

NATIONAL ASSEMBLY

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Law No. 64/2020/QH14

Hanoi, June 18, 2020

LAW

ON PUBLIC – PRIVATE PARTNERSHIP INVESTMENT

Pursuant to the Constitution of the Socialist Republic of Vietnam;

The National Assembly hereby promulgates the Law on Public – Private Partnership Investment.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Law provides for public - private partnership investments; state management, rights, obligations and responsibilities of entities, organizations and individuals involved in public - private partnership investments.

Article 2. Subjects of application

This Law provides for public - private partnership (abbreviated to PPP) investments; state management, rights, obligations and responsibilities of entities, organizations and individuals involved in public - private partnership investments.

Article 3. Interpretation

For the purposes of this Law, terms used herein shall be construed as follows:

1. *Pre-feasibility study report* refers to a written document describing the subject matters of a preliminary study, including necessity, feasibility and effectiveness of a PPP investment project (hereinafter referred to as PPP project), as a basis for competent authorities' grant of investment policy decisions.
2. *Feasibility study report* refers to a written document describing subject matters of the study relating to the necessity, feasibility and efficiency of a PPP project as a basis for competent authorities' approval of that project.
3. *Bid guarantee* refers to an investor's implementation of one of security forms, such as leaving a deposit, depositing funds into escrow accounts or standing surety by a credit institution, foreign

bank branch or insurance enterprise lawfully operating in Vietnam prior to the tender closing time or date in order to ensure the bidder's participation in a bid.

4. *Performance guarantee* refers to a PPP project enterprise's implementation of one of the security forms, such as leaving a deposit, depositing funds into escrow accounts or standing surety by a credit institution, foreign bank branch or insurance enterprise lawfully operating in Vietnam in order to ensure execution of contracts by a PPP project investor or enterprise.

5. *Lender* means an organization or individual that lends funds to a PPP project investor or enterprise to execute a PPP project contract.

6. *Bid solicitor* refers to a unit with expertise and competence assigned by a competent agency to organize the selection of investors.

7. *Shortlist* refers to the list of successfully prequalified investors when participating in an open bid subject to prequalification requirements or the list of investors invited to participate in a competitive negotiation.

8. *PPP project enterprise* refers to an enterprise established by an investor to serve the sole purpose of concluding and executing PPP project contracts.

9. *PPP project* is a set of proposals related to the investment to provide public products and services through the implementation of one or the following activities:

a) Construction, operation and business of infrastructure works and systems;

b) Renovation, upgradation, expansion, modernization, operation and business of available works and systems;

c) Operation and business of available infrastructure works and systems.

10. *Public - private partnership investment* refers to a form of investment carried out by the fixed-term cooperation between the state and a private-sector investor through conclusion and execution of a PPP project agreement in order to call for private sector involvement in a PPP project.

11. *PPP project preparation unit* is the unit assigned by the competent agency to prepare pre-feasibility study reports, feasibility study reports, and perform other related tasks.

12. *Prequalification application* means all documents prepared by a bidder and submitted to a bid solicitor according to requirements of an invitation for prequalification.

13. *Bidding documentation* means all documents prepared by a bidder and submitted to a bid solicitor according to requirements of an invitation to bid.

14. *Invitation for prequalification* means all documents for request for a bidding investor's competence and experience as a basis for the bid solicitor's shortlisting.

15. *Bidding invitation* means all documents used for selecting investors, including requirements for project implementation set forth as a basis for an investor's preparation of bidding documentation, and a bid solicitor's evaluation of bidding documents and contract negotiation in order to select investors who meet project execution requirements.

16. *PPP project contract* means a written agreement between a contracting authority and a PPP project investor or enterprise on the State's concession to that investor or PPP project enterprise to execute a PPP project according to provisions of this Law, including the following types of contracts:

- a) Build – Operate – Transfer contract (hereinafter referred to as BOT contract);
- b) Build - Transfer - Operate contract (hereinafter referred to as BTO contract);
- c) Build - Own - Operate contract (hereinafter referred to as BOO contract);
- d) Operate - Manage contract (hereinafter referred to as O&M contract);
- dd) Build - Transfer - Lease contract (hereinafter referred to as BTL contract);
- e) Build - Lease - Transfer contract (hereinafter referred to as BLT contract);
- g) Mixed contract prescribed in Clause 3 of Article 45 of this Law.

17. *Investor selection* means the process of identifying investors with sufficient competence, experience, and feasible solutions to implement PPP projects on the principle of ensuring competition, fairness, transparency and economic efficiency.

18. *PPP investor* (hereinafter referred to as investor) is an independent legal entity established under the provisions of law, or established by entering into partnership amongst multiple legal entities involved in PPP investments.

19. *State capital* comprises state budget capital or capital from lawful revenues retained as investment or regular expenditures belonging to the state budget's spending tasks.

Article 4. Investment sector, size and classification of PPP projects

1. PPP investment sectors, including:

- a) Transportation;
- b) Power grids, power plants, except hydropower plants and those subject to the state monopoly requirement as provided in the Law on Electricity;

c) Water resources and irrigation; clean water supply; water drainage and wastewater treatment; waste management and disposal;

d) Healthcare; education – training;

dd) Information technology infrastructure.

2. Minimum investment capital requirement for a PPP project shall be prescribed as follows:

a) The minimum capital requirement of not less than VND 200 billion shall be imposed on projects in the sectors specified in points a, b, c and dd of clause 1 of this Article. In case where projects are executed in areas facing socio-economic difficulties or extreme socio-economic difficulties under the provisions of laws on investment, they must meet the minimum capital requirement of not less than VND 100 billion;

b) The minimum capital requirement of not less than VND 100 billion shall be imposed on the projects in the sectors specified in point d of clause 1 of this Article;

c) Regulations on the minimum capital requirement laid down in point a and b of this clause shall not apply to O&M projects.

3. PPP projects shall be classified by the jurisdiction to issue investment policy decisions, including:

a) PPP projects falling under the National Assembly's delegated authority to grant investment policy decisions;

b) PPP projects falling under the Prime Minister's delegated authority to issue investment policy decisions;

c) PPP projects falling under the authority to grant investment policy decisions delegated to Ministers, heads of central authorities and other entities specified in clause 1 of Article 5 in this Law;

d) PPP projects falling under the authority to grant investment policy decisions delegated to provincial People's Councils.

4. The Government shall elaborate on investment sectors prescribed in clause 1 and minimum capital requirements imposed on specific investment sectors as provided in clause 2 of this Article.

Article 5. Competent authorities and authorities signing PPP contracts

1. Competent authorities, including:

a) Ministries, Ministry-level agencies, governmental agencies, central bodies affiliated to political organizations, Supreme People's Procuracy, Supreme People's Court, State Audit, Office of the President, Office of the National Assembly, and central bodies of Vietnam Fatherland Front and socio-political organizations (hereinafter referred to as Ministries and/or central authorities);

b) Provincial People's Committees;

c) Agencies and organizations set up by the Government and the Prime Minister, and assigned make state budget estimates according to the provisions of law on state budget (hereinafter referred to as other authorities).

2. Authorities signing PPP contracts, including:

a) Competent authorities prescribed in clause 1 of this Article;

b) Entities and units authorized by competent authorities to sign contracts as provided in clause 4 of this Article.

3. In cases where projects fall under the management of multiple competent authorities prescribed in Clause 1 of this Article, or in case of change of competent authorities, these authorities shall report to the Prime Minister to seek his decision to designate an authority as the competent authority.

4. Competent agencies may authorize their directly controlled agencies or units to act as authorities signing contracts to execute PPP projects within their competence.

Article 6. PPP Project Assessment Boards

1. PPP Project Assessment Boards, including:

a) State Assessment Board tasked with carrying out an assessment of pre-feasibility study reports and feasibility study reports for PPP projects falling under the National Assembly's delegated authority to grant investment policy decisions;

b) Interdisciplinary Assessment Board specialized in carrying out an assessment of pre-feasibility study reports and feasibility study reports for PPP projects falling under the Prime Minister's delegated authority to grant investment policy decisions;

c) State Assessment Board tasked with carrying out an assessment of pre-feasibility study reports and feasibility study reports for PPP projects falling under the authority to grant investment policy decisions delegated to Ministers, Heads of central or other bodies or provincial People's Councils, except assessment tasks assigned to units directly controlled by competent authorities referred to clause 3 of this Article.

2. The Prime Minister shall decide to set up PPP Project Assessment Boards prescribed at Points a and b of Clause 1 of this Article upon the request of the Minister of Planning and Investment.

3. Based on the size, scale and significance of each project, the Minister, Head of central or other body, President of a provincial People's Committee shall establish grassroots-level Assessment Boards or assign their directly-controlled unit to conduct an assessment of pre-feasibility study reports and feasibility study reports for PPP projects.

4. The PPP Project Assessment Board and its subordinate unit performing the assessment tasks may hire an independent consultant to work for them.

5. The Government shall elaborate on this Article.

Article 7. PPP investment management principles

1. Ensuring relevance to related national socio-economic development strategies, plans and other planning schemes in accordance with law on planning.

2. Ensuring the effective management and use of State resources invested in PPP projects.

3. Carrying out the inspection, review, state audit and supervision of PPP projects must ensure that these activities do not obstruct normal investment and business activities of PPP investors and/or enterprises.

4. Ensuring open, transparent, fair, sustainable and efficient investments.

5. Ensuring the balancing between interests of the State, investors, users and the community.

Article 8. State management of PPP investments

1. Promulgate, propagate, disseminate and direct the implementation of legislative documents on PPP investments.

2. Review, evaluate and report on the implementation of PPP investments.

3. Examine, inspect and supervise the implementation of legal provisions on PPP investments.

4. Settle complaints, denunciations and sanction violations related to PPP investments; address any petitions or recommendations related to the investor selection process.

5. Organize and carry out investment promotion and international cooperation activities regarding PPP investments.

6. Provide instruction or support related to, and address any issue arising from, administrative procedures for carrying out PPP investment activities at the request of PPP project investors and enterprises.

Article 9. Transparency and disclosure of information about PPP investments

1. Information that must be made available on the Vietnam National E-Procurement System includes:

- a) Information about investment policy decisions or decisions on approval of PPP projects;
- b) Information about selection of investors, including invitation for prequalification, invitation to bid, shortlist, bidder selection results;
- c) Information about selected investors in PPP projects and PPP project enterprises;
- d) The main contents of a PPP project contract, including total investment; proportion of funds invested in a project; type of contract; duration of project implementation; prices and costs of each public product and service; fee or cost collection forms and locations (if any) and other necessary information;
- dd) The settled amount of public investment capital invested in PPP projects in the case of using public investment capital;
- e) Legislative documents regarding PPP investment;
- g) Investor database;
- h) Information on settlement of complaints, denunciations, petitions and sanctioning of violations of PPP investment law.

2. In addition to being posted on the National E-Procurement System, the information specified in Points a, b, c and d of Clause 1 of this Article must be made publicly available on websites (if any) of competent authorities.

3. All the information specified in Clause 1 of this Article should be published on other mass media.

Article 10. Prohibited acts related to PPP investment

1. Issuing investment policy decisions that are not conformable to public investment strategies, plans and programs; that fail to determine state-owned capital invested in those PPP projects that are subject to the requirement concerning use of state capital; that are made ultra vires or in breach of legally required processes and procedures prescribed in this Law.

2. Approving PPP projects in the absence of investment policies; not conforming to investment policies; ultra vires or in breach of legally required processes and procedures prescribed in this Law.

3. Competent authorities and contracting entities in collusion with consulting organizations and investors issue decisions on PPP investment policies and approval of PPP projects that result in any loss or waste of state capital, assets and national resources, and any harm or infringement on legitimate interests of citizens and the public.

4. Failing to ensure fairness and transparency during the process of investor selection, including the following acts:

a) Tender as an investor for projects in which the investor is the bid solicitor, the competent authority, the contracting authority or the entity functioning as the bid solicitor, the competent authority or the contracting authority;

b) Get involved in creating and concurrently reviewing documentation for invitation for prequalification, invitation to bid, and assessing bidding documents as well as verifying results of selection of investors bidding for the same project;

c) A person put under the control of a bid solicitor, a competent authority or a contracting authority directly participates in the investor selection process, or joins a team of experts or a team of verification of investor selection results; or is the head of a competent authority, a contracting authority or a bid solicitor, with respect to a project for which his/her natural father, mother, father-in-law, mother-in-law, mother-in-law, spouse, blood or adopted child, daughter-in-law, son-in-law, younger or elder sibling signs the name of the bidder or acts as the legal representative for an investor to bid.

d) Bear the name of the bidder for a project for which a competent authority, a contracting authority or a bid solicitor is the entity or organization where he/she has worked for 12 months before leaving.

5. Disclosing and receiving the following documents and information about the investor selection process:

a) Documents and information related to documentation for invitation for prequalification or invitation to bid before the time of issuance thereof as prescribed, except for cases where projects are subject to the requirement concerning market surveys and prior consultation with investors for preparation of such documentation;

b) Documents and information related to pre-qualification applications, bidding documents, reports of bid solicitors, reports of expert teams, assessment reports, reports of consulting contractors or reports of relevant professional bodies made in the investor selection process, prequalification results or investor selection results before they are disclosed according to regulations;

c) Other documents coming into existence during the investor selection process, if it is established that they contain state secrets prescribed by law.

6. Performing bid rigging acts as follows:

- a) Entering into an agreement on bid withdrawal or withdrawal of the bid application already submitted in order for one or more parties to such agreement to win the bid;
 - b) Make an agreement to one or more parties to prepare bid applications for the bidders so that one or some parties to such agreement win the bid.
7. Transferring shares, contributed capital portions, rights and obligations in breach of the provisions of this Law and PPP contracts.
8. Ceasing the supply of public products and services other than those falling in the cases specified in PPP contracts.
9. Offering, taking and brokering bribes to gain advantage in performing PPP investment activities.
10. Abusing assigned titles and powers to appropriate, make personal gain from and commit acts of corruption while managing and using public investment capital invested in PPP projects; illegally interfering with the PPP project process.
11. Performing PPP investment acts by fraud, including:
- a) Counterfeiting and falsifying information, records and documents related to decisions on investment policies and decisions on approval of PPP investment projects, selecting investors and implementing PPP investment projects in order to obtain illegal gain or evade any obligation;
 - b) Deliberately providing untruthful or biased information that falsifies approved investment policies, PPP projects, investor selection results, review, inspection, supervision or audit results, results of settlement of public investment capital, discharge and termination of PPP contracts;
 - c) Deliberately providing untruthful and biased information that falsifies data and figures regarding PPP project's revenues in order to gain illicit profits.
12. Hindering detection and sanctioning of any violation against law on PPP investments.

Article 11. PPP project process

1. Unless otherwise provided in Clause 2 of this Article, the PPP project process shall be prescribed as follows:
- a) Making and assessing pre-feasibility study reports, decisions on investment policies and project announcement;
 - b) Making, evaluating feasibility study reports, and approving projects;
 - c) Selecting investors;

d) Establishing PPP project enterprises and concluding PPP contracts;

e) Implementing PPP contracts.

2. For PPP projects using high technologies on the list of high technologies prioritized for investment in development thereof under the provisions of the law regarding high technologies and using new technologies according to the provisions of technology transfer law, PPP project process shall be subject to the following regulations:

a) Making and assessing pre-feasibility study reports, decisions on investment policies and project announcement;

b) Selecting investors;

c) Selected investors prepare feasibility study reports;

d) Assessing feasibility study reports, and approving projects;

dd) Implementing steps prescribed at point d and dd of Clause 1 of this Article.

3. In case where a PPP project has a construction work requiring an architectural proposal test, the test may be considered and approved under an investment policy decision prescribed in Clause 1 or Clause 2 of this Article. The architectural proposal test must comply with provisions of law on architecture.

4. Projects under public investment plans which are considered to be converted into PPP projects shall comply with the process specified in Clause 1 or Clause 2 of this Article.

5. The Government shall elaborate on the PPP project process.

Chapter II

PPP PROJECT PREPARATION

Section 1. PPP PROJECTS DEVELOPED BY COMPETENT AUTHORITIES

Article 12. Authority to issue decisions on policies for investment in PPP projects

1. The National Assembly shall be vested with authority to issue decisions on policies for investment in PPP projects that meet one of the following criteria:

a) Using public investment capital worth 10,000 billion dong or more;

b) Having substantial environmental impacts or posing potential risks in making serious environmental impacts, including nuclear power plants; using land subject to the requirement for conversion of uses from land for cultivating specialized forests, upstream protection forests or

border protection forests which covers an area of 50 hectares or more; from land for protective forests used as wind or sand screens, wave breakers, or sea reclamation land, which covers at least 500 hectares; from land for production forests which covers a minimum area of 1,000 hectares;

c) Using land subject to the requirement for conversion of uses from arable land covering an area of 500 hectares or more for growing wet rice during at least two cropping seasons;

d) Resettling at least 20,000 inhabitants in mountainous areas or at least 50,000 inhabitants in other regions;

dd) Requiring special legal frameworks or policies subject to the National Assembly's decisions.

2. Except for the projects specified in Clause 1 of this Article, the Prime Minister shall be accorded authority to grant decisions on investment policies for PPP projects satisfying one of the following criteria:

a) Resettling at least 10,000 inhabitants in mountainous areas or at least 20,000 inhabitants in other regions;

b) Using central budget capital managed by ministries or central agencies with total investment equivalent to that in Group A projects in accordance with the law on public investment, or using ODA loans and preferential loans from foreign sponsors;

c) Investment in new construction: airports and airfields; runways of airports and airfields; passenger terminals of international airports; cargo terminals of airports and airfields with an annual cargo handling performance of 1 million tonnes or more;

d) Investment in new construction: harbors or port areas inside special seaports; wharves and port areas inside grade-I seaports with total investment equivalent to that in Group A projects in accordance with the law on public investment.

3. Ministers, Heads of central authorities and other agencies shall be authorized to grant decisions on investment policies for PPP projects under their management, except for the projects specified in Clauses 1 and 2 of this Article.

4. Provincial People's Councils shall be accorded authority to make decisions on policies for investment in PPP projects under their jurisdiction, except for the projects specified in Clauses 1 and 2 of this Article.

5. In case of adjustment in policies for investment in PPP projects, authority to make decisions on policies for investment in PPP projects shall be subject to regulations laid down in Clause 2 of Article 18 herein.

Article 13. Procedures for making decisions on investment policies for PPP projects

1. Procedures for grant of decisions on investment policies for PPP projects falling under the National Assembly's delegated authority shall be subject to the following regulations:

- a) PPP project preparation unit prepares a pre-feasibility study report as a basis for the relevant competent authority to submit it to the Government, and concurrently send it to the Ministry of Planning and Investment;
- b) The Ministry of Planning and Investment offers the Prime Minister a suggestion about setting up the State Assessment Board;
- c) The State Assessment Board conducts an assessment of the submitted pre-feasibility study report. In case any project uses public investment capital, the evaluation of funding sources and the capability to balance investment capital shall be subject to law on public investment;
- dd) The Government prepares complete documentation submitted to the National Assembly for its review and decision;
- dd) The National Assembly's affiliate verifies and reviews the Government's submitted documentation;
- e) The National Assembly considers ratifying resolutions regarding investment policies for PPP projects.

2. Procedures for grant of decisions on investment policies for PPP projects falling under the Prime Minister's delegated authority shall be subject to the following regulations:

- a) PPP project preparation unit prepares a pre-feasibility study report as a basis for the competent authority to send it to the Ministry of Planning and Investment;
- b) The Minister of Planning and Investment offers the Prime Minister a suggestion about setting up the Interdisciplinary Assessment Board;
- c) The Interdisciplinary Assessment Board conducts an assessment of the submitted pre-feasibility study report;
- d) Ministry of Planning and Investment leads the evaluation of funding sources and capacity for balancing central government's budget capital under the provisions of law on public investment in the case of PPP projects using central government's budget capital before sending them to the Interdisciplinary Assessment Board;
- dd) Local public investment authorities lead the evaluation of funding sources and capacity for balancing local government's budget capital under the provisions of law on public investment in the case of PPP projects using local government's budget capital before sending them to the Interdisciplinary Assessment Board;

e) The Interdisciplinary Assessment Board completes and sends an assessment report to the relevant competent authority;

g) Competent authority prepares complete documentation submitted to the Prime Minister for his review and decision;

h) The Prime Minister issues investment policy decisions.

3. Procedures for grant of decisions on investment policies for PPP projects falling under the authority to grant investment policy decisions delegated to Ministers, heads of central authorities and other bodies shall be subject to the following regulations:

a) PPP project preparation units prepare pre-feasibility study reports as a basis for Ministers and heads of central authorities and other bodies to consider issuing decisions;

b) Grassroots-level Assessment Boards or authorized units carry out the assessment of pre-feasibility study reports;

c) Public investment authorities under the control of Ministries, central authorities and other bodies lead the evaluation of funding sources and capacity for balancing public investment capital under the provisions of law on public investment in the case of PPP projects using public investment capital before sending them to the Grassroots-level Assessment Boards or authorized assessment units;

d) Grassroots-level Assessment Boards or authorized assessment units complete and send assessment reports to PPP project preparation units;

dd) PPP project preparation units prepare complete documentation for submission to Ministers and heads of central authorities and other bodies for their review and decision;

e) Ministers, heads of central authorities and other bodies issue their investment policy decisions.

4. Procedures for grant of decisions on investment policies for PPP projects falling under the delegated authority of provincial People's Councils shall be subject to the following regulations:

a) PPP project preparation units prepare pre-feasibility study reports for submission to provincial People's Committees;

b) Grassroots-level Assessment Boards or authorized assessment units carry out the assessment of pre-feasibility study reports;

c) Local public investment lead the evaluation of funding sources and capacity for balancing public investment capital under the provisions of law on public investment in the case of PPP projects using public investment capital before sending them to Grassroots-level Assessment Boards or authorized assessment units;

d) Grassroots-level Assessment Boards or authorized assessment units complete and send assessment reports to PPP project preparation units;

dd) PPP project preparation units prepare complete documentation as a basis for provincial People's Committees to submit them to provincial People's Councils for their review and decision;

e) Provincial People's Councils issue investment policy decisions.

5. As for PPP projects using regular expenditures or lawful revenues reserved for regular spending purposes by state authorities or public service units for making payments to PPP project enterprises, or using state budget reserves for offsetting reduced revenues, financial institutions at all levels evaluate the capability of balancing the budget according to the provisions of law on state budget, and send them to PPP Project Assessment Boards or assigned assessment units for a general report submitted to competent authorities to seek their investment policy decisions.

Article 14. Selection of PPP projects and formulation of pre-feasibility study reports for PPP projects

1. Requirements for a project's eligibility for PPP investment shall comprise:

b) Necessity of making investment;

b) The selected project falls within the sectors prescribed in clause 1 of Article 4 in this Law and meets the minimum total investment requirement prescribed in clause 2 of Article 4 herein;

c) The selected project is not the duplicate of the PPP project obtaining an investment policy decision or a project approval decision;

d) PPP investment approach brings about more benefits than other investment approach;

dd) State capital may be available on demand.

2. Bases for preparation of pre-feasibility study reports shall include:

a) National socio-economic development strategies, plans and other planning schemes in accordance with law on planning;

b) Provisions of this Law and other regulations of other laws related to the sectors where projects invest;

c) Other relevant legislative documents.

3. Pre-feasibility study report shall contain the following main subject matters:

- a) Necessity of making investment; more advantages provided by PPP investment than other investment form; effects of PPP projects on the community and population living within these projects;
- b) Objectives; proposed scale, location and time of execution of projects, land and other natural resource demands;
- c) Preliminary design plans under the construction law for projects with construction components, other relevant laws for projects without construction components; preliminary explanatory notes or interpretations on technical and technological plans; preliminary division of component projects (if any);
- d) Preliminary assessment of the socio-economic efficiency of the project; preliminary assessment of environmental impacts in accordance with legislative regulations on environmental protection as applied to public investment projects;
- dd) Preliminary total investment estimate; preliminary assessment of the project's financial plan; proposal for use of state capital invested in the project (if any); proposal for application of the method of payment to the investor with respect to BTL or BLT projects;
- e) Proposed PPP contract type; investment incentive and guarantee forms; mechanism for distribution of reduced revenues.

Article 15. Assessment of pre-feasibility study reports for PPP projects

1. Documentation on assessment of PSR shall comprise:

- a) Written request for assessment;
- b) Draft application for decision on investment policy;
- c) Pre-feasibility study report;
- d) Other legislative materials related to the project.

2. Assessment of a pre-feasibility study report shall mainly focus on the followings:

- a) Conformity with requirements for a project's eligibility for PPP investment specified in Clause 1 of Article 14 herein;
- b) Relevance to bases for formulation of pre-feasibility study report prescribed in clause 2 of Article 14 herein;
- c) Efficiency of investment; capital recovery;
- d) Relevance of the PPP contract type;

dd) Mechanism for distribution of revenue reductions;

e) Funding sources and capital balancing capability of PPP projects using state capital.

Article 16. Request documentation for investment policy decisions for PPP projects

1. Request form for investment policy decision.

2. Draft decision on investment policy.

3. Pre-feasibility study report.

4. Assessment report on pre-feasibility study report; review and verification report on projects falling under the National Assembly's delegated authority to grant investment policy decision.

5. Other legislative materials related to the project.

Article 17. Information included in an investment policy decision for a PPP project

1. An investment policy decision shall include the following main information:

a) Project name;

b) Competent authority's name;

c) Objectives; proposed project scale, site and time of execution of the project, land and other natural resource demands;

d) Proposed PPP contract type;

dd) Preliminary total investment estimate; preliminary financial plan: structure of funds invested in the project, expected price bracket, and prices of public products and services with respect to projects applying the mechanism for collecting fees directly from users;

e) Mechanism for guarantee of investment and distribution of revenue reductions.

2. As for projects using high or new technologies, apart from those prescribed under the provisions of Clause 1 of this Article, an investment policy decision also includes the bid solicitor's name, investor selection form and time of investor selection event.

Article 18. Modification of PPP investment policy

1. PPP investment policy shall be adjusted if the PPP project's objectives, location, scale or type of contract is changed, and the total investment is increased by 10% or more, or the value of state capital invested in the PPP project is increased, due to the following causes:

- a) A project is affected by force majeure events;
- b) Relevant planning, policies and laws change;
- c) Pre-feasibility study report is modified.

2. Competent authorities mandated to make decisions on policies for investment in PPP projects shall be authorized to issue decisions to modify policies for investment in those projects and shall be responsible for such decisions.

3. Procedures for a competent authority's grant of a decision to modify an investment policy for a PPP project shall be subject to regulations laid down in Article 13 applied to adjustments or modifications.

4. Documentation on modification of an investment policy, including:

- a) Request form for adjustment or modification of investment policy;
- b) Contents of a pre-feasibility study report subject to adjustment or modification;
- c) Report on inspection and review of modified or adjusted contents of a pre-feasibility study report;
- d) Other legislative materials related to the project.

Article 19. Contents of a feasibility study report for a PPP project

1. The PPP project preparation unit shall make a feasibility study report, based on investment policy decisions.

2. Main subject matters of a feasibility study report, including:

- a) Necessity of making investment; more advantages provided by PPP investment than other investment form; results of response to comments on the impacts of PPP projects upon receipt of opinions from People's Councils, People's Committees, Vietnam Fatherland Front of the provinces where the projects are located, or investment-related trade associations;
- b) Relevance to related national socio-economic development strategies, plans and other related planning schemes in accordance with law on planning;
- c) Objectives; scale; location; land and other natural resource demands;
- d) Project execution time and schedule, including contract term and construction time for projects with construction components;

dd) Explanatory notes on requirements concerning technical or technological plans, quality standards of construction works, infrastructure systems or public products and services; design dossiers prescribed under construction and other relevant laws; connection between component projects (if any);

e) PPP contract type; project-related risk analysis and risk management measures;

g) Investment incentive or guarantee form, mechanism for splitting of reduced revenues;

h) Total investment; financial plan; estimated state capital and corresponding management and use method (if any); results of survey of interest of investors and lenders (if any); capability to raise capital for implementation of projects; plans for organization of management, business or provision of public products and services;

i) Socio-economic efficiency; environmental impact assessment report prepared in accordance with law on environmental protection.

Article 20. Documentation requirements and contents of assessment of a feasibility study report for a PPP project

1. Documentation requirements of assessment of a feasibility study report shall comprise:

a) Written request for assessment;

b) Application form for approval of the project;

c) Full texts of the feasibility study report;

d) Full texts of the decision on investment policy;

dd) Other legislative instruments related to the project.

2. Assessment of a feasibility study report shall mainly focus on the followings:

a) Conformity with legal bases;

b) Necessity of making investment;

c) Relevance to requirements concerning technical and technological plans, quality requirements and standards of the project, infrastructure systems or public products or services. The assessment of matters related to design, technical, technological documents and quality standards shall comply with regulations of law on construction and other relevant laws;

d) Relevance of the PPP contract type;

dd) Financial feasibility; plans for organization of management, business or provision of public products and services;

dd) Socio-economic effectiveness.

Article 21. Authority to approve PPP projects

1. The Prime Minister shall be vested with authority to approve the projects referred to in clause 1 of Article 12 herein.

2. Ministers, Heads of central authorities and other agencies shall be authorized to approve the projects under their management as prescribed in Clause 2 and 3 of this Law.

3. Presidents of provincial People's Committees shall be mandated to approve the projects under their management as prescribed in Clause 2 and 4 of Article 12 in this Law.

Article 22. Documentation requirements for approval of PPP projects

1. Application form for approval of the project.

2. Draft decision on approval of the project.

3. Feasibility study report.

4. Report on assessment of feasibility study report.

5. Full texts of the decision on investment policy.

6. Other legislative materials related to the project.

Article 23. Contents of the investment policy decision for a PPP project

An investment policy decision for a PPP project shall include the following main information:

1. Project name;

2. Contract signatory's name;

3. Objectives; scale; location; time of project execution; land and other natural resource demands;

4. PPP contract type;

5. Total investment; structure of capital invested in the project; prices and charges of public products and services for projects applying the contract under which the mechanism for direct fee collection from users is carried out;

6. Name of the bid solicitor, form of investor selection, time of investor selection, except for the case specified in Clause 2 of Article 17 in this Law.

Article 24. Modification of PPP project

1. Feasibility study report may be revised if:

- a) A project is affected by force majeure events;
- b) Elements bringing about higher efficiency for the project appear;
- c) There is any changes in the planning, relevant policy or law directly affecting objectives, location and scale of the project;
- d) Selection of the investor in implementation of the project fails.

2. If any change in a feasibility study report results in any change in objectives, scale, location and type of PPP contract, or an increase of at least 10% or appreciation in state capital invested in a PPP project, processes and procedures for grant of decision on adjustment of investment policy must be carried out before seeking the relevant competent authority's decision on approval of modification of the project.

3. Authority, processes and procedures for assessment of and approval of modification of a PPP project shall be subject to regulations laid down in Article 19, 20, 21, 22 and 23 of this Law with respect to modifications or revisions.

4. Documentation requirements for modification or revision of a PPP project shall include:

- a) Application form for approval of modification of the project;
- b) Draft decision on approval of modification of the project;
- c) Report on inspection and review of modified or adjusted contents of a feasibility study report;
- d) Other legislative materials related to the project.

Article 25. Public disclosure of PPP projects

1. Within 10 days from the date of issuance of the decision on investment policy, the decision on adjustment in the investment policy (if any), the decision on approval of the project, the decision on approval of the adjustment (if any), the competent authority shall make information about the project publicly available under the provisions of Clause 2 of this Article.

2. Project details to be publicly disclosed shall comprise:

- a) Decision on investment policy, decision on adjustment in investment policy (if any);

- b) Decision on approval of the project, decision on approval of adjustment in the project (if any);
- c) Information about the contact address of the relevant competent authority, contract signatory and bid solicitor.

Section 2. PPP PROJECTS PROPOSED BY INVESTORS

Article 26. Requirements of an investor-proposed PPP project

1. An investor-proposed PPP project must meet the following requirements:
 - a) Conforming to eligibility requirements of a project for PPP investment specified at Point a, b, c and d of Clause 1 of Article 14 in this Law;
 - b) Ensuring that a PPP project is not duplicated with other PPP projects for which competent authorities have prepared pre-feasibility study reports or approved of other investors preparing pre-feasibility study reports;
 - c) Conforming to the national socio-economic development strategies, plans and other relevant planning schemes in accordance with law on planning.
2. The open tendering and competitive negotiation for projects proposed by investors must be conducted according to the provisions of Article 37 or Article 38 of this Law.

Article 27. Procedures for preparation of investor-proposed PPP projects

1. Procedures for preparation of the proposal documentation shall be as follows:
 - a) The investor submits the written proposal form for implementation of a PPP project to a relevant competent authority. In case where a receiving competent authority cannot be identified, it shall be sent to the state PPP investment authority;
 - b) The competent authority considers responding in writing that the investor approves or refuses the investor's bid for preparation of the pre-feasibility study report. The written approval may delineate the way to coordinate with a competent authority's affiliates, requirements concerning the deadline for submission of an investor's project proposal and other relevant matters; in case of disapproval, clearly stating the reasons;
 - c) In case of being approved by a competent authority, the investor prepares a project proposal, including: pre-feasibility study report, documents and records on the investor's legal status, capacity and experience;
 - d) The investor sends the proposal documentation to the competent authority;
 - dd) If the project proposal documentation is not approved, the investor shall bear all costs and risks.

2. Projects proposed by investors shall be subject to the assessment and investment policy decision according to the provisions of Article 6, 12, 13, 14, 15, 16 and 17 of this Law.

3. Feasibility study report formulation and assessment, and project approval procedures shall be carried out as follows:

a) The investor takes charge of preparing the feasibility study report under Article 19 herein;

b) The feasibility study report prepared by the investor shall be subject to the assessment conducted under Article 20 herein;

c) The project is approved under the regulations laid down in Article 21, 22 and 23 herein;

d) If the project is not approved, the investor shall bear all costs and risks.

4. Project announcement procedures shall be subject to the following regulations:

a) After an investor-proposed project obtains the investment policy decision or the project approval decision from a relevant competent authority, the competent authority shall publish project information in accordance with Article 25 of this Law and name of the investor proposing the project;

b) For projects containing information related to intellectual property rights, trade secrets, technologies or capital raising agreements for project execution subject to the confidentiality requirement, the investor agree with a relevant competent authority about unpublished information.

5. The adjustment or modification of a PPP project investment policy shall be subject to regulations laid down in Article 18 herein while the adjustment or modification of a PPP project shall be subject to regulations laid down in Article 24 herein.

6. Costs of preparation of the pre-feasibility study report or the feasibility study report shall be charged into total investment in the project. In case where the investor submitting the project proposal is not selected, the expenses incurred from making the pre-feasibility study report or the feasibility study report shall be reimbursed by the selected investor.

7. The Government shall elaborate on this Article.

Chapter III

INVESTOR SELECTION

Section 1. GENERAL PROVISIONS REGARDING INVESTOR SELECTION

Article 28. Investor selection procedures

1. An investor shall be selected according to the following procedures:
 - a) Drawing up the shortlist (where applicable);
 - b) Making preparations for selection of the investor;
 - c) Selecting investors;
 - d) Evaluating bidding documents;
 - dd) Submitting, assessing, approving and publishing investor selection results;
 - e) Negotiating, finalizing and concluding a PPP contract, and publishing contract information.
2. Based on the specific conditions of each project, the competent authority draws up a shortlist after issuing an investment policy under Point a of Clause 1 of Article 11 in this Law, or after approving the project under Point b of Clause 1 of Article 11 herein.
3. Selecting an investor according to the procedures specified in Clause 1 of this Article on the Vietnam National E-Procurement System shall conform to the schedule set by the Minister of Planning and Investment.
4. The investor whose project proposal has been accepted shall be entitled to the preferential treatment during the bid evaluation process.
5. The selected investor committed to hiring domestic contractors, and using domestic goods, supplies, materials and equipment, shall be given preference during the bid evaluation process.
6. The Government shall elaborate on this Article.

Article 29. Investor's lawful status

An investor in lawful status must meet the following requirements:

1. Having an establishment and operation registration certificate issued by a competent authority of the country or territory in which that investor is operating;
2. Carrying out the independent financial accounting regime; ensuring competitive investor selection;
3. Not in the dissolution process; not falling into the case of insolvency in accordance with the law on bankruptcy;
4. Not subject to any prohibition against participation in PPP investment activities;

5. Enterprises with 100% state-owned capital must enter into partnership with private sector investors to participate in the bidding process;
6. Investors established under foreign laws must meet market access conditions when participating in the process of selection of investors in projects in the relevant conditional sectors and trades, subject to the provisions of the law on investment.

Article 30. Assurance of competitive investor selection

Bidding investors must display legal and financial independence from the parties hereunder:

1. The party giving counsel on preparation of the pre-feasibility study report or feasibility study report, except for cases where the project is proposed by an investor;
2. The party giving counsel on the assessment of the pre-feasibility study report or the feasibility study report;
3. The party giving counsel on the formulation and assessment of the invitation for prequalification and the invitation for bid; the evaluation and inspection of prequalification or investor selection results;
4. The competent authority, the contract signatory and the bid solicitor.

Article 31. Domestic or international investor selection

1. The selection of domestic investors shall be made in the forms prescribed in Articles 37, 38, 39 and 40 of this Law. Only investors established under Vietnamese law may participate in this selection process.
2. The selection of international investors shall be made in the forms prescribed in Articles 37, 38, 39 and 40 of this Law. Both investors established as per foreign law and those established as per Vietnamese law may participate in this selection process.
3. The process of selection of international investors may be applied to all PPP projects, except:
 - a) Projects in the industries and trades without the authorization for market access in which foreign investors make their investment in accordance with the law on investment;
 - b) Projects subject to the requirements concerning national defence, security and state secrets.

Article 32. Language used in the investor selection process

The language used in the process of selection of domestic investors shall be Vietnamese; the language used in the process of selection of international investors shall be either English or Vietnamese and English.

Article 33. Bid guarantee

1. Based on the scale and nature of each project, the value of a bid guarantee shall be specified in the invitation for bid at a determined rate of between 0.5% and 1.5% of total investment of the project.
2. The period of validity of the bid guarantee specified in the invitation for bid shall be equal to the validity period of the bid plus 30 days.
3. In case of extension of the validity period of a bid, the bid solicitor must request the investor to give an extension equivalent to the period of validity of the bid guarantee provided that the contents of the submitted bid are not changed. In case the investor refuses to give such extension, the bid will be no longer valid and eliminated.
4. In case a partnership participates in a bid, each partner member can provide a separate bid guarantee or can enter into an agreement under which a partner member is responsible for providing the bid guarantee for both that partner member and others joining the partnership. Total value of a bid guarantee shall not be less than the value requested in the invitation for bid. In case where there is a member in the partnership violating the provisions of Clause 6 of this Article, the bid guarantees provided by all member partners shall not be refunded.
5. Bid solicitors must return or release bid guarantees to unsuccessfully bidding investors within the time limit specified in the invitation for bid, but not longer than 14 days from the date on which the results of investor selection are approved. With regard to the selected investor, their bid guarantee shall be returned or released after the PPP project enterprise established by the investor has fulfilled their obligations specified in the contract performance security (or performance bond) as prescribed in Article 48 herein.

In case an investor refuses to give an extension as prescribed in Clause 3 of this Article, the bid solicitor must return or release the bid guarantee to the investor within 14 days from the date on which the bid solicitor has received the written document on refusal of extension.

6. Bid guarantees shall not be returned in the following cases:
 - a) Investors withdraw their bids during the validity of these bids;
 - b) The investor violates the law on bidding to the extent that such violation leads to the bid cancellation as prescribed at Point dd of Clause 1 of Article 34 herein;
 - c) The investor has not conducted or refused to negotiate or finalize the contract within 30 days of receipt of the bid-winning notice from the bid solicitor, or has negotiated and finalized the contract but refused to sign the contract, except in force majeure cases;
 - d) PPP project enterprises established by investors has failed to fulfill their obligations specified in the contract performance security (or performance bond) as prescribed in Article 48 herein.

Article 34. Bid cancellation

1. Bid cancellation shall occur in the following cases:

a) All applications for prequalification and bidding documents do not meet the requirements of the invitation for prequalification or the invitation for bid;

b) Objectives and scale mentioned in the invitation for prequalification or the invitation for bid change;

c) The invitation for prequalification or the invitation for bid fails to comply with regulations laid down in this Law or other relevant laws to the extent that the selected investor fails to meet the requirements for project implementation;

c) The investor selection process is carried out in breach of regulations laid down in this Law or other relevant laws to the extent that competition between investors is restricted;

dd) There is any proof of bribe offer, receipt or brokerage, bid rigging, fraud, abuse of position and power with the intention of illegally interfering in bidding activities to the extent that such acts falsify results of investor selection.

2. Organizations and individuals that commit violations to the extent of bid cancellation as prescribed at Points c, d and dd of Clause 1 of this Article shall pay compensation to related parties and shall be subject to actions prescribed by law.

Article 35. Bid solicitor's responsibilities during the investor selection process

1. Assume responsibility before law and to competent authorities for the investor selection process.

2. Ensure faithfulness, objectivity and equality.

3. Pay compensation in accordance with laws.

4. Keep documents or records confidential.

5. Store relevant information provided in law on archives.

Article 36. Handling of investor selection situations arising in the project execution process

1. Handling of investor selection situations arising in the project execution process means any response to cases arising that has not been prescribed clearly and in detail herein.

2. Competent authorities and bid solicitors shall be responsible before law for situation handing decisions on the basis of ensuring conformity with the following principles:

a) Such decisions must be issued to ensure competitiveness, fairness, transparency and economic efficiency;

b) Such decisions must be made based on the investment policy decision; the project approval decision; the invitation for prequalification; prequalification applications or bidding documents; prequalification results, investor selection results; the contract that has been signed with the selected investor; actual situation of project implementation.

3. The Government shall elaborate on this Article.

Section 2. INVESTOR SELECTION APPROACHES

Article 37. Open bidding

1. Open bidding is an approach to selecting investors in which the number of participating investors is not limited.

2. Open bidding must be applied to all PPP projects, except the cases specified in Articles 38, 39 and 40 of this Law.

Article 38. Competitive negotiation

Competitive negotiation approach shall be employed in the following cases:

1. No more than 03 investors meeting project execution requirements are invited to attend;

2. Projects use high technologies on the list of high technologies prioritized for investment and development thereof under the provisions of the law regarding high technologies;

3. Projects use high technologies prescribed in law on technology transfer.

Article 39. Investor appointment

1. The approach to appointing investors shall be employed in the following cases:

a) Projects need to meet the requirements concerning national defence, security and state secret;

b) Projects need to immediately select a substitute investor in accordance with Point a of Clause 4 of Article 52 in this Law to ensure continuity in the project implementation process.

2. The authority having competence in granting the decision on approval of projects shall decide the investor appointment; in case of appointment of an investor in the project prescribed at Point a of Clause 1 of this Article, prior to appointment of the investor, the Prime Minister's consent must be obtained upon consultation with the Ministry of National Defense and/or the Ministry of Public Security about national defense, security and state secret protection requirements.

Article 40. Investor selection taking place in certain special cases

1. In case where conditions arising in a PPP project are so specific or particular that the investor selection approaches referred to in Article 37, 38 and 39 of this Law cannot be applied, competent authorities shall seek the Prime Minister's decision on the investor selection plan.

2. Documentation submitted to the Prime Minister to seek his decision shall include the followings:

a) Basic project information;

b) Explanation about specific or particular conditions of a project;

c) Plan for selection of investors in special cases shall describe the following information: investor selection steps; specific solutions to address specific and particular characteristics of the project which are proposed to ensure the investment efficiency of the project.

Section 3. METHODS AND STANDARDS FOR EVALUATION OF PREQUALIFICATION OR BIDDING DOCUMENTS

Article 41. Methods and standards for evaluation of prequalification applications

1. Evaluation of an application for prequalification shall be made by employing the scoring method according to the 100 or 1,000-point grading system referred to in the application for prequalification. The scoring method shall be developed based on the evaluation standards for prequalification applications as specified in Clause 2 of this Article.

2. Standards for evaluation of pre-qualification applications shall include the following basic details:

a) Financial - commercial capacity and experience, capital arrangement capability; experience in execution of similar projects.

In the case of a partnership, the investor's capability and experience shall be determined by the aggregate capacity and experience of member partners; any investor as the head of a partnership must contribute at least 30% of their capital to the partnership's equity while each member partner must contribute at least 15% of their capital to the partnership's equity;

b) Preliminary project execution plan and project implementation commitment;

c) Past disputes and claims related to contracts that have been being executed.

Article 42. Methods and standards for evaluation of bidding documents

1. Capability and experience evaluation shall be made according to the 100 or 1,000-point grading system referred to in the bidding documentation. Standards for capability and experience evaluation shall be subject to provisions laid down in clause 2 of Article 41 herein.

2. The technical evaluation shall be made based on the 100 or 1,000-point grading system or the pass/fail grading system prescribed in the invitation for bid. The technical evaluation standards shall comprise project quality, capacity and performance standards; project operation, management, business, maintenance and care standards; environmental and safety standards; other engineering standards.

3. Financial – commercial evaluation shall be made according to the comparison or ranking approach specified in the invitation for bid. The comparison and ranking approach shall be developed according to financial – commercial evaluation standards, including one of the following standards:

a) Standards for public product and service prices and charges;

b) Standards for state capital used for supporting the construction of infrastructure works and systems;

c) Standards for social and state benefits.

4. The Government shall elaborate on this Article.

Article 43. Pre-approval inspection of investor selection results

An investor may obtain a recommendation for selection if they meet the following requirements:

1. Their bidding documents are valid;

2. They satisfy capability and experience requirements;

3. They conform to technical requirements;

4. They meet financial – commercial requirements;

5. Their bidding documents are ranked first.

Chapter IV

INCORPORATION AND OPERATION OF PPP PROJECT ENTERPRISES; PPP CONTRACTS

Article 44. Incorporation and operation of PPP project enterprises

1. After the decision to approve the selection results is issued, the investor shall establish a PPP project enterprise in a form of a limited liability company or a joint stock company that is not a public company with the sole purpose of signing and implementing PPP contracts. The application for enterprise registration shall contain the details prescribed by law on enterprises and the decision on approval of investor selection results.

2. PPP project enterprises may issue corporate bonds in accordance with Article 78 of this Law.

3. Apart from compliance with the provisions of Clauses 1 and 2 of this Article, the establishment, management, operation, dissolution, and bankruptcy of PPP project enterprises must comply with laws pertaining to businesses or enterprises, and regulations of other relevant laws and PPP contracts.

Article 45. Classification of PPP contracts

1. The group of project contracts applying the mechanism for direct collection of fees from users or underwriting for public products and services, including:

a) BOT contract means the contract under which a PPP project investor or enterprise is assigned the right to build and operate infrastructure works and systems within a predetermined term; upon expiry of such term, the PPP project investor or enterprise transfers these works or systems to the State;

b) BTO contract means the contract under which a PPP project investor or enterprise is assigned the right to build infrastructure works and systems; after the construction is complete, the PPP project investor or enterprise transfers these works or systems to the State, and is accorded the right to operate these works or systems within a specified period of time;

c) BOO contract means the contract under which a PPP project investor or enterprise is assigned the right to build, own and operate infrastructure works and systems within a predetermined term; upon expiry of such term, the PPP project investor or enterprise terminates the contract;

d) O&M contract means the contract under which a PPP project investor or enterprise is assigned the right to operate and manage part or the whole of existing infrastructure works and systems within a predetermined term; upon expiry of such term, the PPP project investor or enterprise terminates the contract.

2. The group of project contracts providing the State mechanism whereby payment is made on the basis of the quality of public products and services, including:

a) BTL contract means the contract under which a PPP project investor or enterprise is assigned the right to build infrastructure works or systems, and transfer them after completion; is accorded the right to supply public products and services on the basis of operating and exploiting these works or systems within a predetermined term; the transferee signs a service lease and pays the PPP project investor or enterprise;

b) BLT contract means the contract under which a PPP project investor or enterprise is assigned the right to build infrastructure works or systems, and supply public products and services on the basis of operating and exploiting these works or systems within a specified period of time; the transferee-to-be signs a service lease and pays the PPP project investor or enterprise; upon expiry of such term, the PPP project investor or enterprise transfers these works or systems to the State.

3. Mixed contract is the contract which is the result of combination of those contracts prescribed in Clause 1 and 2 of this Article.

4. With respect to the projects referred to in Point b of Clause 9 of Article 3 herein, the contract providing the mechanism for direct collection of fees from users shall not be applied to them.

Article 46. PPP contract documentation

1. PPP contract documentation shall comprise the following main documents:

a) PPP contract, including general and specific terms and conditions;

b) Appendices (if any);

c) Contract negotiation minutes;

d) Decision on approval of investor selection results;

dd) Bidding documents and other documents clarifying the selected investor's bidding documents;

e) Invitation for bid and other documents stating amendments and supplements to the invitation for bid.

2. If there is any change in any contractual terms and conditions, parties shall need to sign appendices to the contract.

Article 47. Basics of project execution contracts

1. A PPP contract shall contain the following information:

a) Objectives, scale, location and schedule of implementation of a project; time and duration of a infrastructure work or system; the effective date of the contract; contract term;

b) Scope of and requirements concerning engineering, technology and quality of the infrastructure work or system, supplied public products or services;

c) Total investment; capital structure; financial plan, including the financial arrangement plan; public product and service prices and charges, including methods and formulas for setting or

adjusting them; state capital invested in a PPP project and the corresponding form of management and use (if any);

d) Conditions for use of land and other natural resources; plans to organize the construction of auxiliary works; requirements for compensation, support and resettlement; assurance of safety and environmental protection; force majeure cases and plans for response to force majeure events;

dd) Responsibilities for carrying out licensing procedures according to regulations of relevant laws; design; organization of construction; quality inspection, supervision and management at the construction phase; acceptance testing, settlement of investment capital and confirmation of the completion of infrastructure works and systems; provision of main input materials used for production and business activities of the project;

e) Responsibilities for the operation and commercial use of infrastructure works and systems so that public products and services are provided in a continuous and stable manner; conditions, order and procedures for transfer of infrastructure works and systems;

g) Performance security; rights of ownership, management, and exploitation of assets related to the project; rights and obligations of the PPP project investor or enterprise; the agreement on use of a third-party guarantee service with respect to the obligations of the contract signatory;

h) Plans for response to the circumstances substantially changing in accordance with civil law to continue to perform the contract; response, compensation and punitive measures in case one of the contracting parties breaches the contract;

i) Responsibilities of parties related to information security; reporting regime; provision of information, related documents and explanation about the contract performance at the request of competent authorities, inspection, examination, auditing, and supervising authorities;

k) Principles and conditions for amendment, supplementation and termination of the contract before its expiry; assignment of rights and obligations of the parties; the lender's rights; procedures, rights and obligations of the parties upon contract discharge;

l) Investment incentives, guarantees, plans to share the revenue increase and decrease, assurance of balancing of foreign currencies, types of insurance (if any);

m) Laws governing the contract and dispute resolution mechanism.

2. PPP contract must specify rights and obligations of the contracting authority, the investor and the PPP project enterprise.

3. The Government shall regulate sample contracts applicable to types of contracts specified in Article 45 of this Law.

Article 48. PPP contract performance security

1. The PPP project enterprise must provide a contract performance security before the effective date of the contract.
2. Based on the scale and nature of each project, the value of a contract performance security shall be specified in the invitation for bid at a determined rate of between 01% and 03% of total investment in the project.
3. The validity period of the contract performance security shall start on the effective date of the contract and end on the date on which the PPP project enterprise completes its contractual obligations during the stage of construction of infrastructure work or system under the contract; In cases where it is necessary to prolong the construction period, the investor must extend the validity period of the contract performance security accordingly.
4. The PPP project enterprise shall be entitled to return or release the contract performance security after discharge of their contractual obligation to build the construction work or infrastructure system, unless otherwise prescribed in Clause 5 of this Article; As for O&M contracts, the contract performance security shall be returned or released after the investor completes their contractual obligations.
5. The PPP project enterprise shall not be entitled to the return or release of the contract performance security in the following cases:
 - a) Refuse to execute the contract after contract conclusion;
 - b) Violate agreement made in the contract to the extent of the early termination of the contract as prescribed at Point d of Clause 2 of Article 52 in this Law;
 - c) Fail to extend the validity period of the contract performance security under the regulations laid down in clause 3 of this Article.
6. The Government shall elaborate on the ratio of value of the contract performance security under clause 2 of this Article.

Article 49. Conclusion of PPP project execution contracts

1. A contract shall be signed on the basis of a decision on approval of investor selection result, contract negotiation result or bidding document that remains valid, or investor's capability information which is updated at the time of contract conclusion and the invitation for bid.
2. The investor and the PPP project enterprise may form a party and jointly sign a contract with the contracting authority.
3. As for investors in partnerships, all member partners must directly bear their signatures and stamps (if any) into the contract.

Article 50. Modification or revision of PPP contracts

1. Modification of a PPP project contract must be specified in the contract and considered by the contracting parties in one of the following cases:

a) The project is affected by force majeure events or when circumstances change substantially or when there is any change in relevant planning, policies or laws that seriously affects the technical and financial plans of the project, prices and charges of public products and services supplied by the PPP project enterprise;

b) One of the contracting parties is subject to certain adjustment;

c) The term of the PPP contract provided in clause 2 and 3 of Article 51 herein is subject to any adjustment;

d) A PPP contract falls into other cases where modification or revision thereof is required under the authority of the contracting authority provided that such modification does not result in any change in the investment policy, and brings about better financial and socio-economic efficiency for the project.

2. The steps in modifying a PPP contract shall be specified as follows:

a) One of the contracting parties submits a written request for modification or revision of the contract, clarifying cases in which modification or revision of the contract is accepted;

b) The contracting parties negotiate the proposed updates to the contract, including prices and charges of public products and services; contract term; other matters of the contract whenever there is any change thereof;

c) The contracting parties need to sign appendices to the contract that describe amendments or modifications.

3. With respect to the modification of a contract leads to a change in the objectives, location, size and type of PPP contract, if an increase in total investment by 10% or more or the value of state capital invested in the PPP project is made after contingency funds are used up, investment policy adjustment procedures must be carried out as prescribed in Article 18 of this Law before signing the contract annexure for amendments or modifications.

Article 51. PPP contract term

1. The contract term shall be agreed upon between parties based on the decision on approval of investor selection results.

2. The contracting parties may adjust the contract term on condition that the aggregate contract term, including the adjustment period, does not exceed the land allocation or lease term in accordance with the land law, and such adjustment does not change other contents of the project investment policy decision.

3. Cases in which adjustment in the contract term is required, including:

a) There is any delay in completing the construction phase or any interruption in the operation of the construction work or infrastructure system due to any substantial change in circumstances as provided in the civil law to the extent that it goes beyond the reasonable control of a contracting party;

b) The project is suspended by the competent authority or other competent authority of the State, except as it is suspended through the PPP project enterprise's fault;

c) As additional costs incurred due to the competent authority's request have not yet been determined by the contracting authority after the contract conclusion, in case of failure to obtain permission for such extension, the PPP project enterprise cannot recover these costs;

d) There is any change in planning, policies and related laws to the extent of a reduction in revenue by less than 75% compared with the revenue in the financial plan specified in the contract;

dd) The revenue increases by at least 125% compared to the revenue inscribed in the financial plan specified in the contract.

Article 52. PPP contract termination

1. The contract termination shall comply with the provisions of the contract, and may serve as a basis for the contract discharge.

2. Termination of a PPP project contract before its expiry (briefly called early termination) only occurs in the following cases:

a) If the project is affected by a force majeure event, despite all remedial actions taken by parties, the continued execution of the PPP contract will not be ensured;

b) Early termination occurs to gain the state interests; meet the requirements concerning national defence, security and state secrets;

c) The PPP project enterprise loses its solvency in accordance with the law on bankruptcy

d) Either party seriously defaults on contractual obligations;

dd) Other cases appear due to substantial changes in circumstances in accordance with civil law to the extent that the contracting parties agree to terminate the contract.

3. The contracting authority must report to the competent authority before the contract termination.

4. In case of termination of a PPP contract before its expiry, the contracting authority shall perform the following tasks:

- a) Cooperating with the lender in selecting an alternative investor to sign a new PPP contract;
- b) Pending the implementation of the response plan, if an alternative investor has not been selected yet, the contracting authority shall be responsible for the safety and anti-deterioration of the work or infrastructure system with respect to the project under construction; the operation and commercial use of the work or infrastructure system to ensure the continuity of the provision of public products and services with respect to the project in operation.

5. The authority entering into a contract to perform the tasks specified in Clause 4 of this Article may use the funding sources specified in Clause 3 of Article 73 in this Law and other lawful income.

6. In case where the PPP contract is terminated before expiration of the term specified at Point b of Clause 2 of this Article or due to the contracting authority's serious default on the performance of the contractual obligations specified at Point d of Clause 2 of this Article, funds for acquisition of the PPP project enterprise or compensation for contract termination shall be allocated from the state capital according to the provisions of law; In case the termination occurs at the investor's fault specified at Points c and d of Clause 2 of this Article, the investor shall be responsible for transferring shares or contributed capital portions to the alternative investor.

7. The Government shall elaborate on this Article.

Article 53. Lender's rights

- 1. During the process of execution of a PPP contract, the lender's rights shall be exercised according to the parties' agreements made in the credit facility contract, the PPP contract and regulations of relevant laws.
- 2. In case where a PPP contract is terminated before expiration and an alternative investor is selected, the lender shall cooperate with the contracting authority to select a substitute investor under the provisions of Point b of Clause 1 of Article 39 herein.
- 3. Regulations laid down in Clause 2 of this Article must be agreed in writing between the contracting authority and/or the lender and the investor and/or the PPP project enterprise.

Article 54. Transfer of shares, contributed capital portions, rights and obligations of PPP contracts

- 1. In case where the PPP project enterprise is established by an investor in the partnership, member partners shall have the rights to transfer shares or contributed capital portions to each other, but must ensure the minimum equity ratio of each member as prescribed in Point a of Clause 2 of Article 41 herein.

2. Investors shall have the right to transfer shares or contributed capital portions to other investors after completion of the construction of works with respect to those projects with construction components, or after switching to the operation stage with respect to those projects without construction components.

3. The transfer stipulated in Clause 1 and 2 of this Article must satisfy the following requirements:

a) Such transfer does not lead to any change in execution of a PPP contract already in effect;

b) Such transfer must comply with regulations of relevant laws;

c) Such transfer is accepted by the contracting authority;

d) Such transfer is subject to agreement between the lender and members of a partnership with regard to partnership investors.

4. The transferee must satisfy the following requirements:

a) They must not be constrained from the right to receive transferred items as provided for by law;

b) They must have financial and administrative capacity to execute PPP contracts and other related contracts;

c) They are committed to continuing to carry out the rights and obligations of the transferor in accordance with the PPP contract and other related contracts.

5. In case where the transfer specified in Clause 1 and 2 of this Article changes the contents of enterprise registration, the PPP project enterprise must comply with relevant provisions of the enterprise law.

Article 55. Legislation governing PPP contracts

PPP project contract, its annexure and other relevant documents signed between a Vietnamese state authority and a PPP project investor or enterprise shall be governed under Vietnamese legislation. With respect to the matters that are not regulated under Vietnamese law, the parties may reach specific agreements in a PPP contract on condition that such agreements are not in breach of basic rules of Vietnamese law.

Chapter V

IMPLEMENTATION OF PPP CONTRACTS

Section 1. BUILDING OF WORKS AND INFRASTRUCTURE SYSTEMS

Article 56. Preparation of building sites

Provincial People's Committees shall assume the prime responsibility for, and cooperate with competent authorities and contracting entities in, arranging compensation, support and resettlement, and completing procedures for land allocation, land lease, and building site handover for project implementation purposes in accordance with the law on land, PPP and other related contracts.

Article 57. Formulation, assessment and approval of the design following the basis design and cost estimate

1. Based on the feasibility study report and the provisions of the PPP contract, the PPP project enterprise must perform one or more of the following tasks:

a) Making the construction design after the basic design. With respect to sub-projects or items using public investment capital, making the cost estimate and sending it to the construction-specialized authority in accordance with law on construction for assessment purposes;

b) Making the design. With respect to sub-projects or items using public investment capital, making the cost estimate and sending it to the specialized authority in accordance with other law for assessment purposes.

2. PPP project enterprises shall approve designs and cost estimates specified in Clause 1 of this Article and send the following documents to the contracting authority for monitoring and supervisory purposes:

a) Approved design documents and cost estimates;

b) Design and cost estimate assessment documentation of specialized authorities.

Article 58. Selection of contractors bidding for execution of PPP projects

PPP project enterprises must adopt uniform regulations on contractor selection to be applied to enterprises according to the following principles:

1. Ensure fairness, transparency and economic efficiency;

2. Ensure these regulations do not affect or negatively impact national defense and security, state secrets, national or community interests and interests of competent authorities and contracting authorities;

3. The selected contractor must satisfy all capacity and experience requirements, and have feasible solutions for the execution of the package or project; take responsibility for fulfillment of quality and progress requirements of the package under the contract signed with the PPP project enterprise, including liability clauses by which the selected contractor are bound if the quality of the construction work or infrastructure system does not meet requirements set out in

the PPP contract. PPP project enterprise shall be responsible for the quality and progress of implementation of the project;

4. Prefer domestic contractors bidding for the work that domestic contractors can undertake;

5. Only hire foreign workers if domestic workers are unqualified.

Article 59. Management and supervision of quality of construction works and infrastructure systems

1. The PPP project enterprise shall be responsible for the management and supervision of the quality, and the acceptance testing of the entire work and infrastructure system in accordance with law.

2. In the course of development and construction of the contractual work or infrastructure system, the contracting authority shall assume the following responsibilities:

a) Conduct the inspection of the PPP project enterprise's supervision of the process for construction of works and infrastructure systems;

b) Conduct the inspection of compliance with engineering and construction procedures, standards and regulations for works and infrastructure systems;

c) Conduct the quality assessment of construction parts, items and the entire work and infrastructure system whenever there is any doubt about quality, or upon the competent regulatory authority's request;

d) Request the PPP project enterprise to demand the contractor's adjustment or suspension of construction when seeing that the quality of the work fails to conform to requirements.

3. The contracting authority may hire a consultant to assist in performing their responsibilities specified in Clause 2 of this Article.

4. Costs for hiring quality accreditation consultants and other related costs shall be subject to the following regulations:

a) In case where the contracting authority concludes that the quality of the work or infrastructure system fails to meet the requirements set forth in the contract through the fault of PPP project enterprise or the contractor, the PPP project enterprise shall be responsible for payment of these costs;

b) In case where the contracting authority concludes that the quality of the work or infrastructure system meets the requirements set forth in the contract, or concludes that it does not meet the requirements set out in the contract without fault of the PPP project enterprise or the contractor, the contracting authority shall use the project implementation expenses specified in Clause 3 of Article 73 in this Law for payment.

Article 60. Settlement of expenses for investment in works and infrastructure systems

1. After completing the work or infrastructure system, the contracting authority shall carry out the settlement of public capital invested in the PPP project as follows:

a) In case where public capital invested in a PPP project is managed and used in accordance with Point a of Clause 5 of Article 70 and Clause 2 of Article 72 of this Law, the contracting authority and the PPP project enterprise shall carry out the settlement of public capital invested in the PPP project according to the provisions of law in the same manner as public investment projects;

b) In case where public capital invested in a PPP project is managed and used in accordance with Point b of Clause 5 of Article 70 herein, the contracting authority shall make a financial statement of disbursements to the PPP project enterprise audited by an auditing body as a basis for settlement of capital invested in the PPP investment project. Public capital invested in a PPP project which is qualified for settlement must not exceed the state capital specified in the contract.

2. After completion of the work or infrastructure system, the contracting authority and the PPP project enterprise shall carry out the settlement of public capital invested in construction of the work or infrastructure system. The settlement value of investment capital for construction of the work or infrastructure system or the settlement value of investment capital in projects without construction components shall be determined on the basis of the contract already in effect.

3. The contracting authority shall reach an agreement with the PPP project enterprise in the contract on the selection of a qualified and experienced independent auditing organization to conduct the audit of capital invested in construction of the work or infrastructure system.

4. The Government shall elaborate on this Article.

Article 61. Certification of completion of a construction work and infrastructure system

1. After completion, the PPP project enterprise shall undertake the acceptance testing of the work or infrastructure system in accordance with construction law or other relevant legislation as a basis to prepare request documentation for completion certification.

2. Based on the documentation submitted to request the certification of completion of the work or infrastructure system specified in Clause 1 of this Article, the contracting authority shall check before granting the certificate of completion to the PPP project enterprise. In case where the PPP project enterprise completes the construction phase ahead of time or saves investment costs, the certification of completion of the work or infrastructure system shall not affect the contract term or the rates of prices and charges of public products and services defined in the contract.

3. The Government shall regulate documentation requirements and time limit for certification of completion of works and infrastructure systems.

Section 2. MANAGEMENT AND OPERATION OF WORKS AND INFRASTRUCTURE SYSTEMS

Article 62. PPP project management

The management of a construction work or infrastructure system and other assets during the period of implementation of PPP projects shall comply with the provisions of this Law, other regulations of relevant laws and terms and conditions of PPP contracts.

Article 63. Requirements for operation of works and infrastructure systems

1. Except for the case specified in Clause 2 of this Article, PPP project enterprises may operate infrastructure systems from the date on which the contracting authority certifies their completion as prescribed in Article 61 of this Law.

2. As for PPP projects using O&M contracts, PPP project enterprises shall operate works or infrastructure systems from the effective date of PPP contracts.

Article 64. Provision of public products and services

1. During the period of operation of works or infrastructure systems, PPP project enterprises shall assume the following responsibilities:

a) Implement the rights and obligations to provide public products and services, and other agreements made in the contract;

b) Ensure the use of works and infrastructure systems according to contractual terms and conditions;

c) Equally treat all users of public products and services provided by PPP project enterprises; prohibit refusing to provide public products or services to users;

d) Receive and promptly handle user's opinions about the quality of public products and services provided by PPP project enterprises;

dd) Periodically repair and maintain, and ensure the safe operation of works or infrastructure systems according to the design or process agreed upon in the contract.

2. Competent authorities or contracting authorities can cooperate with PPP project enterprises in carrying out the responsibilities specified in Point d of Clause 1 of this Article.

Article 65. Public product and service prices and charges

1. Prices or charges of public products and services, conditions, procedures and adjustments shall be specified in the PPP contract according to the principle of ensuring the interests of the investor, the PPP project enterprise, the user and the State, providing investors or PPP project

enterprises facilitation to recover capital and make profits. The pricing plan and price bracket of public products and services according to the term of a PPP project contract must specify the starting price and the price varying in specific periods to ensure accuracy, completeness, public disclosure and transparency of price factors.

2. The application of measures to support public product and service prices and charges shall comply with the provisions of law.

3. The agreement on and adjustment of public product and service prices and charges for each period in a PPP project contract must comply with the law on prices and charges.

4. If there is any change in prices and charges of public products and services, the dissemination of information about such adjustment shall be regulated as follows:

a) No longer than 10 days before the application of adjusted prices and charges of public products or services, contracting authorities shall make public disclosure of information as prescribed in Article 9 of this Law;

b) PPP project enterprises shall list adjusted prices and charges of public products and services at the locations where public products and services are provided in accordance with the law on prices and charges.

Article 66. Supervision of quality of public products and services

1. PPP project enterprises must ensure and take responsibility for the quality of public products and services under PPP contracts.

2. Contracting authorities shall be responsible for the supervision of the quality of public products and services provided by PPP project enterprises under PPP contracts.

3. In case where the quality of public products and services does not meet the requirements under a PPP contract, the contracting authority shall request the PPP project enterprise to take remedial action within the time limit specified in the contract; in case the PPP project enterprise's failure to take, or delay in taking, remedial action, it shall apply measures to handle violations in the contract.

4. The contracting authority may hire a consultant to assist in performing their responsibilities specified in Clause 2 of this Article. Consultant hiring costs shall be paid under the provisions of Clause 4 of Article 59 in this Law.

Section 3. TRANSFER OF CONSTRUCTION WORKS OR INFRASTRUCTURE SYSTEMS, AND DISCHARGE OF PPP CONTRACTS

Article 67. Transfer of construction works and infrastructure systems

1. The transfer of construction works and infrastructure systems, and the determination of the quality and value of construction works and infrastructure systems prior to the transfer shall comply with the terms and conditions of PPP contracts. The residual value of the transferred work and infrastructure system shall be incorporated into state assets and state budget in accordance with the law on management and use of public assets and state budget.
2. Procedures and processes for disposal and management of the transferred property shall be subject to provisions laid down in law on management and use of public assets.
3. The Government shall elaborate on clause 2 of this Article.

Article 68. Discharge of PPP contracts

1. PPP contracts shall be discharged as follows:
 - a) In case where the contracting parties have already fulfilled their contractual obligations, the contracting parties shall certify the fulfillment and termination of their rights and obligations;
 - b) In case where a contract is terminated before expiry as specified in Clause 2 of Article 52 of this Law, the contracting parties shall certify the completed obligations and the parties' liabilities for the unfinished work.
2. The time limit for discharge of a PPP contract shall be agreed upon by the contracting parties, but not exceeding 180 days from the date on which the contracting parties fulfill their contractual obligations or the date on which the parties agree to terminate the contract before its expiry.
3. In case where costs have incurred when the contract is discharged as prescribed in Clause 1 of this Article, the discharge of the contract must include the determination of the obligations of the contracting authority and the PPP project enterprise to the costs incurred.

Chapter VI

PROJECT FUNDING

Section 1. STATE CAPITAL INVESTED IN A PPP PROJECT

Article 69. Use of state capital invested in a PPP project

1. State capital may be used for the following purposes:
 - a) Supporting the building of construction works and infrastructure systems as part of a PPP project;
 - b) Paying PPP project enterprises for their provision of public products and services;

c) Paying costs of site clearance, site clearance compensation, support, resettlement; costs of support for construction of temporary works;

d) Compensating for the reduced revenue;

dd) Covering costs and expenses incurred from performing activities by competent authorities, contracting authorities, PPP project preparation units, and bid solicitors within their duties as specified in Article 11 of this Law;

e) Covering costs and expenses of PPP Project Assessment Boards and its subordinate units assigned to conduct the evaluation of PPP projects.

2. The proportion of state capital participating in a PPP project as prescribed at Points a and c of Clause 1 of this Article must not exceed 50% of the project's total investment. As for projects with many component projects, including those component projects developed according to the PPP investment approach, the state capital ratio specified in this Clause shall be determined in proportion to the total investment in such component projects.

3. The Government shall elaborate on the use and management of state capital invested in PPP projects.

Article 70. State capital used for supporting the building of construction works and infrastructure systems

1. State capital used for supporting the building of construction works or infrastructure systems may be used for supporting project implementation during the construction phase in order to increase the financial efficiency of the project.

2. The ratio of state capital used for supporting the building of construction works or infrastructure systems belonging to PPP projects shall be determined on the basis of the preliminary financial plan included in the pre-feasibility study report when an investment policy is granted.

3. Proportion and value of state capital used for supporting the building of construction works or infrastructure systems shall be paid under PPP contracts.

4. State capital used for supporting the building of construction works and infrastructure systems shall be allocated from the following funding sources:

a) Public investment capital prescribed under law on public investment;

b) Value of public assets prescribed under law on use and management of public assets.

5. Use and management of State capital used for supporting the building of construction works and infrastructure systems shall be allocated from sources of public investment capital according to one of the following approaches:

- a) Splitting a PPP project into subprojects. The use and management of state capital shall be subject to laws on public investment;
- b) Aligning state capital with specific items according to the rates, value, progress and conditions specified under the contract.

Article 71. State capital used for paying PPP project enterprises supplying public products and services

State capital-funded payments to PPP project enterprises which are used in BTL or BLT contracts on the basis of the quality of public products and services shall be allocated from state capital invested in PPP projects and other legal capital according to the law.

Article 72. State capital paid for compensation, site clearance, support, resettlement; support for construction of temporary works

1. State capital paid for compensation, site clearance, support and resettlement; temporary work construction support, shall be allocated from public investment capital in accordance with the law on public investment.
2. Based on the size and characteristics of each project, the contracting authority shall consider separating the state capital used for compensation, site clearance, support and resettlement; support for the construction of temporary works into component projects or sub-projects, in compliance with the law on public investment and the law on land.

Article 73. Costs of competent authorities, contracting authorities, PPP project preparation units, bid solicitors, PPP project assessment boards, units assigned to evaluate PPP projects

1. Project preparation costs of competent authorities, PPP project preparation units; expenses for the evaluation conducted by PPP Project Assessment Boards and the units assigned to the task of evaluating PPP projects; expenses for organization of the investor selection or signing of contracts by competent authorities or bid solicitors shall be covered by public investment capital, other lawful capital sources, and shall be included in the total investment in each project.
2. The selected investor shall be responsible for reimbursing expenses specified in Clause 1 of this Article to the state budget in accordance with the law on state budget or legal capital used for the project preparation.
3. Expenses for project implementation after signing a contract by a competent authority or a contracting authority shall be covered by their regular capital.

Article 74. Budgeting for public investment capital to be used in a PPP project

Budgeting for public investment capital to be used in a PPP project shall be subject to the following regulations:

1. Based on an investment policy decided by a competent authority, public investment capital used in a PPP project shall be incorporated in the medium-term public investment budget plan;
2. Based on the medium-term public investment plan, the feasibility study report approved by a competent authority, and results of investor selection, public investment capital used in a PPP project shall be integrated into the annual public investment plan;
3. In case where a PPP project has the need to use public investment capital, but is not on the list of projects specified in the medium-term public investment plan, the competent authority shall consider adding it to this list, and use the contingent capital of the medium-term public investment plan. Processes and procedures for modification of a medium-term public investment plan must comply with the law on public investment;
4. In case where a PPP project developed and executed under a BTL contract or BLT contract uses public investment capital to pay a PPP project enterprise, integration of public investment capital into the real annual and medium-term public investment plan shall be subject to the provisions of Clause 1 and 2 of this Article. Based on the PPP contract term, the public investment capital share may be dispensed over the next medium terms.

Article 75. Estimation of regular expenditures and legitimate revenues retained regular expenditures of state regulatory authorities and public service units

1. Based on an investment policy decision, the feasibility study report approved by the competent authority and results of investor selection, the contracting authority shall prepare the annual budget estimate of regular capital and legitimate revenues retained as regular expenditures of state authorities and public service units to pay PPP project enterprises in accordance with the law on state budget.
2. For regular expenditures specified in Clause 3 of Article 73 in this Law, competent authorities and contracting authorities shall make an annual budget estimate, submitting it to competent authorities to seek their approval in accordance with law on state budget.

Section 2. CAPITAL USED FOR IMPLEMENTATION OF PPP PROJECTS BY INVESTORS OR PPP PROJECT ENTERPRISES

Article 76. Arrangement of finances for execution of PPP projects

1. Investors and PPP project enterprises shall be responsible for contributing equity capital, raising loan capital and other legal funds to implement projects under terms and conditions of PPP contracts. Total amount borrowed through various lending forms must not exceed total loan amount specified in a PPP contract.
2. Within 12 months from the contract signing date, the investor and PPP project enterprise must complete the financial arrangement; as for projects subject to investment policy decisions of the National Assembly or the Prime Minister, this time limit may be extended, but not exceeding 18 months.

3. Actions to be taken in the event that the investor or the PPP project enterprise fail to make financial arrangement within the time limit specified in Clause 2 of this Article must be specified in the invitation for bid.

Article 77. Equity contribution

1. Investor's equity contribution must be at least 15% of total investment in a project, excluding state capital specified in Article 70 and 72 of this Law.

2. Investors must make equity contribution according to the schedule agreed upon in the PPP contract.

Article 78. Issuance or offering of corporate bonds of PPP project enterprises

1. PPP project enterprises may issue and buy back separate bonds they have issued under the provisions of this Law, the law on enterprises and securities to raise capital for the implementation of PPP projects; shall be prohibited from the private issuance of convertible bonds and warrant-linked bonds.

2. The issuance of bonds as per Clause 1 of this Article must satisfy the following conditions:

a) The amount of capital raised through the bond issue shall not exceed the value of the loan amount determined in the PPP contract;

b) Funds raised through the bond issuance cannot be used for any other purpose than the project implementation under PPP project contracts or for the purpose of restructuring of corporate debts;

c) PPP project enterprises must open an escrow account to receive money from bond purchases. Disbursement of funds acquired from issuance of bonds shall be subject to point b of this clause.

3. If a PPP project enterprise has already operated for less than 1 year, when issuing bonds as prescribed in Clause 1 of this Article, it shall be exempt from the requirement concerning submission of the financial statement of the year preceding the year of issuance which is audited according to regulations of the law on enterprises.

4. The Government shall elaborate on this Article.

Chapter VII

INVESTMENT INCENTIVE AND GUARANTEE

Article 79. Investment incentive

Investors and PPP project enterprises shall be entitled to tax, land use, land rental and other incentives in accordance with the law on taxes, land, investment and other provisions of relevant laws.

Article 80. Investment guarantee

1. Investors and PPP project enterprises shall be entitled to investment guarantees in accordance with this Law and investment legislation.

2. Guarantee for the right to access land, rights to use land and other public property shall be prescribed as follows:

a) PPP project enterprises shall be assigned land or leased land by the State or permitted to use other public assets for the performance of PPP contracts in accordance with the law on land and the law on management and use of public assets;

b) The purpose of using land shall be protected from against any change that may arise during the entire contract term, even if the lender exercises their rights prescribed in Article 53 of this Law.

3. Guarantee for provision of public services shall be regulated as follows:

a) PPP project enterprises may use public works and other auxiliary ones for the purposes of implementation of projects in accordance with laws;

b) In case where there is any scarcity of public services or any limitation of users of public facilities, PPP project enterprises shall be given priority to provide public services or shall be preferred to have the right to use public works for the project implementation purpose;

c) The competent authority shall be responsible for assisting PPP project enterprises in carrying out the necessary procedures so that these enterprises can be prioritized to have access to public services and public works.

4. Guarantee for the right to mortgage property, the right to commercially operate construction works and infrastructure systems shall be subject to the following regulations:

a) PPP project enterprises may provide their assets, their rights to use land and their rights to commercially operate construction works and infrastructure systems as a mortgage provided to lenders in accordance with land and civil law. The mortgage period must not exceed the contract term, unless otherwise agreed in the contract;

b) A mortgage agreement on the property, the right to operate infrastructure work or system must be made in writing between the lender and the contracting party;

c) Mortgaging assets or the rights to commercially operate construction works or infrastructure systems must not affect the objectives, scale, technical standards, project implementation schedule, other terms and conditions as agreed upon in the contract.

5. Contract signing authorities and competent authorities shall be responsible for cooperating with local authorities of the places where PPP projects are located to ensure security, order and safety for people and property of PPP project enterprises and contractors in the process of implementing PPP projects.

Article 81. Foreign currency balancing guarantee for significant PPP projects

1. The Government shall make its decision to apply the mechanism to ensure the balanced foreign currency revenues and expenditures with respect to projects under the authority to grant investment policy decisions of the National Assembly and the Prime Minister on the basis of foreign exchange management policy and capability of balancing foreign currency over periods of time.

2. If PPP project enterprises implementing the projects specified in Clause 1 of this Article have exercised the right to buy foreign currency to meet the needs of current, capital and other transactions, or transfer capital, profits, or other liquidated investments remitted abroad in accordance with the law on foreign exchange management, and the foreign currency market cannot, however, accommodate their legal foreign currency demands, then they shall be entitled to use no more than 30% of Vietnamese-dong revenues generated from each project after deduction of Vietnamese-dong spending amounts as a guarantee for foreign currency balancing.

Article 82. Mechanism for sharing of increased and reduced revenues

1. When the actual revenue is 125% higher than the revenue specified in the financial plan under a PPP project contract, the investor and the PPP project enterprise will share with the State 50% of the difference between the actual revenue and 125% of revenue in the financial plan. The increased revenue may be shared after adjustment in the prices and costs of public products and services or the PPP contract term according to the provisions of Article 50, 51 and 65 of this Law and must be audited by the State Audit.

2. When the actual revenue is 75% lower than the revenue specified in the financial plan under a PPP project contract, the State will share with the investor or PPP project enterprise 50% of the difference between 75% of revenue in the financial plan and the actual revenue. Sharing of reduced revenues may occur if the following requirements are satisfied:

a) Projects are developed and executed under BOT, BTO or BOO contracts;

b) Changes in relevant planning, policies and laws result in a reduction in revenue;

c) Measures to adjust prices and charges of public products and services, and PPP contract terms, according to the provisions of Articles 50, 51 and 65 of this Law, have been fully taken, but the minimum revenue requirement of 75% has not been met yet;

d) The reduced revenue has been audited by the State Audit.

3. The mechanism for sharing of the reduced revenue specified in Clause 2 of this Article must be determined according to the decision on investment policy. Expenses for dealing with the revenue reduction sharing mechanism shall be covered by the central government's budget reserve with respect to the projects falling under the authority to grant investment policy decisions of the National Assembly, the Prime Minister, Ministers, heads of central agencies or other bodies, or by the local government's budget reserve with respect to the projects falling under the authority to grant investment policy decisions of provincial People's Councils.

4. On an annual basis, the parties to PPP project contracts shall determine the actual revenue and send the results of such determination to competent financial institutions to carry out the mechanism for sharing of increased and decreased revenues. Accounting for state budget revenues and expenditures arising from sharing of the reduced or increased revenues shall comply with the provisions of law on state budget.

5. The Government shall elaborate on this Article.

Chapter VIII

EXAMINATION, INSPECTION, STATE AUDIT AND OVERSIGHT OF PPP INVESTMENTS

Section 1. EXAMINATION, INSPECTION AND STATE AUDIT OF PPP INVESTMENTS

Article 83. Examination of PPP investments

1. Subject matters of the examination of PPP investments shall include:

a) Issuance of instructional documents regarding PPP investment approach by competent authorities;

b) Investment preparation; organization of investor selection activities; conclusion and execution of contracts;

c) Other activities related to PPP investment.

2. The examination of PPP investment activities shall be conducted in a regular or irregular manner according to the decision of the head of the competent inspecting authority.

Article 84. Inspection of PPP investments

1. The inspection of PPP investments is a specialized inspection carried out in accordance with the inspection law.

2. The inspection of PPP investments shall be aimed at competent authorities, contracting authorities, investors, PPP project enterprises and entities, organizations and individuals involved in PPP investment activities regulated under this Law.

Article 85. State audit of PPP investments

1. Auditing the management and use of public finance, public assets and activities related to the management and use of public finance and public assets invested in PPP projects in accordance with the law on state audit.

2. Auditing the process for implementation of the mechanism for sharing of increased and reduced revenues in accordance with provisions laid down in Article 82 herein.

3. Auditing all values of property of PPP projects upon transfer thereof to the State.

Section 2. OVERSIGHT OF PPP INVESTMENTS

Article 86. Oversight carried out by State regulatory authorities in charge of PPP investments

1. State regulatory authorities in charge of PPP investments at the central level shall supervise the processes for implementation of PPP projects prescribed at Point a, b and c of Clause 3 of Article 4 of this Law and other projects assigned by the National Assembly and the Prime Minister.

2. State regulatory authorities in charge of PPP investments at the local level shall supervise the processes for implementation of PPP projects prescribed at Point d of Clause 3 of Article 4 of this Law.

Article 87. Overseen subjects

1. Invitation for bid.

2. Investor section results.

3. Implementation of PPP contracts.

4. Results of inspection of quality of construction works and infrastructure systems under the provisions of point c of clause 2 of Article 59 herein.

5. Results of assessment of quality of public products and services prescribed under the provisions of clause 2 of Article 66 herein.

6. Other matters to be overseen at the request of the National Assembly or the Prime Minister in the cases specified in Clause 1 of Article 86 of this Law, or of the provincial People's Councils in the cases specified in Clause 2 of Article 86 of the Law.

Article 88. Oversight by Vietnam Fatherland Front and community

Vietnam Fatherland Front at all levels shall take charge of conducting the supervision and providing guidance on the supervision of investments by the communities where PPP projects are implemented in accordance with the law on Vietnam Fatherland Front and the law on the community-based supervision of investments.

Chapter IX

DUTIES, POWERS AND RESPONSIBILITIES OF STATE REGULATORY AUTHORITIES FOR PPP INVESTMENTS

Article 89. Duties and powers of the Government and the Prime Minister

1. The Government shall have the following rights and responsibilities:

- a) Carry out the uniform state management of PPP investments;
- b) Issue, within their jurisdiction, or request competent authorities to issue, legislative documents regarding PPP investments;
- c) Examine, inspect and supervise the implementation of PPP investments.

2. The Government shall have the following duties and powers:

- b) Issue, within their jurisdiction, legislative documents regarding PPP investments;
- b) Make decisions on termination or suspension of PPP contracts with respect to those projects falling under the authority to issue investment policy decisions of the National Assembly or the Prime Minister.

Article 90. Duties and powers of the Ministry of Planning and Investment

1. Perform the functions of an authority vested with powers to manage PPP investments at the central level, take responsibility to the Government for the state management of PPP investment nationwide.
2. Issue, within their jurisdiction, or request competent authorities to issue, legislative documents regarding PPP investments.
3. Take charge of, and cooperate with competent authorities in, carrying out the examination, inspection and supervision; annually synthesize and evaluate the implementation of PPP projects nationwide.
4. Building and managing communication systems and databases regarding PPP investment activities.

5. Implement other duties and powers as stipulated by law.

Article 91. Duties and powers of the Ministry of Finance

1. Issue, within their jurisdiction, or request competent authorities to issue, legislative documents regarding financial mechanisms to be applied to PPP investments.

2. Take charge of formulating and implementing the mechanism for sharing of the reduced or increased revenues arising from the projects falling under the investment policy decision-making competence of the National Assembly, the Prime Minister, Ministers, Heads of central or other authorities.

3. Implement other duties and powers as stipulated by law.

Article 92. Duties and powers of Ministries, central and other authorities

1. Carry out the management of and guidance on PPP investments falling within their remit.

2. Implement responsibilities of competent authorities specified in Article 94 of this Law with respect to PPP projects under their jurisdiction.

3. On an annual basis, synthesize, evaluate and report on the implementation of PPP projects falling within their remit.

4. Implement other duties and powers as stipulated by law.

Article 93. Duties and powers of provincial People's Committees

1. Perform the functions of an authority accorded the state management of PPP investments at their localities.

2. Perform responsibilities of competent authorities specified in Article 94 of this Law for PPP projects falling under their jurisdiction; decide to terminate or suspend PPP contracts for projects falling under the authority to issue investment policy decisions of provincial People's Councils.

3. On an annual basis, synthesize, evaluate and report on the implementation of PPP projects falling within their remit.

4. Take charge of, and cooperate with PPP project enterprises in, undertaking compensation, site clearance, support and resettlement for PPP projects falling under the latter's remit; take charge of, and cooperate with Ministries, central authorities, other agencies and PPP project enterprises in, performing the tasks of compensation, support and resettlement for PPP projects falling under the latter's authority.

5. Implement other duties and powers as stipulated by law.

Article 94. Responsibilities of competent authorities

1. Undertake the preparation of pre-feasibility study reports and feasibility study reports for PPP projects, the selection of investors, negotiation and conclusion of PPP contracts according to their competence specified in this Law.
2. Cancel or suspend the bids, refuse to recognize the results of investor selection or declare that decisions of bid solicitors are null and void when detecting any violation of the law on PPP investment, investor selection or other relevant laws.
3. Decide to terminate or suspend PPP contracts for projects falling within their authority to issue investment policy decisions in accordance with this Law.
4. Request bid solicitors and contracting authorities to provide documents and records necessary for the examination, inspection, supervision, monitoring; deal with petitions and sanction PPP investment-related violations.
5. Pay compensation in accordance with laws.
6. Give explanations about the implementation of the provisions of this Article at the request of superior authorities, examination, inspection, auditing, supervision or state regulatory authorities in charge of PPP investment affairs.
7. Publicize information about PPP projects; periodically report to central regulatory authorities in charge of PPP investment affairs on the implementation of PPP projects under their jurisdiction.
8. Implement other duties stipulated herein.

Chapter X

HANDLING OF PETITIONS, SETTLEMENT OF DISPUTES AND HANDLING OF VIOLATIONS

Article 95. Handling of petitions arising from investor selection activities

1. If there are grounds for presuming that their legitimate rights and interests are affected, investors shall have the following rights:
 - a) Submit petitions regarding investor selection process and results to bid solicitors and competent authorities according to the petition settlement process specified in Article 96 of this Law;
 - b) Initiate Court proceedings within the statute of limitations in accordance with civil law.

2. The bid solicitor or competent authority shall not consider settling the petition if the investor has initiated the court proceedings; where the case is considered for settlement according to the process specified in Article 96 of this Law, the authority currently handling the petition shall notify the termination of the consideration and settlement of the petition.

Article 96. Procedures for handling of petitions arising from investor selection activities

1. Procedures for settlement of petitions about issues arising in the process of selection of investors shall be subject to the following regulations:

a) The investor sends a written petition to the bid solicitor from the date of occurrence to the date prior to the announcement of the results of investor selection;

b) The bid solicitor must send a written document stating settlement of the petition to the investor within 07 working days from the date of receipt of the written petition from the investor;

c) In case where the bid solicitor does not have a written document stating settlement of the petition or the investor disagrees about petition settlement results, the investor shall have the right to send the petition to the competent authority within 05 working days from the deadline for sending their reply or the date of receipt of the bid solicitor's written document on settlement of the petition;

d) The competent authority must send a written document stating settlement of the petition to the investor within 07 working days of receipt of the written petition from the investor.

2. Procedures for settlement of petitions pertaining to investor selection results shall be subject to the following regulations:

a) The investor must send a written petition to the bid solicitor within 10 working days of receipt of the notification of investor selection results;

b) The bid solicitor must send a written document stating settlement of the petition to the investor within 15 working days of receipt of the written petition from the investor;

c) In case where the bid solicitor does not have a written document stating settlement of the petition or the investor disagrees about petition settlement results, the investor shall have the right to send the written petition to the competent authority and the standing organ of the Petition Settlement Advisory Board within 05 working days from the deadline for sending their reply or the date of receipt of the bid solicitor's written document on settlement of the petition.

The central-level Petition Settlement Advisory Board shall be established by the Minister of Planning and Investment; the Petition Settlement Advisory Board at the Ministry, central authority, other body level shall be established by Ministers, heads of central authorities or other bodies; the Petition Settlement Advisory Board at the local level shall be established by the President of the provincial People's Committee;

d) Upon receipt of the written petition, Petition Settlement Advisory Boards shall have the right to request investors or bid solicitors and concerned entities to provide information to consider and report in writing to competent authorities on methods and contents of the response to the petition within 30 days of receipt of the written petition from the investor;

dd) Where necessary, the Petition Settlement Advisory Board shall, based on the investor's written petition, request the competent authority to consider temporarily suspending the bid. In case of acceptance of the petition, within 05 working days of receipt of the written document from the Petition Settlement Advisory Board, the competent authority must send a written notification of temporary suspension of the bid. The written document stating temporary suspension of the bid must be sent to the bid solicitor or the investor within 05 working days from the date of issuance of the written notification of temporary suspension of the bid. The duration of temporary suspension of the bid shall range from the date of the bid solicitor's receipt of the written notification of temporary suspension to the date of the competent authority's issuance of the written document stating settlement of the petition;

e) The competent authority must issue the decision on settlement of the petition regarding results of investor selection within 10 working days of receipt of the written opinion from the Petition Settlement Advisory Board.

3. If an investor submits a petition directly to a competent authority without compliance with the petition settlement procedures specified in this Article, the written petition shall not be considered for further action.

Article 97. Dispute settlement

1. Disputes between competent authorities or contracting authorities and investors or PPP project enterprises, and disputes between PPP project enterprises and economic organizations involved in executing projects shall be resolved through negotiation, mediation, arbitration or court.

2. Disputes between competent authorities, contracting authorities and domestic investors or PPP project enterprises established by domestic investors; disputes between domestic investors; disputes between domestic investors or PPP project enterprises established by domestic investors and Vietnamese economic organizations shall be resolved by Vietnamese Arbitration or Court.

3. Disputes between competent authorities, contracting authorities and foreign investors or PPP project enterprises established by foreign investors shall be settled at the Vietnamese Arbitration or the Vietnamese Court, unless otherwise agreed upon under contracts or treaties of which the Socialist Republic of Vietnam is a member.

4. Disputes between investors, including at least one foreign investor; disputes between investors or PPP project enterprises and foreign organizations or individuals shall be settled at one of the following entities and organizations:

a) Vietnamese Arbitration;

- b) Vietnamese Court;
- c) Overseas Arbitration;
- d) International Arbitration;
- dd) Arbitration established under agreements between disputing parties' agreement.

5. Disputes settled through arbitration prescribed in PPP and other relevant contracts shall be deemed as commercial disputes. Foreign arbitral awards shall be recognized and enforced in accordance with the law on recognition and enforcement of foreign arbitration's awards in Vietnam.

Article 98. Handling of violations arising from PPP investments

1. Prohibit organizations and individuals that commit acts referred to in Article 10 of this Law from participation in PPP investments.
2. Cancel or suspend the bids, refuse to recognize the results of investor selection or declare that decisions of competent authorities, contracting parties or bid solicitors are null and void when detecting any violation against this Law and other regulations of relevant laws.
3. Cancel or suspend contracts whenever detecting any breach of contract or regulations laid down herein and other relevant legislation.
4. In addition to sanctions against violations prescribed in clause 1, 2 and 3 of this Article, entities and persons committing violations against the law on PPP investments shall be disciplined or subject to administrative penalties or criminal legal proceedings, depending on the nature and extent of their violations.
5. The Government shall elaborate on this Article.

Chapter XI

IMPLEMENTATION PROVISIONS

Article 99. Amendments and supplements to relevant laws

1. Amending and supplementing certain Articles of the Law on Procurement No. 43/2013/QH13, amended or supplemented under the Law No. 03/2016/QH14, 04/2017/QH14 and 40/2019/QH14, shall be as follows:

a) Amending and supplementing clause 3 of Article 1 as follows:

“3. Selection of the investor in implementation of investment projects in which land is used;”;

b) Amending and supplementing clause 2 of Article 3 as follows:

“2. In case where it is necessary to select contractors to provide input materials, fuels, substances, supplies, consulting services or non-consulting services to ensure the continuity of production, sale and procurement activities to maintain the regular operation of state enterprises, enterprises must adopt regulations on contractor selection to be uniformly applied internally on the basis of ensuring fairness, transparency and economic efficiency.”;

c) Amending and supplementing clause 10 of Article 4 as follows:

“10. *PPP project enterprise* refers to an enterprise established by an investor to serve the purpose of executing PPP projects where land is used.”;

d) Amending and supplementing clause 12 of Article 4 as follows:

“12. *Bidding* refers to the process of selecting a contractor to enter into and execute a contract for the provision of consulting services, non-consulting services, procurement of goods or construction; selecting investors to sign and execute investment contracts for execution of projects where land is used on the basis of ensuring competition, fairness, transparency and economic efficiency.”;

dd) Amending and supplementing clause 4 of Article 6 as follows:

“4. Bidding investors must be legally and financially independent of the parties hereunder:

a) Tender consulting contractors in investment projects using land until the date of conclusion of project contracts;

b) Competent regulatory authorities, bid solicitors.”;

e) Amending and supplementing Point i of Clause 1 of Article 8 as follows:

“i) List of investment projects using land;”;

g) Amending and supplementing clause 2 of Article 15 as follows:

“2. Investment projects using land, except for cases where investment is restricted in accordance with the investment law.”;

h) Repealing Article 68.

2. Amending and supplementing Clause 4 of Article 40 in the Law on Public Investment No. 39/2019/QH14 as follows:

“4. Principles, authority over, contents of, procedures and processes for design and evaluation of and decision on feasibility study reports for PPP projects shall be subject to law on PPP investment.”.

3. Amending and supplementing Clause 2 of Article 20 in the Law on Prices No. 11/2012/QH13 already amended and supplemented by the Law No. 61/2014/QH13 as follows:

“2. Promptly adjust prices whenever the price factors change. In particular, prices of public products and services created by public-private partnership investment projects shall be adjusted over periods of time as provided in project contracts.

4. Amending and supplementing certain Articles of the Law on Support for Small and Medium Enterprises No. 04/2017/QH14 as follows:

a) Amending and supplementing clause 2 of Article 12 as follows:

“2. Ministries, Ministerial-level agencies and provincial People’s Committees may establish incubation facilities, engineering facilities and co-work spaces. Enterprises and organizations investing in other business activities may set up incubation facilities, engineering facilities and co-work spaces.”;

b) Amending and supplementing clause 1 of Article 13 as follows:

“1. Ministries, Ministerial-level agencies and provincial People’s Committees may establish product distribution chains. Enterprises and other investment or business organizations may establish product distribution chains.”.

5. Amending and supplementing Clause 2 of Article 39 in the Law on Hydrometeorology No. 90/2015/QH13 already amended and supplemented by the Law No. 35/2018/QH14 as follows:

“2. Hydrometeorology public service organizations shall be entitled to provide hydro-meteorological services according to their functions and tasks prescribed by competent state authorities in accordance with this Law and other relevant laws; shall be entitled to use hydro-meteorological products and services provided by other organizations or individuals on the basis of placement of orders or agreements according to the provisions of law.

Other organizations and individuals may provide hydro-meteorological services in accordance with this Law and relevant laws.”.

6. Amending and supplementing certain Articles of the Law on Housing No. 65/2014/QH13, already amended and supplemented by the Law No. 40/2019/QH14, as follows:

a) Amending and supplementing clause 3 of Article 36 as follows:

“3. The State may directly invest in the construction of houses with state budget capital, national bonds, other bonds, official development assistance capital, concessional loans from donors, and

state-owned development investment credit funds on the land areas determined for construction of resettlement houses according to approved planning schemes to serve the purposes of lease, lease-purchase or sale thereof to resettlement beneficiaries.";

b) Amending and supplementing clause 1 of Article 53 as follows:

“1. The State may invest in the construction of social housing by using state budget capital, national bonds, other bonds, official development assistance capital, concessional loans from donors, and state-owned development investment credit funds on the land areas determined for construction of social housing in accordance with regulations for lease and lease-purchase purposes.";

c) Repealing Point b of Clause 3 of Article 40 and Point b of Clause 1 of Article 114.

7. Repealing Point c of Clause 4 and Clause 5 of Article 30, Clause 4 of Article 51 in the Law on Use and Management of Public Assets No. 15/2017/QH14.

Article 100. Entry into force

1. This Law shall enter into force on January 1, 2021, except the regulations specified in Clause 6 of Article 101 herein.

2. The Government and competent regulatory authorities shall elaborate on Clauses and Articles set forth in this Law.

Article 101. Transitional provisions

1. The projects in the sectors prescribed in clause 1 of Article 4 in this Law and meeting the minimum total investment requirements prescribed in clause 2 of Article 4 herein shall be subject to the following regulations:

a) In case where an investment policy decision has been made by a competent authority before the effective date of this Law, the next steps shall be taken in accordance with this Law. In case where the investment policy needs to be adjusted, regulations laid down in Article 18 herein shall be observed;

b) In case where the feasibility study report has been approved by a competent authority before the effective date of this Law, next steps shall be taken in accordance with this Law without having to go through the project approval procedures as per this Law; the contents specified in Clause 6 of Article 23 of this Law must be additionally approved in case investor selection has not yet been organized;

c) As for projects falling into the cases specified at Points a and b of this Clause, if the state capital contribution ratio in a PPP project is greater than the rate specified in Clause 2 of Article 69 of this Law, any adjustment in the state capital ratio shall not be required.

2. Projects that are not in the sectors specified in Clause 1 of Article 4 of this Law or fail to meet the minimum total investment requirements specified in Clause 2 of Article 4 of this Law, and projects without the prequalification requirement in which investor prequalification results have not been approved yet or the invitations for bid or requests for proposal have not yet been issued, until the effective date of this Law shall be halted.

3. PPP projects in which investor selection is occurring shall be subject to the following regulations:

a) In case where their investor prequalification results have been approved before the effective date of this Law, they may be continued in accordance with this Law;

b) In case where the invitation for bid or the request for proposal has been issued before the effective date of this Law but the bid is closed after December 31, 2020, the bid solicitor shall be responsible for extending the bid closing time to improve the invitation for bid or the request for proposal in accordance with this Law provided that such action does not result in any adjustment of the approved investment policy and feasibility study report;

c) In case where the results of investor selection are available, but the contract negotiation and conclusion happens after the effective date of this Law, the contracting authority shall negotiate and sign the contract, based on the results of investor selection, bidding documents, proposal, invitation for bid and request for proposal in accordance with this Law without resulting in any adjustment in the approved investment policy and feasibility study report.

4. Project contracts signed before the effective date of this Law may continue to be executed under contractual terms and conditions.

5. From the effective date of this Law, the transition of Build - Transfer (BT) contracts shall be as follows:

a) Projects where bidding documents or requests for proposal have not been issued yet shall be suspended; in case where bidding documents or requests for proposal have already been issued, they shall be continued based on the invitations for bid, requests for proposals and legislative regulations at the time of issuance of these invitations for bid or requests for proposal;

b) With regard to projects where investor selection results are obtained before the effective date of this Law, the contracting authority shall negotiate and sign the contract, based on the results of investor selection, bidding documents, proposals, invitations for bid and requests for proposal, and legislative regulations valid at the time of issuance of invitations for bid or requests for proposal;

c) For projects which have signed contracts before the effective date of this Law, project execution and payment under regulations of BT contracts and legislative regulations valid at the time of contract conclusion shall be continued;

d) Implementation of new BT projects shall be disapproved.

6. Implementation of the projects under BT contracts that have not been approved for investment policy yet shall be suspended from August 15, 2020.

7. The Government shall elaborate on this Article.

This Law is passed in the 9th plenary session of the XIVth National Assembly of the Socialist Republic of Vietnam held on June 18, 2020.

NATIONAL ASSEMBLY'S CHAIRWOMAN

Nguyen Thi Kim Ngan

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