

THE PRESIDENT

Order No. 20/2013/L-CTN of December 9, 2013, on the promulgation of law

THE PRESIDENT OF THE SOCIALIST REPUBLIC OF VIETNAM

Pursuant to Articles 103 and 106 of the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001, of the Xth National Assembly, the 10th session;

*Pursuant to Article 91 of the Law on Organization of the National Assembly;
Pursuant to Article 57 of the Law on Promulgation of Legal Documents,*

PROMULGATES:

The Bidding Law,

which was passed on November 26, 2013, by the XIIIth National Assembly of the Socialist Republic of Vietnam at its 6th session.

President of the Socialist Republic of Vietnam
TRUONG TAN SANG

Bidding Law

(No. 43/2013/QH13)

*Pursuant to the Constitution of the Socialist Republic of Vietnam;
The National Assembly promulgates the Bidding Law.*

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Law prescribes the state management of bidding, responsibilities of involved parties, and bidding activities, including:

1. Selection of consultancy or non-consultancy service providers and goods or construction and installation contractors for:

a/ Development investment projects funded with state capital of state agencies, political organizations, socio-political organizations, socio-politico-professional organizations, socio-professional organizations, social organizations, people's armed forces units or public non-business units;

- b/ Development investment projects of state enterprises;
 - c/ Development investment projects other than those specified at Points a and b of this Clause, with capital of the state or state enterprises accounting for 30% or more of their total investment capital, or accounting for less than 30% but exceeding VND 500 billion;
 - d/ Procurement funded with state capital to maintain routine operations of state agencies, political organizations, socio-political organizations, socio-politico-professional organizations, socio-professional organizations, social organizations, people's armed forces units or public non-business units;
 - dd/ Procurement funded with state capital to supply public products or services;
 - e/ Purchase of national reserve goods with state capital;
 - g/ Purchase of medicines and medical supplies with state capital, health insurance fund, revenues from medical examination and treatment services, and other lawful revenue sources of public health establishments.
2. Selection of contractors to provide consultancy or non-consultancy services or goods in the Vietnamese territory for the implementation of offshore direct investment projects of Vietnamese enterprises with state capital accounting for 30% or more of their total investment capital, or accounting for less than 30% but exceeding VND 500 billion.
 3. Selection of investors to implement investment projects in the form of public-private partnership (PPP) or land-using investment projects.
 4. Selection of contractors in the field of petroleum, except the selection of contractors to provide petroleum services directly related to petroleum exploration, field development and petroleum exploitation in accordance with the petroleum law.

Article 2. Subjects of application

1. Organizations and individuals participating in or related to bidding activities specified in Article 1 of this Law.
2. Organizations and individuals that conduct bidding activities not governed by this Law may choose to apply the provisions of this Law. If choosing to apply this Law, organizations and individuals shall comply with relevant provisions of this Law, ensuring fairness, transparency and economic efficiency.

Article 3. Application of the Bidding Law, treaties and international agreements

1. Bidding activities falling within the scope of regulation of this Law must comply with the provisions of this Law and relevant laws.
2. In case of selection of contractors to provide raw materials, fuels, materials, consultancy services and non-consultancy services for ensuring the continuity of production, business or procurement activities aiming to maintain routine operations of state enterprises; or of execution of bidding packages under investment projects in the form of public-private partnership or land-using investment projects of selected investors, enterprises shall issue regulations on selection of contractors for uniform application within enterprises on the basis of ensuring fairness, transparency and economic efficiency.
3. For the selection of contractors or investors of projects funded with official development assistance (ODA) or concessional loans arising from treaties or international agreements between Vietnam and donors, such treaties or international agreements shall apply.
4. Where treaties to which the Socialist Republic of Vietnam is a contracting party contain provisions on selection of contractors or investors which are different from those of this Law, such treaties shall apply.

Article 4. Interpretation of terms

In this Law, the terms below are construed as follows:

1. Bid security means the application by a contractor or an investor of one of such measures as deposit, collateral or submission of a guarantee letter issued by a credit institution or foreign bank branch established in accordance with Vietnamese law to guarantee the contractor's or investor's liability for participation in the bidding for a given period according to requirements of the bidding dossier or dossier of requirements.
2. Contract performance security means the application by a contractor or an investor of one of such measures as deposit, collateral or submission of a guarantee letter issued by a credit institution or foreign bank branch established in accordance with Vietnamese law to guarantee the contractor's or investor's liability for the contract performance.
3. Bid solicitor means an agency or organization which is professionally qualified and capable to conduct bidding activities, including:
 - a/ The project owner or an organization established or selected by the project owner;
 - b/ The budget estimation unit directly using the capital source for regular procurement;
 - c/ The centralized procurement unit;

- d/ A competent state agency or its attached organization selected by the competent state agency.
4. Project owner means the organization owning capital or the organization assigned to represent the capital owner or borrower in directly managing the implementation of a project.
 5. Digital certificate means an electronic certificate issued by a digital signature certification service provider for conducting online bidding on the national bidding network.
 6. Competent state agency means the agency that signs contracts with investors.
 7. Short list means a list of contractors or investors that have passed the prequalification in case of open bidding involving prequalification; or a list of contractors invited to participate in restricted bidding; or a list of contractors with dossiers of expression of interest satisfying requirements of the dossier of invitation for expression of interest.
 8. Consultancy service means one activity or several activities, including elaboration and evaluation of reports on planning, overall development diagrams, architecture; survey and making of pre-feasibility study reports, feasibility study reports and environmental impact assessment reports; survey and making of designs and cost estimates; compilation of dossiers of invitation for expression of interest, dossiers of invitation to prequalification, bidding dossiers or dossiers of requirement; evaluation of dossiers of expression of interest, dossiers for participation in prequalification, bid dossiers, dossiers of proposals; examination and appraisal; supervision; project management; financial arrangement; audit, training, technology transfer; and other consultancy services.
 9. Non-consultancy service means one activity or several activities, including logistics, insurance, advertising, installation not specified in Clause 45 of this Article, pre-acceptance test or test operation, organization of training, maintenance, map drawing and activities other than consultancy services specified in Clause 8 of this Article.
 10. Project enterprise means an enterprise established by an investor to implement an investment project in the form of public-private partnership, or a land-using investment project.
 11. Development investment project (below referred to as project) includes investment program or project on new construction; project on renovation, upgrading or expansion of existing facilities constructed under investment projects; project on procurement of property, including equipment and machinery which do not require installation; project on repair or upgrading of

property and equipment; planning project or scheme; project or subject on scientific research, technology development, technology application, technical assistance, base survey; and other development investment programs, projects and schemes.

12. Bidding means a process of selecting contractors for signing and performance of contracts on provision of consultancy services, non-consultancy services, goods procurement or construction and installation, or selecting investors for signing and performance of contracts on investment projects in the form of public-private partnership or land-using investment projects on the basis of ensuring competitiveness, fairness, transparency and economic efficiency.

13. Online bidding means bidding conducted via the national bidding network.

14. International bidding means bidding with the participation of both foreign and domestic contractors or investors.

15. National bidding means bidding with the participation of domestic contractors or investors only.

16. Bidding-package price means the value of a bidding package approved in the contractor selection plan.

17. Bid mean a price stated by a contractor in the bidding participation application and price quotation, covering all expenses for execution of a bidding package according to requirements of the bidding dossier or dossier of requirements.

18. Evaluation bid means a bid after errors are corrected or deviations are adjusted according to requirements of the bidding dossier, minus the value of discounts (if any), plus elements for conversion on the same plane for the whole use life of the goods or work. Evaluation bid is used for ranking bid dossiers for a bidding package for procurement or construction and installation, and for a mixed bidding package subject to open bidding or restricted bidding.

19. Proposed winning bid means the bid of a contractor proposed to win the bidding after errors are corrected or deviations are adjusted according to requirements of the bidding dossier or dossier of requirements, minus the value of discounts (if any).

20. Winning bid means the bid stated in the decision approving the contractor selection result.

21. Contractual price means the value stated in the contract document and used for advance payment, payment, liquidation and settlement of the contract.

22. Bidding package means part or the whole of a procurement project or estimate. A bidding package may include procurement of similar items under

different projects or a one-off procurement volume or procurement volume for a period in case of regular or centralized procurement.

23. Mixed bidding package means a bidding package covering engineering and procurement (EP); engineering and construction (EC); procurement and construction (PC); engineering, procurement and construction (EPC); or formulation of project, engineering, procurement and construction (turnkey).

24. Small-sized bidding package means a bidding package with a price within the limit set by the Government.

25. Goods include machinery, equipment, raw materials, fuel, materials, supplies and spare parts; consumer goods; medicines and medical supplies for health establishments.

26. National bidding network means an information technology system developed and managed by the state management agency in charge of bidding activities for the purpose of uniformly managing information on bidding and conducting online bidding.

27. Dossier of invitation for expression of interest, dossier of invitation to prequalification means all the documents specifying requirements on capacity and experience of contractors or investors, and serving as the basis for the bid solicitor to select a list of contractors or investors which pass the prequalification and a list of contractors with dossiers of expression of interest evaluated as satisfying requirements of the dossier of invitation for expression of interest.

28. Dossier of interest, dossier for participation in prequalification means all the documents made and submitted by a contractor or an investor to the bid solicitor according to requirements of the dossier of invitation for expression of interest or dossier of invitation to prequalification.

29. Bidding dossier means all the documents used for open bidding or restricted bidding, including requirements for a project or bidding package, and serving as the basis for contractors or investors to prepare bid dossiers and for the bid solicitor to evaluate bid dossiers in order to select contractors or investors.

30. Dossier of requirements means all the documents used for the appointment of contractors, direct procurement or competitive offer, including requirements for a project or bidding package, and serving as the basis for contractors or investors to prepare dossiers of proposals and for the bid solicitor to evaluate dossiers of proposals in order to select contractors or investors.

31. Bid dossier, dossier of proposals means all the documents made and submitted by a contractor or an investor to the bid solicitor according to requirements of the bidding dossier or dossier of requirements.

32. Contract means a written agreement between the project owner and a contractor selected for the performance of a bidding package under a project; between the bid solicitor and a contractor selected for regular procurement; between the centralized procurement unit or a unit with procurement needs and a contractor selected for centralized procurement; between a competent state agency and a selected investor or between a competent state agency and a selected investor and a project enterprise in the selection of investors.

33. Appeal means a request made by a contractor or an investor that participates in the bidding process of reconsideration of the contractor or investor selection result and related matters, when the contractor or investors sees that its rights and interests are affected.

34. Competent person means the person who decides to approve a project or decides on procurement in accordance with law. In case of investor selection, the competent person is the head of the competent state agency as defined by law.

35. Principal contractor means the contractor that is responsible for participation in the bidding process, is named in the bid, and directly enters into and performs the contract, if selected. A contractor may be an independent contractor or a member of a partnership contractor.

36. Subcontractor means the contractor that participates in the execution of a bidding package under a contract signed with the principal contractor. A special subcontractor is a subcontractor that performs an important job of a bidding package as proposed by the principal contractor in the bid dossier or dossier of proposals on the basis of requirements stated in the bidding dossier or dossier of requirements.

37. Foreign contractor means an organization established under foreign law or an individual bearing foreign citizenship that participates in bidding in Vietnam.

38. Domestic contractor means an organization established under Vietnamese law or an individual bearing Vietnamese citizenship that participates in bidding.

39. Public product, service means a product or service essential for the country's socio-economic life or the population, or for the maintenance of national defense or security, of which the State has to organize the provision in the fields of health, education and training, culture, information, communication, science and technology, natural resources and environment, transport and other fields as prescribed by the Government. Public products and services include public-utility products and services and public non-business services.

40. Appraisal in the course of contractor or investor selection means the examination and evaluation of the contractor or investor selection plan, dossier of invitation for expression of interest, dossier of invitation to prequalification, bidding dossier, dossier of requirements and results of invitation for expression of interest, results of prequalification, or results of contractor or investor selection for use as the basis for consideration and decision on approval in accordance with this Law.

41. Time of bid closing means the deadline for receipt of dossiers of expression of interest, dossiers for participation in prequalification, bid dossiers or dossiers of proposals.

42. Validity duration of a bid dossier or dossier of proposals means the number of days stated in the bidding dossier or dossier of requirements and counted from the date of bid closing to the last valid day specified in the bidding dossier or dossier of requirements. The duration from the time of bid closing through 24:00 hrs of the date of bid closing is counted as one day.

43. Expert team is composed of qualified and experienced individuals and formed by the bid solicitor or bidding consultancy unit to evaluate dossiers of expression of interest, dossiers for participation in prequalification, bid dossiers or dossiers of proposals, and to perform other tasks in the course of contractor or investor selection.

44. State capital means state budget capital; national debentures, government bonds, municipal bonds; official development assistance, concessional loans of donors; capital from the fund for development of non-business activities; development investment credit capital of the State; credit capital guaranteed by the Government; loans secured with state property; development investment capital of state enterprises; value of land use rights.

45. Construction and installation covers jobs in the course of construction and installation of works and work items.

Article 5. Eligibility of contractors and investors

1. An institutional contractor or investor is eligible when fully satisfying the following conditions:

a/ Possessing an establishment and operation registration granted by a competent agency of the country in which it is operating;

b/ Applying independent financial accounting;

c/ Being neither in the course of dissolution nor regarded as falling into the state of bankruptcy or insolvency as prescribed by law.

d/ Having registered on the national bidding network;

- dd/ Ensuring competitiveness in bidding under Article 6 of this Law;
- e/ Being not banned from participating in bidding;
- g/ Being named in the short list in case such a list has been selected;
- h/ Entering into a partnership with a domestic contractor or using a domestic sub-contractor, for foreign contractors participating in international bidding in Vietnam, unless no domestic contractor is qualified for any job of the bidding package.

2. An individual contractor or investor is eligible when fully satisfying the following conditions:

- a/ Having full civil act capacity in accordance with the law of the country of which he/she is a citizen;
- b/ Having an appropriate professional certificate as prescribed by law;
- c/ Having lawfully registered operation in accordance with law;
- d/ Being not examined for penal liability;
- dd/ Being not banned from participating in bidding.

3. Eligible contractors or investors as defined in Clauses 1 and 2 of this Article may participate in bidding with an independent or partnership status. In case of partnership, there must be a written agreement between partners, clearly specifying responsibilities of the leading partner, and the common responsibilities and specific responsibilities of each partner in the partnership.

Article 6. Guarantee of competitiveness in bidding

1. Contractors that submit dossiers of expression of interest or dossiers for participation in prequalification must be legally and financially independent from consultancy contractors that have made dossiers of invitation for expression of interest and dossiers of invitation to prequalification; evaluate dossiers of expression of interest and dossiers for participation in prequalification; and appraisal results of invitation for expression of interest or results of prequalification.

2. When participating in bidding, contractors must be legally and financially independent from the following parties:

- a/ Project owner, bid solicitor;
- b/ Consultancy contractors that make, examine and appraise engineering and cost estimation dossiers; make and examine bidding dossiers and dossiers of requirements; evaluate bid dossiers and dossiers of proposals; appraise results of selection of contractors for such bidding package;

c/ Other contractors participating in bidding in a bidding package, for restricted bidding.

3. Consultancy contractors that supervise the performance of contracts must be legally and financially independent from contractors that perform such contracts and consultancy contractors that inspect such bidding packages.

4. When participating in bidding, investors must be legally and financially independent from the following parties:

a/ Bidding consultancy contractors, for investment projects in the form of public-private partnership or land-using investment projects, by the date of signing project contracts;

b/ Consultancy contractors that appraise investment projects in the form of public-private partnership or land-using investment projects by the date of signing project contracts;

c/ Competent state agencies, bid solicitors.

5. The Government shall detail this Article.

Article 7. Conditions for issuance of bidding dossiers or dossiers of requirements

1. The bidding dossier or dossier of requirements of a bidding package may be issued for selection of contractors when the following conditions are fully satisfied:

a/ The contractor selection plan has been approved;

b/ The approved bidding dossier or dossier of requirements includes requirements on bidding procedures, bidding datasheet, evaluation criteria, bid form, bill of quantities; requirements on schedule, techniques and quality; general conditions and specific conditions of the contract, contract form and other necessary contents;

c/ The notice of invitation of bids, the notice of invitation of offers, or a short list has been published in accordance with this Law;

d/ Funding sources for the bidding package have been arranged according to the package's execution schedule;

dd/ The contents, list of goods and services and cost estimate have been approved by competent persons in case of regular procurement or centralized procurement;

e/ The handover of the construction site according to the package execution schedule is ensured.

2. The bidding dossier or dossier of requirements of a project may be issued for selection of investors when the following conditions are fully satisfied:

- a/ The project is on the list of projects publicized by a ministry, ministerial-level agency, government-attached agency or provincial-level People's Committee in accordance with law, or is proposed by the investor;
- b/ The investor selection plan has been approved;
- c/ The bidding dossier or dossier of requirements has been approved;
- d/ The notice of invitation of bids or a short list has been published in accordance with this Law.

Article 8. Bidding information

1. Information which must be published on the national bidding network and Bidding newspaper includes:

- a/ Contractor or investor selection plans;
- b/ Notices of invitation for expression of interest and notices of invitation to prequalification;
- c/ Notices of invitation for offers, notices of invitation for bids;
- d/ Short lists;
- dd/ Contractor or investor selection results;
- e/ Bid opening results, for online bidding;
- g/ Information on the handling of violations of the bidding law;
- h/ Legal documents on bidding;
- i/ Lists of investment projects in the form of public-private partnership and land-using projects;
- k/ Database on contractors, investors, experts, lecturers and bidding training institutions;
- l/ Relevant information.

2. Information specified in Clause 1 of this Article is encouraged to be published on websites of ministries, sectors and localities or in other mass media.

3. The Government shall detail this Article.

Article 9. Languages used in bidding

The language used in national bidding is Vietnamese; the language(s) used in international bidding is English or both Vietnamese and English.

Article 10. Currencies of bids

1. For national bidding, contractors may only offer bids in Vietnam dong.
2. For international bidding:
 - a/ Bidding dossiers or dossiers of requirements must specify no more than three currency(ies) of bids in bid dossiers or dossiers of proposals; for specific work items, bids may only be offered in a single currency;
 - b/ In case the bidding dossier or dossier of requirements provides that contractors may offer bids in two or three currencies, upon evaluation of bid dossiers or dossiers of proposals, such currencies must be converted into one certain currency. In case such currencies of bids include Vietnam dong, they must be converted into Vietnam dong. The bidding dossier or dossier of requirements must specify the exchange currency, time and grounds for determination of exchange rate for conversion;
 - c/ For domestic expenses related to the execution of the bidding package, contractors shall offer bids in Vietnam dong;
 - d/ For overseas expenses related to the execution of the bidding package, contractors may offer bids in a foreign currency.

Article 11. Bid security

1. Bid security applies in the following cases:
 - a/ Open bidding, restricted bidding, competitive offer for bidding packages to provide non-consultancy services, procure goods, for construction and installation, and mixed bidding packages;
 - b/ Open bidding and contractor appointment for selection of investors.
2. Contractors or investors shall provide bid security before the time of bid closing for bid dossiers or dossiers of proposals. In case the method of two-stage bidding is applied, contractors shall provide bid security in the second stage.
3. The value of bid security is prescribed as follows:
 - a/ For the selection of contractors, the value of bid security shall be specified in bidding dossiers or dossiers of requirements to be equal to between 1% and 3% of the bidding package price, depending on the size and characteristics of each specific package;
 - b/ For the selection of investors, the value of bid security shall be specified in bidding dossiers or dossiers of requirements to be equal to between 0.5% and 1.5% of the total investment, depending on the size and characteristics of each specific project.

4. The validity duration of bid security prescribed in bidding dossiers or dossiers of requirements is equal to the validity duration of bid dossiers or dossiers of proposals plus 30 days.
5. In case of extension of the validity duration of bid dossiers or dossiers of proposals after the time of bid closing, the bid solicitor shall request contractors or investors to extend the validity duration of the bid security correspondingly. In this case, contractors or investors shall extend the validity duration of the bid security as requested and may not change the contents of the submitted bid dossiers or dossiers of proposals. In case a contractor or an investor refuses to do so, its bid dossier or dossier of proposals will be invalid and eliminated. The bid solicitor shall refund or release the bid security to the contractor or investor within 20 days after receiving the written refusal to extend the validity duration of the bid security.
6. In case of partnership for participation in bidding, each partner may provide a separate bid security or agree to let a partner provide bid security for itself and for other partners. The total value of bid security must not be lower than that requested in the bidding dossier or dossier of requirements. In case a partner violates Clause 8 of this Article, the bid security of all partners in the partnership will not be refunded.
7. The bid solicitor shall refund or release the bid security for contractors or investors that are not selected within a time limit prescribed in the bidding dossier or dossier of requirements which must not exceed 20 days after the contractor or investor selection results are approved. For selected contractors or investors, the bid security may be refunded or released after the contractors or investors take the measure to secure the contract performance as prescribed in Articles 66 and 72 of this Law.
8. Bid security is not refunded in the following cases:
 - a/ Contractors or investors withdraw bid dossiers or dossiers of proposals after the time of bid closing and when such dossiers remain valid;
 - b/ Contractors or investors violate the bidding law, leading to cancellation of the bidding under Clause 4, Article 17 of this Law;
 - c/ Contractors or investors fail to provide the contract performance security as prescribed in Articles 66 and 72 of this Law;
 - d/ Contractors fail or refuse to finalize contracts within 20 days after receiving the bid winning notice of the bid solicitor or refuse to sign contracts though having finalized them, except force majeure circumstances;
 - dd/ Investors fail or refuse to finalize contracts within 30 days after receiving the bid winning notice from the bid solicitor or refuse to sign contracts after having finalized them, except force majeure circumstances.

Article 12. Time limits in the course of selection of contractors or investors

1. Time limits in the course of selection of contractors:

a/ The time limit for approval of a contractor selection plan is 5 working days from the date of receipt of an appraisal report;

b/ Dossiers of invitation for expression of interest, dossiers of invitation to prequalification, bidding dossiers or dossiers of requirements must be issued 3 working days after the first date of publication of notices of invitation for expression of interest, notices of invitation to prequalification, notices of invitation to bidding, notices of invitation for offers, or sending of invitations to bidding to before the time of bid closing;

c/ The time for preparing dossiers of expression of interest is at least 10 days, for national bidding, or 20 days, for international bidding, counted from the first date of issuance of dossiers of invitation for expression of interest to the date of bid closing. Contractors shall submit dossiers of expression of interest before the time of bid closing;

d/ The time for preparing dossiers for participation in prequalification is at least 10 days, for national bidding, or 20 days, for international bidding, counted from the first date of issuance of dossiers of invitation for expression of interest to the date of bid closing. Contractors shall submit dossiers for participation in prequalification before the time of bid closing;

dd/ The time for preparing dossiers of proposals is at least 5 working days, counted from the first date of issuance of dossiers of proposals to the date of bid closing. Contractors shall submit dossiers of proposals before the time of bid closing;

e/ The time for preparing bid dossiers is at least 20 days, for national bidding, or 40 days, for international bidding, counted from the first date of issuance of bidding dossiers to the date of bid closing. Contractors shall submit bid dossiers before the time of bid closing;

g/ For national bidding, the time limit for evaluation of dossiers of expression of interest and dossiers for participation in prequalification is 20 days, for dossiers of proposals, 30 days, or 45 days, for bid dossiers, counted from the date of bid closing to the date of submission of contractor selection results by the bid solicitor to the project owner for approval. For international bidding, these time limits are 30 days, 40 days and 60 days, counted from the date of bid closing to the date of submission of contractor selection results by the bid solicitor to the project owner for approval. In case of necessity, the time limit for evaluation of bid dossiers or dossiers of proposals may be extended for another 20 days at most and the project implementation schedule must be ensured.

h/ The time limit for appraisal is 20 days from the date of receipt of a complete dossier for each content subject to appraisal, including contractor selection plan, dossier of invitation for expression of interest, dossier of invitation to prequalification, dossier of requirements or contractor selection results;

i/ The time limit for approval of dossiers of invitation for expression of interest, dossiers of invitation to prequalification, dossiers of requirements or bidding dossiers is 10 days from the date of receipt of the written request of the bid solicitor for approval of such dossiers, or of the appraisal report in case appraisal is requested;

k/ The time limit for approval or giving of opinions on handling of contractor selection results is 10 days from the date of receipt of the written request of the bid solicitor for approval of contractor selection results, or of the appraisal report in case appraisal of proposals is 180 days from the date of bid closing. For large-sized or complicated bidding packages or packages subject to two-stage bidding, the maximum validity duration of bid dossiers is 210 days from the date of bid closing. In case of necessity, the validity duration of bid dossiers or dossiers of proposals may be extended upon request but the project implementation schedule must be ensured;

m/ Documents modifying the bidding dossier must be sent to contractors that have received such dossier at least 10 days, for national bidding, and at least 15 days, for international bidding, before the date of bid closing. For modification of dossiers of invitation for expression of interest or dossiers of invitation to prequalification, it is at least 3 working days before the date of bid closing. If modifying documents are sent later than the time specified at this Point, the bid solicitor shall extend the deadline of bid closing correspondingly in order to ensure compliance with regulations on the time for sending documents modifying dossiers of invitation for expression of interest, dossiers of invitation to prequalification, bidding dossiers or dossiers of requirements;

n/ The time limit for sending by post or facsimile notices of contractor selection results to contractors that have participated in bidding is 5 working days after such results are approved.

2. The Government shall specify time limits in the course of contractor selection for small-sized bidding packages and bidding packages with the participation of the community; time limits in the course of investor selection; and time limits in the course of contractor or investment selection online.

Article 13. Bidding expenses

1. Expenses for contractor selection include:

- a/ Expenses related to the preparation of dossiers of expression of interest, dossiers for participation in prequalification, bid dossiers or dossiers of proposals and bidding participation are borne by contractors;
- b/ Expenses related to the course of contractor selection shall be determined in the total investment or procurement cost estimate;
- c/ Dossiers of invitation for expression of interest and dossiers of invitation to prequalification are distributed to contractors free of charge;
- d/ Bidding dossiers and dossiers of requirements are sold or issued free of charge to contractors.

2. Expenses for investor selection include:

- a/ Expenses related to the preparation of dossiers for participation in prequalification, bid dossiers or dossiers of proposals and bidding participation shall be borne by investors;
- b/ Expenses related to the course of investor selection shall be covered by the State and other lawful funding sources and shall be determined in the total investment;
- c/ Investors that are selected to implement projects shall pay expenses for investor selection;
- d/ Dossiers of invitation to prequalification, bidding dossiers or dossiers of requirements are sold to investors.

3. Expenses for online bidding include:

- a/ Expenses for participation in the national bidding network and publication of bidding information and other expenses;
- b/ Expenses for bidding participation and organization specified in Clauses 1 and 2 of this Article.

4. The Government shall detail this Article.

Article 14. Preferences in contractor selection

- 1. Contractors are entitled to preferences when participating in national bidding or international bidding for provision of goods with domestic production costs representing 25% or more.
- 2. Entitled to preferences when participating in international bidding for provision of consultancy, non-consultancy and construction and installation services are:
 - a/ Domestic contractors participating in bidding with independent or partnership status;

- b/ Foreign contractors entering into partnerships with domestic contractors to perform jobs representing 25% or more of the value of the bidding package.
2. Entitled to preferences when participating in national bidding for provision of consultancy, non-consultancy and construction and installation services are:
- a/ Contractors with 25% or more of their employees being female;
 - b/ Contractors with 25% or more of their employees being war invalids and people with disabilities;
 - c/ Contractors that are small-sized enterprises.
4. Preferences are calculated in the course of evaluation of bid dossiers or dossiers of proposals for comparison and ranking of bid dossiers or dossiers of proposals by either of the following methods:
- a/ Adding points to the evaluation scores of contractors that are entitled to preferences;
 - b/ Adding amounts of money to the bids or evaluation bids of contractors that are not entitled to preferences.
5. Entities entitled to preferences and details of preferences in the contractor selection specified in this Article are not applicable when treaties to which the Socialist Republic of Vietnam is a contracting party or international agreements between Vietnam and donors otherwise provide preferences in the contractor selection.
6. The Government shall detail this Article.

Article 15. International bidding

1. International bidding to select contractors may be organized only when any of the following conditions is satisfied:
- a/ The donor that finances the bidding package requests the organization of international bidding;
 - b/ The bidding package is for procurement of goods which cannot be domestically produced or can be domestically produced but fail to satisfy technical, quality and price requirements. No international bidding may be organized for common goods which have been imported and offered for sale in Vietnam;
 - c/ The bidding package is for provision of consultancy, non-consultancy or construction and installation service or mixed services with execution requirements which domestic contractors cannot satisfy.
2. Investment projects in the form of public-private partnership and land-using investment projects, except those subject to investment restrictions.

3. The Government shall detail this Article.

Article 16. Conditions of individuals engaged in bidding activities

1. Individuals engaged in bidding activities must have a certificate of training in bidding and possess professional qualifications, capacity, experience and good command of foreign languages as required by bidding packages and projects, except individuals belonging to contractors or investors.

2. Individuals directly involved in the compilation of dossiers of invitation for expression of interest, dossiers of invitation to prequalification, bidding dossiers or dossiers of requirements; or in the evaluation of dossiers of expression of interest, dossiers for participation in prequalification, bid dossiers or dossiers of proposals, who belong to professional bidding organizations, enterprises and units providing bidding consultancy and professional project management units must have a certificate of bidding practice.

Article 17. Cases of cancellation of bidding

1. All bid dossiers or dossiers of proposals fail to satisfy requirements of the bidding dossier or dossier of requirements.

2. The investment purpose and scope stated in the bidding dossier or dossier of requirements are changed.

3. The bidding dossier or dossier of requirements is incompliant with the bidding law and other relevant laws, leading to the failure of selected contractors or investors to satisfy requirements for execution of bidding packages or implementation of projects.

4. There is evidence of the giving, receipt or brokering of bribes, collusion in contractor selection, fraud, abuse of position and power to illegally intervene in bidding activities, leading to false results of selection of contractors or investors.

Article 18. Responsibility for cancellation of bidding

Organizations and individuals that violate the bidding law, leading to cancellation of bidding under Clauses 3 and 4, Article 17 of this Law, shall compensate expenses borne by involved parties and be handled in accordance with law.

Article 19. Training and retraining in bidding

1. An institution may organize bidding training and retraining courses for individuals defined in Article 16 of this Law when fully satisfying the following conditions:

a/ Having been lawfully established and operating.

b/ Having physical foundations and teaching materials which satisfy standards prescribed by the state management agency in charge of bidding;

c/ Having lecturers who have bidding practice certificates;

d/ Being named in a list of bidding training institutions published on the national bidding network.

2. A bidding training institution has the following responsibilities:

a/ To ensure training and retraining quality, provide information on themselves to the state management agency in charge of bidding activities;

b/ To conduct training and retraining activities based on the framework program on bidding training and grant training certificates to trainees under regulations;

c/ To archive dossiers on training and retraining courses which they have organized under regulations;

d/ To make annual reports or reports on bidding training and retraining activities at the request of the state management agency in charge of bidding activities.

3. The Government shall detail this Article.

Chapter II

FORMS AND METHODS OF SELECTION OF CONTRACTORS, INVESTORS AND PROFESSIONAL BIDDING ORGANIZATIONS

Section 1

FORMS OF SELECTION OF CONTRACTORS OR INVESTORS

Article 20. Open bidding

1. Open bidding is a form of selection of contractors or investors in which the number of participating contractors or investors is not limited.

2. Open bidding applies to bidding packages and projects within the scope of regulation of this Law, except the cases specified in Articles 21, 22, 23, 24, 25, 26 and 27 of this Law.

Article 21. Restricted bidding

Restricted bidding applies to bidding packages having high technical requirements or involving special techniques which can be satisfied by only some contractors.

Article 22. Contractor appointment

1. Contractor appointment applies in the following cases:

a/ Bidding packages which need to be executed to immediately remedy or promptly handle consequences of force majeure events; bidding packages which need to be executed to ensure state secrets; bidding packages which need to be immediately executed to prevent direct harms to the life, health and property of local communities or avert serious impacts on adjacent works; bidding packages to purchase medicines, chemicals, medical supplies and equipment for epidemic and disease prevention and combat in emergency cases;

b/ Emergency bidding packages which need to be executed to defend the national sovereignty, national boundaries and islands;

c/ Bidding packages to provide consultancy or non-consultancy services, procurement of goods which must be purchased from contractors that have previously executed these packages in order to ensure technological compatibility and copyright which cannot be purchased from other contractors; bidding packages for research or testing purposes; purchase of intellectual property rights;

d/ Bidding packages to provide consultancy on elaboration of feasibility study reports or construction engineering which are designated to the authors of work architecture designs that win the bidding or are selected when they satisfy the prescribed capacity conditions; bidding packages to construct monuments, relief, grand murals and artistic works subject to copyright from the stage of creation to the stage of construction;

dd/ Bidding packages to remove technical infrastructure facilities directly managed by a specialized unit to serve the ground clearance; bidding packages to sweep bombs, land mines and explosive objects to prepare construction sites;

e/ Bidding packages to provide public products or services and bidding packages with prices within the limit eligible for contractor appointment according to the Government's regulations and suitable to socio-economic conditions in each period.

2. Contractor appointment for a bidding package specified at Point b, c, d, dd or e, Clause 1 of this Article must fully satisfy the following conditions:

a/ The investment decision has been approved, except bidding packages for consultancy on project preparation;

b/ The contractor selection plan has been approved;

c/ Capital has been allocated according to requirements of the package execution schedule;

d/ The cost estimate has been approved as prescribed, except for EP, EC, EPC or turnkey bidding package;

dd/ The time limit for contractor appointment is 45 days counted from the date of approval of the dossier of requirements to the date of contract signing. For large-sized or complicated bidding packages, that time limit is 90 days;

e/ The contractor proposed to be appointed is named in the database on contractors of the state management agency in charge of bidding activities.

3. For bidding packages in the cases of contractor appointment specified in Clause 1 of this Article and satisfying the conditions for contractor appointment specified in Clause 2 of this Article to which other forms of contractor selection specified in Articles 20, 21, 23 and 24 of this Law may still apply, it is encouraged to apply such forms of contractor selection.

4. Appointment of investors applies in the following cases:

a/ Only one investor registers for implementation;

b/ Only one investor is capable of implementation because the project involves intellectual property, a trade secret, a technological know-how or capital arrangement;

c/ The investor that proposes the project satisfies the requirement of feasible project implementation with the highest efficiency according to the Government's regulations.

Article 23. Competitive offer

1. Competitive offer applies to bidding packages with a value within the limit prescribed by the Government and being:

a/ An ordinary and simple non-consultancy service bidding package;

b/ A bidding package to procure ordinary goods which are available on the market with standardized technical properties and of equivalent quality;

c/ A simple work construction bidding package with approved construction drawing designs.

2. Competitive offer may be conducted when fully satisfying the following conditions:

a/ Having an approved contractor selection plan;

b/ Having an approved cost estimate;

c/ Having been allocated capital meeting the requirement of the implementation schedule.

Article 24. Direct procurement

1. Direct procurement applies to bidding packages to procure similar goods under the same project or cost estimate or under another project or cost estimate.
2. Direct procurement may be conducted when fully satisfying the following conditions:
 - a/ The contractor has won at open bidding or restricted bidding and has signed a contract for execution of the previous bidding package;
 - b/ The current bidding package has similar contents and characteristics and a size smaller than 130% of that of the previous bidding package for which a contract was signed;
 - c/ The unit prices of jobs of the bidding package subject to direct procurement do not exceed those of corresponding jobs of a similar bidding package for which a contract was signed.
 - d/ The period from the date of signing the contract for the previous bidding package to the date of approving the direct procurement results does not exceed 12 months.
3. In case the contractor performing the previous contract is unable to continue to execute the direct procurement bidding package, direct procurement will apply to another contractor that satisfies requirements on capacity, experience, techniques and prices according to the bidding dossier and the previous contractor selection result.

Article 25. Self-execution

Self-execution applies to bidding packages under projects or cost estimates for procurement in case organizations directly managing and using such packages have technical and financial capacity and experience satisfying requirements of such packages.

Article 26. Selection of contractors or investors in special cases

In case bidding packages or projects have particularities to which the forms of contractor or investor selection specified in Articles 20, 21, 22, 23, 24 and 25 of this Law cannot be applied, competent persons shall propose contractor or investor selection options to the Prime Minister for consideration and decision.

Article 27. Community participation in execution

Communities, organizations or workers' teams in localities where there are bidding packages may be assigned to execute the whole or part of such bidding packages in the following cases:

1. Bidding packages are under national target programs, programs on assistance for hunger eradication and poverty alleviation for districts and

communes in mountainous, deep-lying and remote areas, on islands and in areas with special socio-economic difficulties;

2. Bidding packages are small which local communities, organizations or workers' teams can execute.

Section 2

CONTRACTOR OR INVESTOR SELECTION METHODS

Article 28. Single-stage single-envelope method

1. The single-stage single-envelope method applies to:

a/ Open bidding or restricted bidding for bidding packages to provide non-consultancy services; bidding packages to procure goods or for construction and installation, and small-sized mixed bidding packages;

b/ Competitive offer for bidding packages to provide non-consultancy services or procure goods or for construction and installation;

c/ Contractor appointment for bidding packages to provide non-consultancy services, procure goods or for construction and installation, and mixed bidding packages;

d/ Direct procurement for bidding packages to procure goods;

dd/ Appointment for investor selection.

2. Contractors or investors shall submit bid dossiers or dossiers of proposals which consist of both technical and financial proposals according to requirements of bidding dossiers or dossiers of requirements.

3. The opening of bids shall be conducted only once for all bid dossiers or dossiers of proposals.

Article 29. Single-stage two-envelope method

1. The single-stage two-envelope method applies to:

a/ Open bidding or restricted bidding for bidding packages to provide consultancy or non-consultancy services, procure goods, or for construction and installation, and small-sized mixed bidding packages;

b/ Open bidding for investor selection.

2. Contractors or investors shall submit simultaneously separate dossiers of technical proposals and dossiers of financial proposals according to requirements of bidding dossiers.

3. The opening of bids shall be conducted twice. Dossiers of technical proposals shall be opened right after the time of bid closing. Dossiers of

financial proposals shall be opened for contractors or investors that satisfy technical requirements for evaluation.

Article 30. Two-stage single-envelope method

1. The two-stage single-envelope method applies to open bidding or restricted bidding for bidding packages to procure goods or for construction and installation, and large-sized or complicated bidding packages.

2. In the first stage, contractors shall submit technical proposals and financial plans according to requirements of the bidding dossier, which do not offer any bids yet. The second-stage bidding dossier will be determined on the basis of exchange of opinions with each contractor participating in this stage.

3. In the second stage, contractors that have participated in the first stage shall be invited to submit bid dossiers. A bid dossier consists of technical proposals and financial proposals according to requirements of the second-stage bidding dossier, including the bid and bid security.

Article 31. Two-stage two-envelope method

1. The two-stage two-envelope method applies to open bidding or restricted bidding for bidding packages to procure goods or for construction and installation, and mixed bidding packages involving new, complex and particular techniques and technologies.

2. In the first stage, contractors shall simultaneously submit separate dossiers of technical proposals and dossiers of financial proposals according to requirements of the bidding dossier. Dossiers of technical proposals shall be opened right after the time of bid closing. Based on evaluation of technical proposals of contractors in this stage, technical adjustments to the bidding dossier and the list of contractors satisfying requirements for invitation to bidding in the second stage shall be determined. Dossiers of financial proposals shall be opened in the second stage.

3. In the second stage, contractors that satisfy requirements in the first stage shall be invited to submit bid dossiers. A bid dossier consists of technical proposals and financial proposals according to requirements of the second-stage bidding dossier corresponding to technical adjustments. In this stage, dossiers of financial proposals submitted in the first stage will be opened simultaneously with second-stage bid dossiers for evaluation.

Section 3

PROFESSIONAL BIDDING ORGANIZATIONS

Article 32. Professional bidding organizations

1. Professional bidding organizations include bidding agents and non-business units established with the professional bidding function.
2. The establishment and operation of bidding agents comply with the law on enterprises.
3. The Government shall detail this Article.

Chapter III

CONTRACTOR SELECTION PLANS AND PROCEDURES

Article 33. Principles of making of contractor selection plans

1. A contractor selection plan shall be made for the whole project or procurement cost estimate. In case conditions for elaboration of a contractor selection plan for the whole project or procurement cost estimate are not fully satisfied yet, a plan on selection of contractors may be made for one bidding package or several bidding packages for execution first.
2. A contractor selection plan must clearly specify the number of bidding packages and contents of each bidding package.
3. The division of a project or procurement cost estimate into different bidding packages must be based on technical characteristics and execution sequence and ensure the synchrony of the project or procurement cost estimate and reasonable size of each bidding package.

Article 34. Making of contractor selection plans

1. Grounds for making a contractor selection plan for a project:
 - a/ The project approval decision or investment certificate and relevant documents. For a bidding package which needs to be executed before the project approval decision is issued, the decision of the head of the project owner, or the head of the unit assigned to prepare the project in case the investor is not yet identified, may be used as a ground;
 - b/ Funding sources for the project;
 - c/ International treaties or agreements, for projects funded with official development assistance or concessional loans;
 - d/ Relevant legal documents.
2. Grounds for making a contractor selection plan for regular procurement:
 - a/ Standards and norms of working equipment and facilities of agencies, organizations, units, officials, civil servants and public employees; existing working equipment and facilities which need to be replaced, and those which need to be procured for supplementation, or procured to serve work;
 - b/ The approved procurement decision;

- c/ Funding sources and approved regular procurement cost estimate;
- d/ The scheme on procurement of equipment for the entire sector (if any) approved by the Prime Minister;
- dd/ Results of price appraisal by the agency or organization with the function of providing price appraisal services, or price quotations (if any).

3. A contractor selection plan may be made after the project approval decision is issued or the procurement cost estimate is prepared, or simultaneously with the formulation of the project or procurement cost estimate, or before the project approval decision is issued for bidding packages which need to be executed before such decision is issued.

Article 35. Contents of contractor selection plan for each bidding package

1. Name of the bidding package:

The name of the bidding package shows the characteristics, contents and scope of jobs of the bidding package suitable to the contents of the project or procurement cost estimate. In case the bidding package consists of many separate parts, the contractor selection plan must state the name and principal contents of each part.

2. Bidding package price:

a/ The bidding package price shall be determined on the basis of total investment or cost estimate (if any) for a project; or procurement cost estimate for regular procurement. The bidding package price may be accurately and fully inclusive of all expenses for execution of the bidding package, including also contingency expenses, charges, fees and taxes. The bidding package price shall be updated 28 days before the date of bid opening if necessary;

b/ For bidding packages to provide consultancy on elaboration of pre-feasibility study reports or feasibility study reports, the bidding package price shall be determined on the basis of information on average price according to statistics of projects already implemented during a given period; the estimated total investment based on the investment ratio norm; and preliminary total investment;

c/ For a bidding package consisting of many separate parts, the estimated prices for each part must be clearly stated in the bidding package price.

3. Funding sources:

For every bidding package, funding sources or fund arrangement method and time of allocation of funds for payment to contractors must be clearly stated. In case of use of official development assistance or concessional loans, the names

of donors and structure of funding sources, including financial aid and domestic funds must be clearly stated.

4. Contractor selection form and method:

The form and method of selection of contractors, domestic or international, must be clearly stated for every bidding package.

5. Starting time of contractor selection:

The starting time of organizing the contractor selection is the time of distribution of bidding dossiers or dossiers of requirements, and shall be indicated in month or quarter of the year. For open bidding whereby the procedures for selection of a short list are applied, the starting time of organizing the contractor selection is the time of distribution of dossiers of invitation for expression of interest or dossiers of invitation to prequalification.

6. Type of contract:

A contractor selection plan must specify the type of contract as specified in Article 62 of this Law serving as the basis for compilation of dossiers of invitation for expression of interest, dossiers of invitation to prequalification, bidding dossiers or dossiers of requirements; and for contract signing.

7. Duration of contract performance:

The duration of contract performance is the number of days counted from the effective date of the contract to the date when the parties fulfill their contractual obligations, minus the duration for performance of the warranty obligation (if any).

Article 36. Submission of contractor selection plans for approval

1. Responsibility to submit contractor selection plans for approval:

a/ Project owners for projects, or bid solicitors for regular procurement, shall submit contractor selection plans to competent persons for consideration and approval;

b/ For a bidding package which needs to be executed before the issuance of the project approval decision, if the project owner has been identified, the unit belonging to the project owner shall submit the contractor selection plan to the head of the project owner for consideration and approval. If the project owner is not identified yet, the unit assigned to prepare the project shall submit the contractor selection plan to its head for consideration and approval.

2. A document on submission of a contractor selection plan for approval has the following contents:

- a/ Performed work, including jobs related to the project preparation, and bidding packages already executed with corresponding value, and legal grounds for execution;
- b/ Work to which none of the contractor selection forms can be applied, including operation of the project management unit, organization of compensation for ground clearance, commencement of construction, inauguration, payment of loan interests and other jobs to which none of the contractor selection forms can be applied;
- c/ Work stated in the contractor selection plan, including jobs and corresponding value constituting bidding packages to be executed in any of the contractor selection forms specified in Articles 20, 21, 22, 23, 24, 25, 26 and 27 of this Law. This part must clearly state the grounds for the division of the project or procurement cost estimate into bidding packages. For each bidding package, all contents specified in Article 35 of this Law must be ensured. For bidding packages not subject to open bidding, the document on submission of the contractor selection plan must clearly state the reason for application of another selection form;
- d/ Work which does not fully satisfy the conditions for making a contractor selection plan (if any), clearly stating jobs involved in, and value of, this work;
- dd/ Total of the values of the work components specified at Points a, b, c and d of this Clause. This total must not exceed the approved total investment of the project or procurement cost estimate.

3. Documents attached to the document on submission on the contractor selection plan:

Upon submission of the contractor selection plan, copies of documents used as grounds for making such plan under Article 34 of this Law must be enclosed with.

Article 37. Appraisal and approval of contractor selection plans

1. Appraisal of contractor selection plans:

- a/ Appraisal of a contractor selection plan includes examination and evaluation of the contents specified in Articles 33, 34, 35 and 36 of this Law;
- b/ The organization assigned to appraise a contractor selection plan shall make and submit an appraisal report to a competent person for approval;
- c/ The organization assigned to appraise a contractor selection plan shall make and submit an appraisal report to the head of the project owner or to the head of the unit assigned to prepare the project, for approval of such plan, for bidding packages which need to be executed before the issuance of project approval decisions.

2. Approval of contractor selection plans:

a/ Based on the appraisal report, competent persons shall give written approval of the contractor selection plan to serve as a ground for the contractor selection after the project or procurement cost estimate is approved, or at the same time with the issuance of the decision approving the project or procurement cost estimate if conditions are fully satisfied;

b/ Based on the appraisal report, the head of the project owner or head of the unit assigned to prepare the project shall approve the contractor selection plan for bidding packages which need to be executed before the issuance of the project approval decision.

Article 38. Procedures for contractor selection

1. The procedures for contractor selection for open bidding or restricted bidding are as follows:

a/ Preparation for contractor selection;

b/ Organization of contractor selection;

c/ Evaluation of bid dossiers and negotiation on contracts;

d/ Submission, appraisal, approval and publicization of contractor selection results;

dd/ Finalization and signing of contract.

2. The procedures for contractor selection for appointment are as follows:

a/ For contractor appointment according to normal procedures, the procedures includes preparation for contractor selection; organization of contractor selection; evaluation of dossiers of proposals and negotiation on proposals of contractors; submission, appraisal, approval and publicization of contractor selection results; finalization and signing of contracts;

b/ For contractor appointment according to simplified procedures, the procedures include preparation and sending of draft contracts to contractors; negotiation and finalization of contracts; submission, approval and publicization of contractor selection results; signing of contracts.

3. Procedures for contractor selection for competitive offers are as follows:

a/ For competitive offers according to normal procedures, the procedures include preparation for contractor selection; organization of contractor selection; evaluation of dossiers of proposals and negotiation on proposals of contractors; submission, appraisal, approval and publicization of contractor selection results; finalization and signing of contracts;

b/ For contractor appointment according to simplified procedures, the procedures include preparation and sending of requests for price quotations to contractors; submission of price quotations by contractors; appraisal of price quotations and negotiation on contracts; submission, approval and publicization of contractor selection results; finalization and signing of contracts.

4. Contractor selection procedures for direct procurement are as follows:

a/ Preparation for contractor selection;

b/ Organization of contractor selection;

c/ Evaluation of dossiers of proposals and negotiation on proposals of contractors;

d/ Submission, appraisal, approval and publicization of contractor selection results;

dd/ Finalization and signing of contract.

5. Contractor selection procedures for self-execution are as follows:

a/ Preparation of self-execution plans and draft contracts;

b/ Finalization of self-execution plans and draft contracts;

c/ Signing of contracts.

6. Contractor selection procedures for selection of individual consultancy contractors are as follows:

a/ Preparation and sending of terms of reference to individual consultancy contractors;

b/ Submission of resumes by individual consultancy contractors;

c/ Assessment of resumes of individual consultancy contractors;

d/ Negotiation on and finalization of contracts;

dd/ Submission, approval and publicization of contractor selection results;

e/ Signing of contracts.

7. Contractor selection procedures for bidding packages with the participation of local communities are as follows:

a/ Preparation of plans on selection of local communities, organizations or worker teams for execution of bidding packages;

b/ Organization of selection;

c/ Approval and publicization of selection results;

d/ Finalization and signing of contracts.

8. The Government shall detail this Article.

Chapter IV

METHODS OF EVALUATION OF BID DOSSIERS AND DOSSIERS OF PROPOSALS; CONSIDERATION AND APPROVAL OF BID WINNERS

Article 39. Methods of evaluation of bid dossiers for bidding packages to provide non-consultancy services, procure goods, or for construction and installation, or mixed bidding packages

1. Lowest bid method:

a/ This method shall be applied to simple and small-sized bidding packages in which technical, financial or commercial proposals are regarded to be on the same plane when they satisfy requirements stated in bidding dossiers;

b/ Bid dossier evaluation criteria include criteria for evaluation of capacity and experience and criteria of bidding packages;

c/ For bid dossiers which have been evaluated as satisfying the evaluation criteria specified at Point b of this Clause, the comparison and ranking of bids must be based on bid evaluation after error correction or deviation adjustment. Contractors shall be ranked correspondingly according to their bids after error correction or deviation adjustment, minus the value of discounts (if any). The contractor with the lowest bid shall be ranked first.

2. Evaluation bid method:

a/ This method shall be applied to bidding packages in which costs can be converted to the same plane in terms of technical, financial or commercial elements for the whole use life of goods or works;

b/ Criteria for evaluation of bid dossiers include criteria for evaluation of capacity and experience in case prequalification is not applied; criteria for technical evaluation; and criteria for determination of evaluation bid.

Elements to be converted to the same plane for determination of evaluation bid include costs of operation and maintenance and other costs related to the origin of goods, loan interests, implementation schedule and quality of goods or construction works under bidding packages, reputation of contractors judged through performance progress and quality of previous similar contracts, and other elements;

c/ For bid dossiers which have passed the technical evaluation, comparison and ranking shall be based on the evaluation bid. The contractor with the lowest evaluation bid shall be ranked first.

3. Method of combined techniques and bids:

a/ This method shall be applied to technology information and telecommunications bidding packages or bidding packages for goods procurement or construction and installation, or mixed bidding packages when the lowest bid method and evaluation bid method specified in Clauses 1 and 2 cannot be applied;

b/ Criteria for evaluation of bid dossiers include: Criteria for evaluation of capacity and experience in case prequalification is not applied; criteria for technical evaluation; and criteria for general evaluation. Criteria for general evaluation shall be developed on the basis of combination of techniques and bids;

c/ For bid dossiers which have passed the technical evaluation, comparison and ranking shall be based on general points. The contractor with the highest general points shall be ranked first.

4. For capacity and experience evaluation, the “pass” and “fail” criteria shall be used. For technical evaluation, the point-rating method or “pass” and “fail” criteria shall be used. For the method of combined techniques and bids specified in Clause 3 of this Article, the point-rating method shall be used. When applying the point-rating method, the minimum point rate which is up to 70% of total technical points is required.

5. The Government shall detail this Article.

Article 40. Methods of evaluation of bid dossiers for bidding packages to provide consultancy services

1. For institutional consultancy contractors, one of the following methods shall be applied:

a/ The lowest bid method shall be applied to simple consultancy bidding packages. Criteria for evaluation of bid dossiers are technical evaluation criteria. For bid dossiers which have passed technical evaluation, comparison and ranking shall be based on bids after error correction or deviation adjustment, minus the value of discounts (if any). The contractor with the lowest bid shall be ranked first;

b/ The fixed bid method shall be applied to simple consultancy bidding packages, execution costs of bidding packages determined in a specific and fixed manner in bidding dossiers. Criteria for evaluation of bid dossiers are technical evaluation criteria. For bid dossiers which have passed the technical evaluation and with bids after error correction or deviation adjustment minus the value of discounts (if any) not exceeding execution costs of bidding packages, comparison and ranking shall be based on technical points. The contractor with the highest technical point shall be ranked first.

c/ The method of combined techniques and bids shall be applied to consultancy bidding packages attaching importance to both quality and execution costs of bidding packages. Criteria for evaluation of bidding packages are technical evaluation criteria and general evaluation criteria. General evaluation criteria shall be developed on the basis of combination of techniques and bids. The development of general evaluation criteria must adhere to the principle that technical points account for between 70-80% and bid points account for 20-30% of the total points of the general point scale (100%). The contractor with the highest general point shall be ranked first;

d/ The technique-based method shall be applied to consultancy bidding packages with high and special technical requirements. Criteria for evaluation of bid dossiers are technical evaluation criteria. Upon development of technical evaluation criteria, the minimum technical point must be prescribed to be at least 80% of the total technical point. The contractor with the bid dossier satisfying the prescribed minimum technical point and the highest technical point shall be ranked first and invited to open dossiers of financial proposals to serve as a ground for contract negotiation.

2. For the technical evaluation criteria specified at Points a, b, c and d, Clause 1 of this Article, the point-rating method shall be applied. Upon development of technical evaluation criteria, the minimum technical point must be prescribed to be at least 70% of the total technical point, except the case specified at Point d, Clause 1 of this Article.

3. For individual consultancy contractors, criteria for evaluation of bid dossiers are criteria for evaluation of resumes and technical proposals (if any). The contractor with the best resume and technical proposal and satisfying requirements of the terms of reference shall be ranked first.

Article 41. Method of evaluation of dossiers of proposals

The method of evaluation of dossiers of proposals in competitive offers is the lowest bid method specified in Clause 1, Article 39 of this Law.

Article 42. Consideration and approval of bid winners for provision of consultancy services

1. An institutional consultancy contractor may be considered and proposed to be the bid winner when fully satisfying the following conditions:

a/ Having a valid bid dossier or dossier of proposals;

b/ Having technical proposals satisfying requirements;

c/ Having the lowest bid after error correction or deviation adjustment, minus the value of discounts (if any), for the lowest bid method; having the highest technical point, for the fixed bid method and technique-based method; or

having the highest general point, for the method of combination of techniques and bids;

d/ Having the proposed winning bid not exceeding the approved bidding package price. In case the cost estimate of the approved bidding package is lower or higher than the approved bidding package price, such cost estimate may replace the bidding package price as the ground for consideration and approval of the bid winner.

2. An individual consultancy contractor may be considered and proposed to be the bid winner when fully satisfying the following conditions:

a/ Having the best resume and technical proposals (if any) and satisfying requirements of the terms of reference;

b/ Having the proposed winning bid not exceeding the approved bidding package price. In case the cost estimate of the approved bidding package is lower or higher than the approved bidding package price, such cost estimate may replace the bidding package price as the ground for consideration and approval of the bid winner.

3. For contractors that are not selected, notices of contractor selection results must clearly state the reason for not winning.

Article 43. Consideration and approval of bid winners for bidding packages to provide non-consultancy services, procure goods or for construction and installation, or mixed bidding packages

1. A contractor to provide non-consultancy services, procure goods or for construction and installation, or execute a mixed bidding package may be considered or proposed to be the bid winner when fully satisfying the following conditions:

a/ Having a valid bid dossier or dossier of proposals;

b/ Having capacity and experience as required;

c/ Having technical proposals satisfying requirements;

d/ Having a deficient deviation not exceeding 10% of his/her/its bid;

dd/ Having the lowest bid after error correction or deviation adjustment, minus the value of discounts (if any), for the lowest bid method; having the lowest evaluation bid, for the evaluation bid method; or having the highest general point, for the method of combination of techniques and bids;

e/ Having the proposed winning bid not exceeding the approved bidding package price. In case the cost estimate of the approved bidding package is lower or higher than the approved bidding package price, such cost estimate

may replace the bidding package price as the ground for consideration and approval of the bid winner.

2. For contractors that are not selected, notices of contractor selection results must clearly state the reason for not winning.

Chapter V

CENTRALIZED PROCUREMENT, REGULAR PROCUREMENT, PROCUREMENT OF MEDICINES AND MEDICAL SUPPLIES; PROVISION OF PUBLIC PRODUCTS AND SERVICES

Section 1

CENTRALIZED PROCUREMENT

Article 44. General provisions on centralized procurement

1. Centralized procurement is a method whereby contractors are selected by centralized procurement units through open bidding in order to reduce costs, time, focal points in bidding organization, and enhance professionalism in bidding, thereby increasing economic efficiency.

2. Centralized procurement applies to cases in which goods or services need to be procured in large quantities or of similar types in one or more than one agency, organization, enterprise or project owner.

3. Centralized procurement shall be conducted by either of the following methods:

a/ Centralized procurement units gather procurement demands, select contractors and directly sign contracts with contractors selected to provide goods or services;

b/ Centralized procurement units gather procurement demands, select contractors, sign a written framework agreement with one or more than one selected contractor to serve as a ground for units with procurement demand to directly sign contracts with contractors selected to provide goods or services.

4. Centralized procurement units shall select contractors based on assigned tasks or contracts signed with units with demand.

5. The Government shall detail this Article.

Article 45. Framework agreements

1. A framework agreement in centralized procurement is a long-term agreement between a centralized procurement unit and one or more than one selected contractor, including criteria and conditions which serve as a ground for procurement under each specific contract.

2. The validity duration of a framework agreement shall be specified in the contractor selection plan and must not exceed 3 years.

Section 2

REGULAR PROCUREMENT

Article 46. Conditions for application

State agencies, political organizations, socio-political organizations, socio-political-professional organizations, socio-professional organizations, social organizations, people's armed forces units and public non-business units may apply regular procurement of goods or services when fully satisfying the following conditions:

1. Using the funding source for regular procurement;
2. Goods or services are on the list of goods and services subject to regular procurement to maintain routine operations of agencies, organizations or units.

Article 47. Organization of contractor selection

1. The selection of contractors for regular procurement complies with Articles 38, 39, 40, 41, 42 and 43 of this Law.
2. The Government shall detail regular procurement.

Section 3

PROCUREMENT OF MEDICINES AND MEDICAL SUPPLIES

Article 48. Selection of contractors to provide medicines and medical supplies

1. Forms, methods, plans and procedures for selection of contractors and methods of evaluation of bid dossiers or dossiers of proposals for the selection of contractors to provide medicines and medical supplies comply with the provisions of Chapters II, III and IV of this Law.
2. The selection of contractors to provide medicines may also be conducted in the form of price negotiation. The form of price negotiation may be applied to bidding packages to procure medicines manufactured by one or two medicine manufacturers, original specific medicines, rare medicines, medicines under copyright licensing and other special cases.
3. A contractor may be considered and proposed to be bid winner for provision of each medicine when fully satisfying the following conditions:
 - a/ The conditions specified at Points a, b, d, dd and e, Clause 1, Article 43 of this Law;
 - b/ Having technical proposals considered satisfying requirements on quality, provision, preservation and expiry date of medicines.

4. The Government shall detail this Article.

Article 49. Centralized procurement of medicines

1. Centralized procurement of medicines may be conducted at national and local levels.
2. Centralized procurement of medicines and roadmap for implementing centralized procurement of medicines shall be prescribed by the Government.

Article 50. Preferences in procurement of medicines

Preferences in procurement of medicines are as prescribed in Article 14 of this Law. For domestically manufactured medicines which are publicized by the Ministry of Health as satisfying requirements on treatment, price and supply capacity, bidding dossiers or dossiers of requirements must contain provisions prohibiting contractors from offering imported medicines.

Article 51. Responsibilities of state management agencies in bidding for medicines and medical supplies

1. The Ministry of Health shall promulgate a list of medicines subject to bidding; a list of medicines subject to centralized bidding; and a list of medicines subject to price negotiation.
2. The Government shall prescribe responsibilities of ministries and sectors in bidding for medicines and medical supplies and the publicization of prices of medicines and medical supplies according to contractor selection results.

Article 52. Payment of costs of procurement of medicines and medical supplies

Non-public health establishments that do not choose to apply the provisions of this Law on procurement of medicines and medical supplies, may only receive payments from the health insurance fund source for medicines according to bid-winning medicine unit prices and prices of medical supplies of provincial-level public health establishments in the same locality.

Section 4

PROVISION OF PUBLIC PRODUCTS AND SERVICES

Article 53. Forms of contractor selection

The selection of contractors to provide public products and services may be conducted in the form of open bidding, restricted bidding, contractor appointment, competitive offer, direct procurement or self-execution.

Article 54. Procedures for contractor selection

1. The procedures for selection of contractors to provide public products and services are as follows:

- a/ Preparation for contractor selection;
 - b/ Organization of contractor selection;
 - c/ Evaluation of bid dossiers or dossiers of proposals and negotiation on contracts;
 - d/ Submission, appraisal, approval and publicization of contractor selection results;
 - dd/ Finalization and signing of contracts.
2. The Government shall detail this Article.

Chapter VI

SELECTION OF INVESTORS

Article 55. Investor selection plans

1. Grounds for making an investor selection plan:
- a/ Project approval decision;
 - b/ International treaties and agreements, for projects funded with official development assistance or concessional loans;
 - c/ Relevant documents.
2. Contents of an investor selection plan:
- a/ Name of the project;
 - b/ Total investment and total capital of the project;
 - c/ Preliminary information on the State's contributed capital and financial mechanism to support the project implementation (if any);
 - d/ Form and method of investor selection;
 - dd/ Starting time of investor selection.
 - e/ Type of contract;
 - g/ Contract performance duration.

Article 56. Procedures for investor selection

1. The procedures for investor selection are as follows:
- a/ Preparation for investor selection;
 - b/ Organization of investor selection;
 - c/ Evaluation of bid dossiers or dossiers of proposals;
 - d/ Submission, appraisal, approval and publicization of investor selection results;

dd/ Negotiation, finalization and signing of contracts.

2. The Government shall detail this Article.

Article 57. Submission, appraisal and approval of investor selection plans, dossiers of invitation to prequalification, prequalification results, bidding dossiers, dossiers of requirements and investor selection results

1. Bid solicitors shall submit to competent persons investor selection plans, dossiers of invitation to prequalification, prequalification results, bidding dossiers, dossiers of requirements and investor selection results and concurrently send them to appraisal organizations.

2. Appraisal organizations shall make and submit reports on appraisal of investor selection plans, dossiers of invitation to prequalification, prequalification results, bidding dossiers, dossiers of requirements and investor selection results to competent persons.

3. Based on submitted dossiers and reports on appraisal, competent persons shall approve investor selection plans, dossiers of invitation to prequalification, prequalification results, bidding dossiers, dossiers of requirements and investor selection results.

4. The Government shall detail this Article.

Article 58. Methods of evaluation of bid dossiers

1. Methods of evaluation of bid dossiers include method of service charge, method of capital contributions of the State, method of social benefits and state benefits, and combination method.

2. Criteria for evaluation of bid dossiers include criteria for evaluation of capacity and experience; criteria for technical evaluation; and criteria for financial evaluation.

3. The Government shall detail this Article.

Article 59. Consideration and approval of bid winners in investor selection

1. Selected investors must fully satisfy the following conditions:

a/ Having a valid bid dossier or dossier of proposals;

b/ Satisfying the requirements on capacity and experience;

c/ Satisfying the technical requirements;

d/ Satisfying the financial requirements;

dd/ Having a project with the highest efficiency.

2. For investors that are not selected, notices of investor selection results must clearly state the reason for not winning.

Chapter VII

ONLINE SELECTION OF CONTRACTORS OR INVESTORS

Article 60. Online selection of contractors or investors

1. For the online selection of contractors or investors, the following contents and procedures must be carried out on the national bidding network:

a/ Publication of information on bidding in accordance with Article 8 of this Law;

b/ Publication of dossiers of invitation for expression of interest, dossiers of invitation to prequalification, bidding dossiers and dossiers of requirements;

c/ Submission of guarantees for participation in bidding and performance of contract, and partnership agreements;

d/ Submission or withdrawal of dossiers of expression of interest, dossiers for participation in prequalification, bid dossiers and dossiers of proposals;

dd/ Opening of bids;

e/ Evaluation of dossiers of expression of interest, dossiers for participation in prequalification, bid dossiers and dossiers of proposals;

g/ Signing of and payment for contracts;

h/ Other relevant contents.

2. The Government shall specify the online selection of contractors or investors and application roadmap.

Article 61. Requirements on the national bidding network

1. Publicity without any restriction on information access.

2. Ability of users to recognize real time when accessing the national bidding network. The time on the national bidding network is real time and standard time in online bidding.

3. Uninterrupted operation, uniformity, stability, information safety, ability to identify users, data confidentiality and integrity.

4. Recording of information on, and tracking of the history of, transactions on the national bidding network.

5. Assurance that contractors and investors cannot send dossiers of expression of interest, dossiers for participation in prequalification, bid dossiers and dossiers of proposals to bid solicitors after the time of bid closing.

Chapter VIII

CONTRACTS

Section 1

CONTRACTS WITH CONTRACTORS

Article 62. Types of contract

1. Lump-sum contract:

a/ Lump-sum contract is a contract with a price unchanged throughout the course of performance for the whole contracted work. The payment for a lump-sum contract shall be made in installments in the course of contract performance or in lump sum upon completion of contract performance. Total payment which the contractor is entitled to receive upon fulfillment of contractual obligations is equal to the price stated in the contract;

b/ In case of a lump-sum contract, the bidding package price serving as a ground for consideration and approval of the bid winner must include expenses for risks which may occur in the course of contract performance and provisions for inflation. A bid must include all expenses for risks and provisions for inflation which may occur in the course of contract performance;

c/ Lump-sum contract is the basic type of contract. When deciding on application of the type of contract specified in Clause 2 or 3 of this Article, persons approving contractor selection plans shall guarantee that such type of contract is more appropriate compared to lump-sum contract. For bidding packages to provide simple consultancy or non-consultancy services, procure goods, or for construction and installation, or mixed bidding packages, lump-sum contract must be applied;

d/ For bidding packages for construction and installation, during the negotiation and finalization of a contract, involved parties shall appraise the bill of quantities according to the approved design. If the contractor or bid solicitor detects that the bill of quantities is inconsistent with the design, the bid solicitor shall report such to the project owner for consideration and decision on adjustment of the volume of work to be consistent with the design;

dd/ When applying lump-sum contract, project owners for projects, bid solicitors for regular procurement, centralized procurement units or units with procurement demand for centralized procurement, shall take responsibility for the accuracy of quantity or volume of work. In case a consultancy contractor is used to compile the design dossier, bidding dossier or dossier of requirements, the contract between the project owner, bid solicitor, centralized procurement unit or unit with procurement demand and the consultancy contractor must prescribe the responsibilities of parties for handling and compensation for incorrect calculation of the quantity or volume of work.

2. Contract with fixed unit prices:

Contract with fixed unit price is a contract with a unit price unchanged throughout the course of contract performance for the whole contracted work. The contractor is entitled to receive payment according to the quantity or volume of work actually tested and accepted under regulations on the basis of the fixed unit price stated in the contract.

3. Contract with adjustable unit prices:

Contract with adjustable unit price is a contract with a unit price which can be adjusted on the basis of agreements in the contract for the whole contracted work. The contractor is entitled to receive payment according to the work volume actually tested and accepted under regulations on the basis of the unit price stated in the contract or adjusted unit price.

4. Time-based contract:

Time-based contract is a contract applicable to bidding packages to provide consultancy services. The contract price shall be calculated on the basis of working time in month, week, day and hour, and expenses other than remuneration. The contractor is entitled to receive payment according to the actual working time on the basis of remuneration levels corresponding to positions and jobs stated in the contract.

Article 63. Contract dossiers

1. A contract dossier comprises the following documents:

a/ Written contract;

b/ Contract annexes, including the detailed list of jobs, price table and performance schedule (if any);

c/ Decision approving the contractor selection result.

2. In addition to the documents specified in Clause 1 of this Article, depending on the size and characteristics of the bidding package, the contract dossier may include one or several of the following documents:

a/ Minutes on contract finalization;

b/ Written agreement between parties on conditions of the contract, including general conditions and specific conditions;

c/ Bid dossier or dossier of proposals and documents clarifying this dossier of the selected contractor;

d/ Bidding dossier or dossier of requirements and documents amending or supplementing this dossier;

dd/ Relevant documents.

3. When there is any change in contents within the scope of the contract, parties shall sign an annex to the contract.

Article 64. Conditions for contract signing

1. At the time of signing, bid dossiers or dossiers of proposals of selected contractors remain valid.

2. At the time of signing, selected contractors must satisfy requirements on technical and financial capacity for execution of bidding packages. In case of necessity, project owners for projects, bid solicitors for regular procurement, or centralized procurement units or units with procurement demand for centralized procurement, shall verify information on capacity of contractors and sign contracts only when these contractors satisfy bidding package execution requirements.

3. Project owners for projects, bid solicitors for regular procurement, or centralized procurement units or units with procurement demand for centralized procurement, shall ensure conditions on advanced capital, capital for payment, site ground for execution and other necessary conditions for execution of bidding packages according to schedule.

Article 65. Contracts with selected contractors

1. After selecting contractors, project owners for projects, bid solicitors for regular procurement, or centralized procurement units or units with procurement demand for centralized procurement and selected contractors shall sign contracts on execution of bidding packages. For partnership contractors, all partnership members shall directly sign and append their seals (if any) to written contracts. Contracts signed between parties must comply with this Law and other relevant laws.

2. A bidding package may be executed under one or more than one contract of one or several types of contract specified in Article 62 of this Law. In case several types of contract are applied, the type of contract corresponding to each specific job must be clearly stated.

3. A contract signed between parties must conform to contents of the bidding dossier or dossier of requirements, bid dossier or dossier of proposals, contract negotiation results and decisions approving the contractor selection result.

4. Contract prices must not exceed winning bids. In case a work volume outside the bidding dossier or dossier of requirements is added, making the contract price higher than the winning bid, then the contract price must not exceed the approved bidding package price or cost estimate; or the total contract price must not exceed the approved total investment or procurement cost estimate, for a project or procurement cost estimate consisting of many packages.

5. The Government shall specify contract contents related to bidding.

Article 66. Contract performance security

1. Contract performance security applies to selected contractors, except contractors providing consultancy services, contractors selected in the form of self-execution, and participation of local communities in execution.

2. Selected contractors shall provide contract performance security before contracts take effect.

3. Based on the size and characteristics of a bidding package, the value of contract performance security stated in the bidding dossier or dossier of requirements must be equal to between 2% and 10% of the winning bid.

4. The validity duration of contract performance security is counted from the date when the contract takes effect to the date when the parties fulfill the contract obligations or when they shift to perform the warranty obligation in case warranty is provided in the contract. In case of necessity to prolong the contract performance duration, contractors shall be required to prolong the validity duration of the contract performance security correspondingly.

5. Contractors are not entitled to refund of contract performance security in the following cases:

a/ They refuse to perform contracts which have taken effect;

b/ They breach agreements in contracts;

c/ They perform contracts behind schedule due to their own faults but refuse to prolong the valid duration of the contract performance security.

Article 67. Principles of contract adjustment

1. The adjustment of contracts must be specified in such contracts and written agreements on contract conditions (if any).

2. The adjustment of contracts may only apply during the validity duration of such contracts.

3. The adjustment of contract prices may only apply to contracts with fixed unit prices, contracts with adjustable unit prices and time-based contracts.

4. After adjustment, contract prices must not exceed approved bidding package prices or cost estimates. For a project or cost estimate consisting of many bidding packages, the total contract price after being adjusted must not exceed the approved total investment or procurement cost estimate.

5. For contracts with adjustable unit prices, the adjustment of unit prices may be made upon the occurrence of price-changing elements and apply only to

work volume implemented according to the schedule stated in the contracts or the schedule adjusted under Clauses 6 and 7 of this Article.

6. The contract performance schedule may only be adjusted in the following cases:

a/ In force majeure circumstances not related to any violation or mistake of contracting parties;

b/ The work scope, designs and construction measures are changed due to objective requirements, which affect the contract performance schedule;

c/ The site ground is handed over at variance with agreements in the contract, affecting the contract performance schedule, but not due to the contractor's fault.

7. The contracting parties may reach agreement on adjustment of the contract performance schedule if such adjustment does not prolong the project completion schedule. In case such adjustment prolongs the project completion schedule, it must be reported to a competent person for consideration and decision.

Section 2

CONTRACTS WITH INVESTORS

Article 68. Types of contract

Contracts in investor selection include: build-operate-transfer (BOT) contract, build-transfer-operate (BTO) contract, build-own-operate (BOO) contract, build-transfer (BT) contract and contracts of other types as prescribed by the law on investment.

Article 69. Contract dossiers

1. A contract dossier comprises the following documents:

a/ The contract;

b/ Contract annexes (if any);

c/ Contract negotiation record;

d/ The decision approving the investor selection result;

dd/ The written agreement between parties on conditions of the contract, including general conditions and specific conditions;

e/ The selected investor's bid dossier, dossier of proposals and documents to clarify the bid dossier and dossier of proposals;

g/ The bidding dossier, dossier of requirements and documents amending and supplementing the bidding dossiers or dossier of requirements;

h/ Relevant documentation.

2. When there is a change to the contents of the contract, parties shall sign a contract annex.

Article 70. Conditions for signing of a contract

1. At the time of signing a contract, the bid dossier and dossier of proposals of the selected investor remain valid.

2. At the time of signing a contract, the selected investor must satisfy requirements on technical and financial capacity to implement the project. When necessary, the competent person shall verify information about the investor's capacity and proceed with the signing of contract only if the investor satisfies all requirements for project implementation.

3. Competent state agencies shall ensure conditions on contribution of state capital and project site as well as other necessary conditions for project implementation according to schedule.

Article 71. Contracts with selected investors

1. After selecting an investor, a competent state agency shall sign a contract with the selected investor or sign contracts with the selected investor and the project enterprise. For an investor being a partnership, all partnership members must sign and affix its/his/her seal (if any) on the contract. The contract signed between parties must comply with this Law and other relevant laws.

2. The contract signed between parties must conform to the contents of the bidding dossier, dossier of requirements, bid dossier, dossier of proposals, contract negotiation results and decision approving the investor selection result and the written investment agreement.

Article 72. Contract performance security

1. Selected investors shall provide security for the performance of a contract before such contract takes effect.

2. Depending on the size and characteristics of the project, the value of contract performance security may be provided in the bidding dossier and dossier of requirements at the rate of between 1% and 3% of the project's total investment.

3. The validity duration of a contract performance security is counted from the date when the contract is officially signed to the date when the work is completed and tested for acceptance or the date when conditions for the provision of services are fulfilled as provided by the contract. In case of necessity to prolong the contract performance duration, the investor will be required to correspondingly prolong the validity duration of the contract performance security.

4. The investor is not entitled to refund of the contract performance security in the following cases:

a/ The investor refuses to perform the contract after it takes effect;

b/ The investor violates contractual agreements;

c/ The investor performs the contract behind schedule due to its/his/her fault but refuses to prolong the validity duration of the contract performance security.

Chapter IX

RESPONSIBILITIES OF PARTIES IN CONTRACTOR OR INVESTOR SELECTION

Article 73. Responsibilities of a competent person

1. To approve the contractor or investor selection plan, except the case prescribed at Point a, Clause 1, Article 74 of this Law.

2. To settle appeals in the course of contractor or investor selection.

3. To handle violations of bidding regulations in accordance with this Law and other relevant laws.

4. To cancel bidding under Clauses 2, 3 and 4, Article 17 of this Law.

5. To cease bidding or refuse to recognize the contractor or investor selection result or declare the project owner's or bid solicitor's decisions invalid if detecting violations of bidding regulations or other relevant regulations.

6. To organize the inspection, supervision and monitoring of bidding and contract performance.

7. In case of contractor selection, in addition to the responsibilities specified in Clauses 1, 2, 3, 4, 5 and 6 of this Article, a competent person has the following responsibilities:

a/ To adjust tasks and powers of the project owner that fails to satisfy the conditions prescribed by the bidding law and requirements of the project or bidding package;

b/ To request the project owner or bid solicitor to provide dossiers and documents to serve the inspection, supervision, monitoring, settlement of appeals, handling of violations in bidding, and exercise of the responsibilities specified in Clauses 4 and 5 of this Article;

c/ To give opinions on the response to arising eventualities in complicated cases at the request of the project owner as prescribed at Point a, Clause 2, Article 86 of this Law.

8. In case of investor selection, in addition to the responsibilities specified in Clauses 1, 2, 3, 4, 5 and 6 of this Article, the competent person has the following responsibilities:

a/ To select a bid solicitor;

b/ To approve the dossier of invitation to prequalification, prequalification results, bidding dossier, dossier of requirements and the investor selection result;

c/ To decide on the response to arising eventualities;

d/ To sign and manage the performance of the contract;

dd/ To cancel bidding under Clause 1, Article 17 of this Law;

e/ To request the bid solicitor to provide dossiers and documents to serve the inspection, supervision, monitoring, settlement of appeals, handling of violations in bidding, and exercise of the responsibilities specified in Clauses 4 and 5 of this Article.

9. To establish a bid solicitor with staff meeting the conditions prescribed by this Law, in case of investor selection or regular procurement. In case of unqualified staff, to select a professional bidding organizer to act as the bid solicitor or perform some tasks of the bid solicitor.

10. To pay compensations for damage to concerned parties in accordance with law if he/she is at fault for such damage.

11. To explain about the compliance with this Article at the request of superior agencies, inspection and examination agencies and state management agencies in charge of bidding.

12. To discharge other responsibilities as prescribed by this Law.

Article 74. Responsibilities of a project owner

1. To approve contents of the contractor selection, including:

a/ Contractor selection plan, in case the bidding package is executed before the project approval decision is issued;

b/ Dossier of invitation for expression of interest, dossier of invitation to prequalification and short list;

c/ Bidding dossier and dossier of requirements;

d/ Contractor ranking list;

dd/ The contractor selection result.

2. To sign or authorize others to sign contracts with, and manage the performance of contracts by, contractors.

3. To establish a bid solicitor with staff meeting the conditions prescribed by this Law. In case of unqualified staff, to select a professional bidding organizer to act as the bid solicitor or perform some tasks of the bid solicitor.
4. To respond to arising eventualities.
5. To settle appeals during the course of contractor selection.
6. To keep secret relevant documents during the course of contractor selection.
7. To preserve relevant information during the course of contractor selection in accordance with the law on archives and the Government's regulations.
8. To make annual reports on bidding.
9. To pay compensations for damage to related parties in accordance with law if it is at fault for such damage.
10. To cancel bidding under Clause 1, Article 17 of this Law.
11. To take responsibility before law and the competent person for the course of contractor selection.
12. To provide relevant information and documents and explain about the compliance with this Article at the request of the competent person, inspection and examination agencies and state management agencies in charge of bidding.
13. To discharge the responsibilities prescribed in Article 75 of this Law, for project owners that are concurrently bid solicitors.
14. To discharge other responsibilities as prescribed by this Law.

Article 75. Responsibilities of a bid solicitor

1. In case of selecting contractors to execute a bidding package under a project:
 - a/ To prepare for the contractor selection; to organize the contractor selection, evaluate dossiers of expression of interest, dossiers for participation in prequalification, bid dossiers and dossiers of proposals;
 - b/ To decide to form an expert team;
 - c/ To request contractors to clarify their dossiers of expression of interests, dossiers for participation in prequalification, bid dossiers and dossiers of proposals in the dossier evaluation process;
 - d/ To submit the short list and the contractor selection result for approval;
 - dd/ To negotiate with contractors to finalize contracts;
 - e/ To pay compensations for damage to related parties in accordance with law if it is at fault for such damage;
 - g/ To keep secret documents during the course of contractor selection;

- h/ To ensure truthfulness, objectivity and fairness during the course of contractor selection;
- i/ To provide information to the Bidding newspaper and the national bidding network; to provide relevant information and documents and explain about the compliance with this Clause at the request of the competent person, project owner, inspection and examination agencies and state management agencies in charge of bidding;
- k/ To take responsibility before law and the project owner for the course of contractor selection.

2. In case of selecting contractors in regular procurement, in addition to the responsibilities prescribed at Points a, b, c, d, dd, e, g, h and i, Clause 1 of this Article, the bid solicitor shall also perform the following responsibilities:

- a/ To approve the bidding dossier and dossier of requirements;
- b/ To approve the contractor selection result;
- c/ To sign contracts with, and manage the performance of contracts by, contractors;
- d/ To decide on the response to arising eventualities;
- dd/ To settle appeals during the course of contractor selection;
- e/ To cancel bidding in accordance with Clause 1, Article 17 of this Law;
- g/ To take responsibility before law and the competent person for the course of contractor selection;
- h/ To preserve relevant information during the course of contractor selection in accordance with the law on archives and the Government's regulations;
- i/ To provide information to the Bidding newspaper and the national bidding network; to provide relevant information and documents and explain about the compliance with this Clause at the request of the competent person, inspection and examination agencies and state management agencies in charge of bidding;
- k/ To make annual reports on bidding.

3. In case of investor selection:

- a/ To prepare for the investor selection; to organize the investor selection and evaluation of dossiers for participation in prequalification, bid dossiers and dossiers of proposals in accordance with this Law;
- b/ To decide to form an expert team;
- c/ To request investors to clarify their dossiers for participation in prequalification, bid dossiers and dossiers of proposals in the dossier evaluation process;

- d/ To submit the dossier of invitation to prequalification, prequalification results, bidding dossier, dossier of requirements and the investor selection result for approval;
 - dd/ To negotiate contracts with investors;
 - e/ To pay compensations for damage to related parties in accordance with law if it is at fault for such damage;
 - g/ To keep secret documents during the course of investor selection;
 - h/ To preserve relevant information during the course of investor selection in accordance with the law on archives and the Government's regulations;
 - i/ To settle appeals during the course of investor selection;
 - k/ To ensure truthfulness, objectivity and fairness during the course of investor selection;
 - l/ To provide information to the Bidding newspaper and the national bidding network; to provide relevant information and documents and explain about the compliance with this Clause at the request of the competent person, inspection and examination agencies and state management agencies in charge of bidding.
4. To discharge other responsibilities as prescribed by this Law.

Article 76. Responsibilities of an expert team

- 1. To be honest, objective and fair in the process of performing tasks.
- 2. To evaluate dossiers of expression of interest, dossiers for participation in prequalification, bid dossiers and dossier of proposals as required.
- 3. To report to the bid solicitor on the results of evaluation of dossiers of expression of interest, dossiers for participation in prequalification, bid dossiers and dossiers of proposals, and the contractor or investor ranking list.
- 4. To keep secret relevant documents during the course of contractor or investor selection.
- 5. To reserve its opinions.
- 6. To pay compensations for damage to related parties in accordance with law if it is at fault for such damage.
- 7. To provide relevant information and documents and explain about the compliance with this Article at the request of the competent person, project owner, bid solicitor, inspection and examination agencies, and state management agencies in charge of bidding.
- 8. To discharge other responsibilities as prescribed in this Law.

Article 77. Responsibilities of a contractor or an investor

1. To request the bid solicitor to clarify the dossier of invitation for expression of interest, dossier of invitation to prequalification, bidding dossier or dossier of requirements.
2. To fulfill its/his/her commitments according to the signed contract as well as commitments with subcontractors (if any).
3. To make appeals, complaints or denunciations during the process of participating in bidding.
4. To comply with the law on bidding.
5. To ensure truthfulness and accuracy in the course of participating in bidding and making appeals, complaints or denunciations.
6. To pay compensations for damage to related parties in accordance with law if it/he/she is at fault for such damage.
7. To provide relevant information and documents and explain about the compliance with this Article at the request of the competent person, project owner, bid solicitor, inspection and examination agencies, and state management agencies in charge of bidding.
8. To discharge other responsibilities in accordance with this Law and other relevant laws.

Article 78. Responsibilities of an appraisal organization

1. To operate independently, comply with this Law and relevant laws when conducting appraisal.
2. To request the project owner and bid solicitor to fully provide relevant documents.
3. To keep secret relevant documents during the appraisal process.
4. To be honest, objective and fair during the appraisal process.
5. To reserve its opinions and take responsibility for its appraisal reports.
6. To pay compensations for damage to related parties in accordance with law if it is at fault for such damage.
7. To provide relevant information and documents and explain about the compliance with this Article at the request of the competent person, project owner, for projects, bid solicitor, for regular procurement or centralized procurement, inspection and examination agencies, and state management agencies in charge of bidding.
8. To discharge other responsibilities in accordance with this Law.

Article 79. Responsibilities of a bid solicitor participating in the national bidding network

In addition to the responsibilities specified in Article 75 of this Law, a bid solicitor that participates in the national bidding network has the following responsibilities:

1. To build information technology infrastructure to meet the requirements for online bidding.
2. To manage and keep secret the private key of its digital certificate. In case the bid solicitor detects that its digital certificate is lost or illegally used, it shall immediately notify such to the organization providing digital signature certification services for the latter to cancel the granted certificate and issue a new one; to extend the validity duration of the digital certificate so as to ensure that the certificate is valid through the bidding process.
3. To take responsibility before law for the accuracy and truthfulness of information registered and published to the national bidding network when signing in with its digital certificate.
4. To examine and certify the publishing of information it has uploaded to the national bidding network.
5. To comply with this Law and other relevant laws.

Article 80. Responsibilities of a contractor or an investor participating in the national bidding network

In addition to the responsibilities specified in Article 77 of this Law, a contractor or an investor that participates in the national bidding network has the following responsibilities:

1. To build information technology infrastructure for participating in online bidding.
2. To manage and keep secret the private key of its digital certificate. In case the contractor's or investor's employee who is assigned to use the digital certificate detects that the contractor's or investor's digital certificate is lost or used by a third party, he/she shall immediately change the private key of the digital certificate and cancel such certificate under the guidance of the organization providing digital signature certification services; to extend the validity duration of the digital certificate so as to ensure that the certificate is valid through the bidding process.
3. To take responsibility before law for the accuracy and truthfulness of information registered and published to the national bidding network when signing in the network with its/his/her digital certificate.
4. To take responsibility for the results of online bidding in case its/his/her own network breaks down, thus making documents unopenable and unreadable.

5. To comply with this Law and other relevant laws.

Chapter X

STATE MANAGEMENT OF BIDDING

Article 81. Contents of state management of bidding

1. Promulgating, disseminating, guiding and organizing the implementation of, legal documents and policies on bidding.
2. Granting bidding practice certificates.
3. Managing the training and retraining in bidding.
4. Reviewing, assessing and reporting on bidding activities.
5. Managing bidding information systems and databases nationwide.
6. Monitoring, supervising, examining, inspecting, settling appeals, complaints and denunciations in bidding and handling violations of the bidding law in accordance with this Law and other relevant laws.
7. Entering into international cooperation on bidding.

Article 82. Responsibilities of the Government and the Prime Minister

1. The Government shall perform the uniform state management of bidding nationwide.
2. The Prime Minister shall:
 - a/ Decide on the bidding contents as prescribed in Article 73 of this Law for projects falling within his/her competence;
 - b/ Approve contractor or investor selection plans in special cases;
 - c/ Direct the inspection, settlement of complaints and denunciations and handling of violations in bidding in accordance with this Law and other relevant laws;
 - d/ Discharge other responsibilities in accordance with this Law and other relevant laws.

Article 83. Responsibilities of the Ministry of Planning and Investment

1. To take responsibility before the Government for the uniform state management of bidding activities nationwide under Article 81 of this Law.
2. In addition to the responsibility specified in Clause 1 of this Article, the Ministry of Planning and Investment shall:
 - a/ Appraise contractor or investor selection plans for projects to be considered and decided by the Prime Minister;

b/ Build, manage, and guide the use of, the national bidding network and the Bidding Newspaper;

c/ Perform other bidding-related tasks assigned by the Government or the Prime Minister.

Article 84. Responsibilities of ministries, ministerial-level agencies and People's Committees at all levels

Within the ambit of their tasks and powers, ministries, ministerial-level agencies and People's Committees at all levels shall:

1. Manage bidding activities.
2. Review, assess and report on bidding activities.
3. Settle appeals in bidding activities.
4. Inspect, examine, settle complaints and denunciations, and handle violations of the bidding law.
5. Organize the training in bidding knowledge for cadres, civil servants and public employees engaged in bidding work.
6. Ministers, heads of ministerial-level agencies or chairpersons of People's Committees at all levels who also act as competent persons or project owners shall also discharge the responsibilities specified in Article 73 or Article 74 of this Law, respectively.

Article 85. Responsibilities of the organization operating the national bidding network

1. To manage and operate the national bidding network.
2. To keep information confidential during the online bidding process as prescribed.
3. To provide services to guide project owners, bid solicitors, contractors and investors to conduct online bidding and register and upload information to the national bidding network.
4. To preserve information for reference, monitoring, supervision, inspection, examination and audit work.
5. To publicize conditions on users' information technology infrastructure for participation in online bidding.

Article 86. Response to arising eventualities

1. Response to arising eventualities means the settlement of cases arising in bidding activities, which have not yet been specifically and clearly provided in the bidding law. Persons deciding on the response to arising eventualities shall

take responsibility before law for their decisions while adhering to the following principles:

- a/ Competitiveness, fairness, transparency and economic efficiency;
- b/ Compliance with the approved contractor or investor selection plans; dossiers of invitation for expression of interest, dossiers of invitation to prequalification, bidding dossiers and dossiers of requirements; dossiers of expression of interest, dossier for participation in prequalification, bid dossiers and dossiers of proposals; contractor or investor selection results; contracts signed with selected contractors or investors; and practical performance or implementation of bid packages or projects.

2. Competence to respond to arising eventualities in bidding:

- a/ In case of selecting contractors to perform a bidding package under a project, the person deciding on the response to arising eventualities is the project owner. In complicated cases, the project owner shall decide on the response to arising eventualities after obtaining opinions of the competent person;
- b/ In case of selecting contractors in regular procurement or centralized procurement, the person deciding on response to arising eventualities is the bid solicitor;
- c/ In case of selecting investors, the person deciding on the response to arising eventualities is the competent person.

3. The Government shall detail this Article.

Article 87. Inspection, examination and supervision of bidding

1. Inspection of bidding:

- a/ Inspection of bidding must be carried out for organizations and individuals engaged in bidding activities as prescribed in this Law;
- b/ Inspection of bidding is specialized inspection in bidding. The organization and operation of bidding inspectorates comply with the inspection law.

2. Examination of bidding activities:

- a/ Examination of bidding activities covers examination of the promulgation of written guidance on bidding by ministries, sectors, localities and enterprises; examination of the training in bidding; examination of the elaboration and approval of contractor or investor selection plans; examination of contractor or investor selection; signing of contracts and other activities related to bidding;
- b/ Examination of bidding must be carried out regularly or irregularly under decisions of heads of competent examination agencies.

3. Supervision of bidding activities:

Supervision of bidding activities constitutes a regular job of competent persons so as to ensure the compliance of the course of contractor or investor selection with this Law.

4. The Government shall detail this Article.

Article 88. Complaints and denunciations

The filing and settlement of complaints and denunciations in bidding comply with the law on complaints and denunciations.

Chapter XI

PROHIBITED ACTS AND HANDLING OF VIOLATIONS IN BIDDING

Article 89. Prohibited acts in bidding

1. Giving, taking or acting as a go-between for bribes.
2. Abusing positions and powers to illegally intervene into bidding activities.
3. Committing collusion in bidding, including the following acts:
 - a/ Entering into an agreement to withdraw from a bidding or withdraw submitted bidding participation applications for one or several parties to the agreement to win the bid;
 - b/ Entering into an agreement under which one or more than one party to the agreement will prepare bid dossiers for others so as to help one party to the agreement win the bid;
 - c/ Entering into an agreement to refuse to supply goods to, or sign subcontracts with, or to cause difficulties in other forms to, contractors other than parties to the agreement.
4. Committing fraud, including the following acts:
 - a/ Falsely presenting in a deliberate manner or falsifying information, dossiers and documents of one party to bidding in order to gain financial benefits or other benefits or to shirk any obligations;
 - b/ Individuals who personally evaluate dossiers of expression of interest, dossier for participation in prequalification, bid dossiers or dossiers of proposals; appraise short-listing results or the contractor or investor selection result, making false reports in a deliberate manner or providing untrue information, thus falsifying the contractor or investor selection result;
 - c/ Contractors or investors deliberately providing untrue information in their dossiers of expression of interest, dossiers for participation in prequalification, bid dossiers or dossiers of proposals, thus falsifying the contractor or investor selection result.

5. Making obstacles, including the following acts:

a/ Destroying, falsifying, changing or concealing evidence, or making untrue reports; intimidating, harassing or making suggestions to any party so as to prevent the identification of acts of giving, taking or acting as a go-between for bribes or committing collusion by competent supervision, inspection, examination or audit agencies;

b/ Making obstacles to contractors, investors or competent supervision, inspection, examination or audit agencies.

6. Failing to ensure fairness and transparency, including the following acts:

a/ Participating in bidding in the capacity as contractors or investors for bidding packages or projects for which ones also act as bid solicitors or project owners or perform the tasks of bid solicitors or project owners;

b/ Participating in the making and appraisal of dossiers of invitation for expression of interest, dossiers of invitation to prequalification, bidding dossiers and dossiers of requirements for the same bidding package or project;

c/ Participating in the evaluation of bid dossiers and dossiers of proposals and, at the same time, participating in the appraisal of the contractor or investor selection result for the same bidding package or project;

d/ Bid solicitors' or project owners' staff members personally participating in the contractor or investor selection or joining expert teams or contractor or investor selection result appraisal teams; blood parents, parents-in-law, spouses, blood children, adopted children, daughters- or sons-in-law or siblings of heads of competent state agencies, project owners or bid solicitors of bidding packages or projects participating in or acting as at-law representatives of contractors or investors participating in bidding for such bidding packages or projects;

dd/ Contractors participating in goods procurement or construction bidding packages for which they have previously provided consultancy services;

e/ Within 12 months after resigning from his/her job in an agency or organization, an individual participating in bidding for bidding packages under a project of which such agency or organization acts as the project owner or bid solicitor;

g/ A contractor providing supervision consultancy and appraisal consultancy services for the same bidding package;

h/ Applying forms of selecting contractors or investors other than open bidding when failing to satisfy the conditions for application of such forms as prescribed in this Law;

i/ Setting specific requirements on the labels or origin of goods in bidding dossiers for goods procurement or construction bidding packages or mixed bidding packages when applying the form of open bidding or restricted bidding;

k/ Dividing a project or procurement cost estimate into several bidding packages in contravention of this Law in order to apply the form of contractor appointment or restrict the participation of contractors.

7. Disclosing or receiving the following documents and information in the course of contractor or investor selection, except the cases provided at Point b, Clause 7, and Point e, Clause 8, Article 73; in Clause 12, Article 74; at Point i, Clause 1, Article 75; in Clause 7, Article 76 and Clause 7, Article 78; at Point d, Clause 2, and Point d, Clause 4, Article 92 of this Law:

a/ Contents of dossiers of invitation for expression of interest, dossiers of invitation to prequalification, bidding dossiers or dossiers of requirements before the prescribed time of issuance;

b/ Contents of dossiers of expression of interest, dossier for participation in prequalification, bid dossiers, dossiers of proposals, notebooks, minutes of bid evaluation meetings, comments on and assessments of each dossier of expression of interest, dossier for participation in prequalification, bid dossier or dossier of proposals before short lists or the contractor or investor selection result is publicized;

c/ Contents of bid solicitors' requests for clarification of bid dossiers or dossiers of proposals and contractors' or investors' replies during the process of evaluation of bid dossiers or dossiers of proposals before the contractor or investor selection result is publicized;

d/ Bid solicitors' or expert teams' reports, appraisal reports, consultancy contractors' reports and related professional agencies' reports during the course of contractor or investor selection before the contractor or investor selection result is publicized;

dd/ The contractor or investor selection result before such result is allowed to be publicized according to regulations;

e/ Other documents which are appended with the "confidential" stamp in accordance with law during the course of contractor or investor selection.

8. Transferring contracts, including the following acts:

a/ A contractor transferring to another contractor part of works under a bidding package, which is valued at either 10% or more or less than 10% of the contract price but over VND 50 billion (after subtracting the value of works to be performed by subcontractors);

b/ Project owners or supervision consultants allowing contractors to transfer works to be executed by contractors, except those to be performed by subcontractors as declared in the contract.

9. Organizing the selection of contractors when capital sources for bidding packages have not yet been identified, leading to debt owing by contractors.

Article 90. Handling of violations

1. Organizations and individuals that violate the bidding law and other relevant laws shall, depending on the nature and severity of their violations, be disciplined, administratively sanctioned or examined for penal liability; if their violations of the bidding law cause damage to the State's interests, legitimate rights and interests of organizations or individuals, they shall pay compensation in accordance with law.

2. Apart from being handled in accordance with Clause 1 of this Article, depending on the nature and severity of their violations, violators of the bidding law may be banned from participating in bidding activities and named on the list of violating contractors published on the national bidding network.

3. The competence to ban the participation in bidding activities is prescribed as follows:

a/ Competent persons shall issue decisions to ban the participation in bidding activities for projects or procurement plans under their management; in case of serious violations, they shall propose ministers, heads of ministerial-level agencies or provincial-level People's Committee chairpersons to issue decisions to ban the participation in bidding activities under the management of relevant ministries, sectors or localities or propose the Minister of Planning and Investment to issue decisions to ban the participation in bidding activities nationwide;

b/ Ministers, heads of ministerial-level agencies or provincial-level People's Committee chairpersons shall issue decisions to ban the participation in bidding activities under the management of their ministries, sectors or localities at the request of competent persons as prescribed at Point a of this Clause;

c/ The Minister of Planning and Investment shall issue decisions to ban the participation in bidding activities nationwide at the request of competent persons as prescribed at Point a of this Clause.

4. Publicization of the handling of violations:

a/ Violation handling decisions must be sent to the organizations and individuals concerned, related agencies and organizations, and the Ministry of Planning and Investment for monitoring and summarization;

b/ Violation handling decisions must be published on the Bidding newspaper and the national bidding network.

5. The Government shall detail this Article.

Chapter XII

SETTLEMENT OF APPEALS AND DISPUTES IN BIDDING

Section 1

SETTLEMENT OF APPEALS IN BIDDING

Article 91. Settlement of appeals in bidding

1. If seeing that its/his/her legitimate rights and interests are affected, a contractor or an investor may:

a/ Lodge an appeal to the bid solicitor, project owner or competent person on matters arising the course of contractor or investor selection; or on the contractor or investor selection result according to the appeal settlement process prescribed in Article 92 of this Law;

b/ Bring the case to court at any time, even if its/his her appeal is being settled or settlement results have been obtained.

2. If having brought the case to court, the contractor or investor shall not file appeals to the bid solicitor, project owner or competent person. In case a contractor or an investor brings its/his/her case to court while its/his/her appeal is undergoing the settlement process, the settlement shall immediately cease.

Article 92. Appeal settlement process

1. The process of settling an appeal about a matter arising in the course of contractor selection is as follows:

a/ The contractor shall send a written appeal to the project owner, for projects, or bid solicitor, for regular or centralized procurement, at any time after the matter arises and before the contractor selection result is announced;

b/ The project owner or bid solicitor shall issue an appeal settlement decision to the contractor within 7 working days after receiving the written appeal;

c/ If the project owner or bid solicitor fails to issue the appeal settlement decision or the contractor disagrees with the appeal settlement results, the contractor may file a written appeal to the competent person within 5 working days after the deadline for the project owner or bid solicitor to issue an appeal settlement decision or after receiving the appeal settlement decision from the project owner or bid solicitor;

d/ The competent person shall issue an appeal settlement decision to the contractor within 5 working days after receiving the contractor's appeal.

2. The process of settling an appeal about the contractor selection result is as follows:

a/ The contractor shall send an appeal to the project owner, for projects, or the bid solicitor, for regular or centralized procurement, within 10 days after the contractor selection result is announced;

b/ The project owner or bid solicitor shall issue an appeal settlement decision to the contractor within 7 working days after receiving the contractor's written appeal;

c/ If the project owner or bid solicitor fails to issue the appeal settlement decision or the contractor disagrees with the appeal settlement results, the contractor may file a written appeal concurrently to the competent person and the appeal settlement consultancy council within 5 working days after the deadline for the project owner or bid solicitor to issue an appeal settlement decision or after receiving the appeal settlement decision from the project owner or bid solicitor. The central appeal settlement consultancy council shall be set up by the Minister of Planning and Investment; at ministries or ministerial-level agencies, such councils shall be set up by ministers or heads of ministerial-level agencies; and in localities, by heads of local state management agencies in charge of bidding activities;

d/ When receiving a written appeal, the appeal settlement consultancy council may request the contractor, project owner, bid solicitor and related agencies to provide information so as to consider and make a written report to the competent person on the plan and contents of appeal settlement within 20 days after receiving the appeal;

dd/ When necessary, the appeal settlement consultancy council shall base itself on the contractor's written appeal to propose the competent person to consider suspending the bidding. If approving, within 5 working days after receiving the appeal settlement consultancy council's proposal, the competent person shall issue a written notice of suspension of the bidding. Such notice must be sent to the project owner, bid solicitor and contractors within 3 working days after the date of its issuance. The period of suspension shall be calculated from the date the project owner or bid solicitor receives the suspension notice till the competent person issues an appeal settlement decision;

e/ The competent person shall issue a decision on settlement of the appeal about the contractor selection result within 5 working days after receiving the written opinions of the appeal settlement consultancy council.

3. The process for settling an appeal about matters arising during the course of investor selection is as follows:

- a/ The investor shall send a written appeal to the bid solicitor at any time after the matter arises and before the investor selection result is announced;
- b/ The bid solicitor shall issue an appeal settlement decision to the investor within 15 days after receiving the investor's appeal;
- c/ If the bid solicitor fails to issue an appeal settlement decision or the investor disagrees with the appeal settlement results, the investor may file a written appeal to the competent person within 5 working days after the deadline for the bid solicitor to issue an appeal settlement decision or after receiving the appeal settlement decision from the bid solicitor;
- d/ The competent person shall send an appeal settlement decision to the investor within 5 working days after receiving the investor's appeal.

4. The process for settling an appeal about the investor selection result is as follows:

- a/ The investor shall send a written appeal to the bid solicitor within 10 days after the investor selection result is announced;
- b/ The bid solicitor shall send an appeal settlement decision to the investor within 15 days after receiving the investor's appeal;
- c/ If the bid solicitor fails to issue the appeal settlement decision or the investor disagrees with the appeal settlement results, the investor may file a written appeal concurrently to the competent person and the appeal settlement consultancy council within 5 working days after the deadline for the bid solicitor to issue an appeal settlement decision or after receiving the appeal settlement decision from the bid solicitor.
- d/ When receiving a written appeal, the appeal settlement consultancy council may request the investor, bid solicitor and related agencies to provide information so as to consider and send a written report to the competent person on the plans and contents of appeal settlement within 30 days after receiving the appeal;
- dd/ When necessary, the appeal settlement consultancy council shall base itself on the investor's written appeal to propose the competent person to consider suspending the bidding. If approving, within 10 working days after receiving the appeal settlement consultancy council's proposal, the competent person shall issue a written notice of suspension of the bidding. Such notice must be sent to the bid solicitor and investor within 5 working days after the date of its issuance. The period of suspension shall be calculated from the date the bid solicitor receives the suspension notice till the competent person issues an appeal settlement decision;

e/ The competent person shall issue a decision on settlement of the appeal about the investor selection result within 10 days after receiving the written opinions of the appeal settlement consultancy council.

5. In case contractors or investors do not follow the appeal settlement process prescribed in this Article but file their written appeals directly to competent persons, their appeals shall not be considered and settled.

6. The Government shall detail this Article.

Section 2

SETTLEMENT OF DISPUTES IN BIDDING AT COURT

Article 93. Principles of settlement

The settlement of disputes in bidding at court complies with the law on civil procedures.

Article 94. Rights to request courts to apply interim emergency measures

When bringing a case to court, parties may request the court to promptly suspend the bid closure; approval of short lists; approval of the contractor or investor selection result; conclusion of contracts; or performance of contracts; or apply other interim emergency measures in accordance with law.

Chapter XIII

IMPLEMENTATION PROVISIONS

Article 95. Effect

1. This Law takes effect on July 1, 2014.
2. Law No. 61/2005/QH11 on Bidding ceases to be effective on the effective date of this Law.
3. To annul Section 1, Chapter VI of Construction Law No. 16/2003/QH11, and Article 2 of Law No. 38/2009/QH12 Amending and Supplementing a Number of Articles of Laws Concerning Capital Construction Investment.

Article 96. Detailing

The Government shall detail the articles and clauses of this Law as assigned.

This Law was passed on November 26, 2013, by the XIIIth National Assembly of the Socialist Republic of Vietnam at its 6th session.-

Chairman of the National Assembly
NGUYEN SINH HUNG