assessing the result of the selection of contractors and of the person approving the result of the selection of the contractors.

3. Activities of Advisory Council:

a) The President of the Advisory Council shall make a Decision to form the Advisory Council within 05 working days from the receipt of the petitions of the bidders. The Advisory Council shall be formed depending on each case;

b) The Advisory Council shall work on the principle of collectives, conduct polls based on the majority rule and send Reports to the competent persons for consideration; each member can stick to their opinion and take legal responsibility for it.

4. Standing assisting division of Advisory Council:

a) The standing assisting division shall be in charge of administering the bidding excluding the persons directly assessing the contracts for which the bidders file the petitions;

b) The standing assisting division shall be assigned the administrative tasks by the President of the Advisory Council; receive and manage the cost paid by the bidders submitting the petitions.

Article 120. Handling of petitions for selection of contractors

1. The duration of the consideration of any petition prescribed in Clause 1 and Clause 2 Article 92 of the Law on Bidding counted from the day on which the administrative division of the person in charge of considering such petition receives the petition.

2. The person in charge of considering the competitiveness shall send the bidder a written report that the petition shall not be considered if such petition does not meet the requirements prescribed in Article 118 of this Decree.

3. The bidder can send a written request for the withdrawal of the petition during the consideration of such petition.

4. The conclusion of the petition must be written on the reply to the petition; in case such petition is approved, there must be measures, methods and time to remedy the consequences (if any) and the standing assisting division shall request the relevant entities to reimburse the amount that the bidder submitting the petition pay to the Advisory Council. In case of disapproval, the written reply must specify the reasons.

Chapter XIII

IMPOSITION OF PENALTIES FOR VIOLATIONS AND SUPERVISION OF BIDDING

Section 1: IMPOSITION OF PENALTIES FOR VIOLATIONS AGAINST REGULATIONS ON BIDDING

Article 121. Penalties for violations against regulations on bidding

1. Any entity committing any violation against the law on bidding shall be given a warning or a fine under the regulations of the law on imposition of penalties for administrative violations in the field of planning and investment.

2. Any entity committing any violation prescribed in Article 89 of the Law on Bidding and Clause 8 Article 12 of this Decree shall be prohibited from participating in the bidding.

3. Any individual committing any violation against the law on bidding which constitutes crimes under the regulations of the Criminal law shall be liable to criminal prosecution.

4. Any official committing any violation against the law on bidding shall be penalized under the regulation of the law on officials.

Article 122. Prohibition of participation in selection of contractors

Depending on the degree of the violation, an entity shall be:

1. Prohibited from participating in the bidding for 03 year to 05 years when committing any violation against the regulations in Clauses 1, 2, 3, 4 and 5 Article 89 of the Law on Bidding;

2. Prohibited from participating in the bidding for 01 year to 03 years when committing any violation against the regulations in Clauses 8 and 9 Article 89 of the Law on Bidding;

3. Prohibited from participating in the bidding for 06 months to 01 year when committing any violation against the regulations in Clauses 6 and 7 Article 89 of the Law on Bidding;

4. Prohibited from participating in the bidding for 01 year to 05 years when committing any violation against the regulations on use of employees prescribed in Clause 8 Article 12 of this Decree.

Article 123. Bidding cancellation, bidding suspension and invalidation of bidding result

1. The competent persons, investors and procuring entities may cancel the bidding when the bidders commit violations against the regulations of the law on bidding and other law provisions by issuing the Decisions on bidding cancellation in accordance with the regulations in Clause 4 Article 73, Clause 10 Article 74 and Point e Clause 2 Article 75 of the Law on Bidding.

2. The bidding suspension, invalidation of bidding result and decisions of the investors and procuring entities are prescribed as follows:

a) The bidding suspension and invalidation of bidding result shall be applied when there are evidences that the bidders commit violations against the regulations of the law on bidding and other relevant law provisions, which makes the bidding uncompetitive, partial and economically ineffective or falsifies the bidding result;

b) The bidding shall be suspended right after the violations are committed before the bidding result is approved. The bidding result shall be invalidated from the approval for the bidding result to the contract signing; or after the contract signing if necessary;

c) The record on the bidding suspension and invalidation of bidding result must specify the reasons, measures and time to remedy the violations against the regulations of the law on bidding;

d) The competent persons shall invalidate the decisions of the investors and procuring entities if such decisions are unconformable with the regulations of the law on bidding and relevant law provisions.

Article 124. Compensation for damage due to violations against law on bidding

Any wrongdoer committing violations against the law on bidding and causing damage must compensate for such damage under the regulations of the law on compensation for damage and other law provisions.

Section 2: INSPECTION AND SUPERVISION OF BIDDING

Article 125. Inspection of bidding

1. The bidding shall be inspected periodically or irregularly at the request of the Prime Minister, Presidents of the People's Committees of provinces, competent persons of the inspecting authorities in charge of bidding in accordance with the regulations in Clause 2 this Article. Methods of inspection can be direct inspection or report.

2. The Ministers, Heads of ministerial-level authorities, Governmental authorities, other central authorities, Presidents of the People's Committees of provinces; Directors of the provincial Departments of Planning and Investment, Heads of Departments under the management of the People's Committees of provinces; Presidents of the People's Committees of districts; ; Chiefs of state-owned enterprises shall direct the inspection of bidding of the units under their management and the projects approved by themselves to administer the bidding in order to enhance the progress and effectiveness of the bidding and detect, prevent and deal with the violations against the law on bidding.

3. The Ministry of Planning and Investment shall take charge and inspect the bidding across Vietnam; the Ministers, Heads of ministerial-level authorities, Governmental authorities, other central authorities; the People's Committees of provinces; the provincial Departments of Planning and Investment and departments under the management of the People's Committees of provinces and the People's Committees of districts; the state-owned enterprises shall take charge and inspect the bidding as required by the competent persons of the inspecting authorities in charge of bidding. The provincial Departments of Planning and Investment shall assist the People's Committees of provinces in taking charge and conducting local inspection of bidding.

4. Inspection of bidding including periodic inspection and surprise inspection.

a) A periodic inspection involves:

- Inspecting the issuance of guiding documents on bidding, and division of responsibility for bidding;

- Inspecting the training in bidding;

- Inspecting the issuance of the Training certificates of bidding; practice certificates of bidding;
- Inspecting the formulation of and approval for the plan to select the contractors, EOI request, invitation for prequalification, invitation for bid, request for proposals, result of the selection of the contractors;
- Inspecting the contract and the adherence to the legal grounds for the signing and execution of the contract;
- Inspecting the procedures for and progress of the execution of the contract according to the approved plan to select the contractors;
- Inspecting the report on the bidding;
- Inspecting the inspection and supervision of the bidding.

b) According to each request for surprise inspection, and Decision on inspection, the chief inspector shall regulate the suitable inspection activities.

5. There must be inspection report and conclusion after each inspection ends. The inspecting authorities shall monitor the handling of the problems (if any) mentioned in the inspection conclusion. In case of any violation, it is required to impose the handling measures or send a report to the inspecting authorities for consideration.

6. An inspection conclusion includes:

- a) The bidding at the inspected unit;
- b) Inspected contents;
- c) Comments;
- d) Conclusion;
- dd) Recommendations.

Article 126: Supervision of bidding

1. The competent persons shall appoint the regulatory individuals or bodies in charge of bidding to supervise the execution of the investors, procuring entities during the selection of the contractors to endure the adherence to the regulations of the law on bidding.

2. The competent persons shall decide and direct the supervision of the bidding regarding the contracts of the projects and budget estimates approved by themselves if necessary; supervise the sole source contracts, high value contracts of which the investors and procuring entities posing questions.

3. The Ministry of Planning and Investment shall take charge and supervise the bidding regarding the projects within the competence of the Prime Minister or at the request of the Prime Minister. The Ministries, ministerial-level authorities, Governmental authorities, other central authorities, units assigned to administer the bidding under the management of such authorities shall take charge and supervise the bidding in case the Ministers, Heads of ministerial-level authorities, Governmental authorities, and other central authorities are the competent persons. The provincial Departments of Planning and Investment shall take charge and supervise the bidding regarding the local projects.

4. A supervision of the compliance of the bidding with the regulations of the law on bidding involves supervising:

a) the compilation of invitation for bid, request for proposals (when preparing for the selection the contractor);

a) the release of the invitation for bid, request for proposals (when selecting the contractor);

c) the result of the evaluation of the bid-envelope, proposals, negotiation of the contract (when assessing the bid-envelope and proposals);

d) the assessment of and approval for the selection of the contractor;

dd) The process of the completion of the contract, contents of the contract and the adherence to the legal grounds for the signing and execution of the contract (when completing and signing the contract)

5. Methods of supervision of bidding:

a) The competent persons shall send written requests to the investors and procuring entities regarding the contracts needing supervising;

b) The procuring entities shall send the names and addresses of the supervising entities to the contractors having the invitations for bid and the proposals;

c) The procuring entities shall provide the information about the selection of the contractors for the supervising entities on receiving written requests;

d) The supervising entities in charge of bidding shall send written reports on the violations against the law on bidding to the competent persons for consideration to ensure the effectiveness of the selection of the contractors.

6. Responsibilities of every supervising entity in charge of bidding:

a) Stay honest and impartial; do not harass the investors and procuring entities during the supervision;

- b) Request the investors and procuring entities to provide relevant information and documents which facilitate the supervision;
- c) Receive the reflections of the contractors and other entities related to the selection of contractors on the supervised contracts;
- d) Protect the information under the regulations;
- dd) Fulfill other obligations under the regulations of the law on bidding and other law provisions.

Chapter XIV

OTHER ISSUES

Article 127. Forms for bid-envelopes

- 1. Forms for a bid-envelope include: Form for plan to select the contractor; form for EOI request; form for invitation for prequalification, form for invitation for bid; form for request for proposals; form for report on evaluation result of the bid-envelope, proposals; form for evaluation of result of selection of contractor and other forms.
- 2. The Ministry of Planning and Investment shall provide the forms for bid-envelopes.

Article 128. Management of contractors

- 1. Responsibilities of every contractor:

- a) Register the national bidding system under the regulations in Point d Clause 1 Article 5 of the Law on Bidding;
- b) Regularly update the information about their competence and experience on the national bidding system;
- c) In addition to the responsibilities prescribed in Point a and Point b this Clause, every foreign contractor shall:
 - Comply with the regulations of the law of Vietnam on exit and entry; import and export of goods; registration of residence; accounting and tax scheme and other relevant of law of Vietnam unless there are different regulations in the international agreements to which the Socialist Republic of Vietnam is a signatory or international agreements that the competent authorities of the Socialist Republic of Vietnam have signed after selected to carry out the contracts.
 - The investors shall send written reports on the successful bidders to the Ministry of Planning and Investment, managing Ministries and the Departments of Planning and Investment of provinces where the projects are carried out within 15 days from the effective date of the contracts signed with the foreign contractors.

d) Any foreign contractor selected under the regulations of the Law on Bidding does not have to request for the issuance of bidding license.

2. Management of subcontractors:

a) Any prime contractor can sign a contract with the subcontractors in the List of the contractors mentioned in the bid-envelope and proposals. The prime contractor must fulfill their obligations even when hiring the subcontractors. The prime contractor shall be responsible for the workload, quality, progress and other responsibilities for the parts of the contract carried out by the subcontractors;

b) The prime contractor must not request the subcontractors to carry out the tasks other than the tasks of the subcontractors mentioned in the bid-envelope and proposals; the subcontractors can be replaced or new subcontractors can be added to the List of the subcontractors prescribed in the bid-envelope and proposals only when the investor agrees;

c) The prime contractor shall select and employ the eligible subcontractors. In case of important contractors at the request of the invitation for bid, the competence and experience of them shall be evaluated under the regulations in the invitation for bid;

d) The prime contractor shall pay the subcontractors under the agreement between the prime contractor and the subcontractors.

3. The Ministry of Planning and Investment shall maintain the database of the contractors, list of contractors committing violations against the law on bidding; summarize and provide the information about the contractors for the relevant organizations and individuals, which facilitates the healthy competitive during the selection of contractors.

Chapter XV

IMPLEMENTATION

Article 129. Guidance

1. With regard to the contracts whose bidding plans have been approved but the EOI requests, invitations for prequalification, invitations for bid, request for proposals has not released before July 01, 2014, the adjustment to such bidding plans must be approved if they do not comply with the regulations in the Law on Bidding No. 43/2013/QH13.

If the EOI requests, invitations for prequalification, invitations for bid, requests for proposals released before July 01, 2014, the implementation shall comply with the regulations of the Law on Bidding No. 61/2005/QH11, the Law on the amendment and supplementation of the laws related to fundamental construction No. 38/2009/QH12 dated June 19th 2009, Decree No. 85/2009/ND-CP dated October 15, 2009, Decree No. 68/2012/ND-CP dated September 12, 2012 of the Government, the Decision No. 50/QĐ-TTg of the Prime Minister dated November 09, 2012 and relevant Circulars.

2. From July 01, 2014 to the effective date of this Decree, the contractors shall be selected according to the Law on Bidding No. 43/2013/QH13. Before the effective date of this Decree, the contractors shall be selected in accordance with the regulations of the Decree No. 85/2009/ND-CP, Decree No. 68/2012/ND-CP and other relevant guiding documents, which must not violate the Law on Bidding No 43/2013/QH13.

3. With regard to the purchase funded by the state capital to provide the public goods and services in accordance with the regulations on Point dd Clause 1 Article 1 of the Law on Bidding No. 43/2013/QH13, the selection of contractors in the form of purchase order must comply with the regulations in the Decree No. 130/2013/ND-CP dated October 16, 2013; other forms of selection of contractors must comply with the regulations in the Law on Bidding No. 43/2013/QH13 and this Decree.

4. Any individual issued with the Certificate of professional training in bidding before the effective date of this Decree shall continue to participate in bidding under the regulations in Article 16 of the Law on Bidding No. 43/2013/QH13. However, (s)he is require to update the information prescribed in the current legislative documents on bidding.

5. The Ministry of Planning and Investment shall:

a) provide the roadmap for application and instructions on:

- Registration of contractors in the National bidding system in accordance with the regulations in Point d Clause 1 Article 5 and Point e Clause 2 Article 22 of the Law on Bidding No. 43/2013/QH13;

- Issuance of the practice certificates of bidding to the individuals required to have the practice certificates under the regulations of Clause 2 Article 16 and Point c Clause 1 Article 19 of the Law on Bidding No. 43/2013/QH13;

- Activities of the professional bidding organizers in accordance with the regulations in Article 32 of the Law on Bidding No. 43/2013/QH13;

b) provide instructions on other necessary contents of this Decree to facilitate the management of the bidding.

6. The Ministry of Finance shall:

a) provide specific instructions on the purchase funded by the state capital to maintain the activities of the competent authorities, units affiliated to People's armed forces, public service providers, political organizations, socio-political organizations, socio-political and professional organizations, social organizations, socio-professional organizations;

b) provide the lists of goods and services applied bulk purchasing;

c) take charge and cooperate with the Ministry of Planning and Investment in giving guidance on the bulk purchasing;

d) give guidance on the fees for the selection of contractors.

7. The Ministry of Health shall be in charge of giving guidance on bidding for medicines to facilitate disease prevention, examination and treatment which is funded by the State budget, medical insurance fund and other resources in the medical facilities.

8. The Ministry of Industry and Trade shall:

a) provide instructions on the procedures for the import and export of goods for the successful bidders;

b) publish the List of the goods that can be produced in Vietnam, List of popular goods allowed to be imported into and sold in Vietnam.

9. The Ministry of Labor, War Invalids and Social Affairs shall take charge and cooperate with the Ministry of Finance and relevant regulatory authorities in promulgating the regulations on the wages of the Vietnamese consulting specialists, which serves as a basis to determine the value of the time-based consulting contracts prescribed in Clause 4 Article 62 of the Law on Bidding No. 43/2013/QH13.

10. The Ministry of Construction shall give instructions on labor costs of the consulting services which serve as a basis to determine the time-based consulting contracts prescribed in Clause 4 Article 62 of the Law on Bidding No. 43/2013/QH13.

11. The Ministries and regulatory authorities must provide the List of satisfactory goods that can be produced in Vietnam within their authority.

12. The Ministries, ministerial-level authorities, Governmental authorities, other central authorities, the People's Committees of provinces shall detail some contents of this Decree (if necessary) within their competence, which complies with the regulations in the Law on Bidding No. 43/2013/QH13 and this Decree.

13. The Ministers, Heads of ministerial-level authorities, Governmental authorities, other central authorities, the Presidents of the People's Committees shall assign Chiefs directly in charge of bidding and affiliated units to administer bidding within their competence. Difficulties that arise during the implementation of this Circular should be reported to the Prime Minister for consideration. The Ministries, ministerial-level authorities, Governmental authorities, other central authorities, the People's Committees of provinces, enterprises approved by the Prime Minister must send annual reports on the bidding to the Ministry of Planning and Investment to summarize and notify the Prime Minister.

Article 130. Effect

This Decree takes effect from August 15, 2014.

The Decree No. 85/2009/NĐ-CP of the Government giving instructions on the Law on Bidding and selection of building contractors under the Law on Construction dated October 15, 2009, Decree No. 68/2012/NĐ-CP dated September 12, 2012 of the Government on the amendment to some Articles of the Decree No. 85/2009/NĐ-CP of the Government dated October 15, 2009 and the Decision No. 50/QĐ-TTg of the Prime Minister on the application of limited bidding regarding the contracts considered and decided the Prime Minister dated November 09, 2012 shall expire from the effective date of this Decree.

**ON BEHALF OF THE GOVERNMENT
THE PRIME MINISTER**

Nguyen Tan Dung

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