

GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

No. 88-1999-ND-CP

Hanoi, 1 September 1999
(as amended 5 May 2000)

DECREE ON TENDERING

Promulgating Regulations on Tendering

The Government

Pursuant to the *Law on the Organization of the Government* dated 30 September 1992;

Following the proposal of the Minister of Planning and Investment, Minister of Finance, Minister of Construction and Minister of Trade;

Decrees:

Article 1

To issue with this Decree the *Regulations on Tendering* which shall replace the *Regulations on Tendering* issued with Decree 43-CP dated 16 July 1996 and Decree 93-CP dated 23 August 1997 of the Government.

Article 2

This Decree shall be of full force and effect after fifteen (15) days from its date of signing.

Article 3

The Minister of Planning and Investment shall, in co-ordination with the Minister of Construction, the Minister of Finance, the Minister of Trade, the Governor of the State Bank of Vietnam and heads of relevant ministries and branches, be responsible for providing guidelines for and inspecting the implementation of the *Regulations on Tendering* issued with this Decree.

Article 4

Ministers, heads of ministerial equivalent bodies and Government bodies, chairmen of people's committees of provinces and cities under central authority, and boards of management of State owned corporations and relevant organizations shall be responsible for the implementation of this Decree.

On behalf of the Government
The Prime Minister

PHAN VAN KHAI

GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM
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REGULATIONS ON TENDERING

**(As issued with Decree 88-1999-ND-CP of the
Government dated 1 September 1999 and as amended by
Decree 14-2000-ND-CP of the Government dated 5 May 2000)**

The *Regulations on Tendering* are issued with the objective of achieving unified management of tendering activities with respect to the selection of consultants, the procurement of goods, construction and installation, or selection of partners for the purpose of implementation of the whole or parts of projects within the territory of the Socialist Republic of Vietnam.

CHAPTER I

General Provisions

Article 1 *Objectives, basis and process of tendering*

1. The objective of tendering is to apply competitiveness, fairness and transparency in the tendering process for the purpose of selecting suitable tenderers and ensuring the economic efficiency of projects.
2. Tendering shall be carried out on the basis of tender packages.
3. The process of tendering shall comprise tender preparation, tender organization, tender consideration, evaluation and approval, announcement of successful tenderers, negotiation for finalization of contracts and signing of contracts.

Article 2 *Subjects and scope of application*

1. The *Regulations on Tendering* shall be applied in order to select tenderers for investment projects in Vietnam; tendering must be organized and conducted in Vietnam.¹
2. Subjects of application:
 - (a) Investment projects carried out in accordance with the *Regulations on Management of Investment and Construction* which are required to comply with the *Regulations on Tendering*;
 - (b) Joint venture projects, business co-operation contracts or shareholdings in which the participating interest of State owned economic organizations (State owned enterprises) is thirty (30) per cent or more of the legal capital, business capital or equity;
 - (c) Projects funded by aid from international organizations or foreign countries shall be implemented on the basis of the treaty signed by the parties (the donors and the Vietnamese party). Where there are provisions in a draft treaty which are inconsistent with these Regulations, the body responsible for negotiating and signing the treaty must, prior to signing, submit it to the Prime Minister for consideration and decision;
 - (d) Investment projects for which investment partners are selected:
 - In the case of domestic investment projects, tendering shall only be carried out where there are two or more investors wishing to participate in the same project;
 - In the case of foreign invested projects, tendering in accordance with these Regulations shall only be carried out where there are two or more investors wishing to participate in the same project or the Prime Minister requires tendering to select investment partners for implementation of projects.
 - (dd) Investment in procurement of tools, materials, equipment, working facilities of State bodies or organizations and State owned enterprises; or normal working tools and facilities of the armed forces. The Ministry of Finance shall provide detailed guidelines for the scope of procurement, responsibility and power of procuring units in accordance with the *Law on the State Budget*.

1 *As amended by article 1.1 of Decree 14-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.*

The subjects stipulated in clause 2 of this article must apply the *Regulations on Tendering* and other projects are only encouraged to apply them.

Article 3 *Interpretation of terms*

The following terms used in these Regulations shall have the meanings ascribed to them hereunder:

1. *Tendering* is the process of selecting tenderers which satisfy the requirements set by the party calling for tenders.
2. *Domestic tendering* is tendering in which only domestic tenderers participate.
3. *International tendering* is tendering in which domestic and foreign tenderers participate.
4. *Tender consideration* is the process by which tenders are considered, analysed, assessed and classified by the party calling for tenders for the purpose of selection of successful tenderers.
5. *Project* is a combination of proposals for the purpose of implementation of parts or the whole of certain tasks, objectives or requirements. Projects consist of investment projects and non-investment projects.
6. *Group A, B or C projects* in these Regulations are as defined and classified in the *Regulations on Management of Investment and Construction*.
7. *A party calling for tenders* is a project owner, an investor, or the lawful representative being a legal person of a project owner or an investor delegated with the responsibility of carrying out tendering.
8. *The authorized person* means the head or the person authorized in accordance with the laws of State bodies or organizations or of enterprises as follows:
 - (a) In the case of investment projects, the authorized person is the investment decision-making authority as stipulated in the *Regulations on Management of Investment and Construction*;
 - (b) In the case of procurement of tools, materials, equipment, working facilities of State bodies or organizations and State owned enterprises; or normal working tools and facilities of the armed forces, the authorized person is the person making the decision on procurement in accordance with law;

- (c) In the case of projects funded by capital owned by companies or other forms of ownership, the authorized person is the board of management or the authorized head in accordance with law.
9. *The competent authority* is the organization or body delegated or authorized by the authorized person in accordance with law.
10. *A tenderer* is an economic organization having legal entity status and being eligible to participate in a tendering process. A tenderer may be an individual if the tendering is for the selection of consultants. A tenderer shall be a constructor in tendering for construction and installation; a supplier in tendering for procurement of goods; a consultant in tendering for selection of consultants; or an investor in tendering for selection of investment partners. Domestic tenderers are tenderers having Vietnamese legal entity status and operating legally in Vietnam.
11. *A tender package* is the whole of an investment project or a part thereof divided according to the technical characteristics or order of implementation of the project, having reasonable scale and ensuring the unity of the project. In the case of procurement, a tender package may be in respect of one, or one type of, tool, equipment or facility. A tender package may be carried out pursuant to one or more contracts (where the tender package is divided into several parts).
12. *Small scale tender package* means a tender package having a value of under two billion Vietnamese dong for procurement of goods or construction and installation.
13. *Consultancy* means the activity of providing professional knowledge and experience as required by a party calling for tenders in respect of the consideration, decision and examination of the preparation and implementation processes of projects.
14. *Construction and installation* means the work relating to the process of construction and installation of the equipment of a project or items of a project.
15. *Goods* comprise machinery, means of transportation, equipment (complete or incomplete sets, or individual equipment), industrial property rights, technology ownership rights, raw materials, fuel, supplies, consumer goods (finished or semi-finished products).
16. *Tender invitation documents* means all of the documents prepared by the party calling for tenders comprising the requirements for one tender package as the basis for tenderers to prepare tenders and for the party calling for tenders to assess tenders.

Tender invitation documents shall be approved by the authorized person or the competent authority prior to issue.

17. *Tender* means the documents prepared by tenderers in accordance with the requirements of tender invitation documents.
18. *Expert group* means a group of experts and consultants established or employed by the party calling for tenders, which is responsible for assisting the party calling for tenders in carrying out tasks relating to the tendering process.
19. *Tender closing* means the deadline for receiving tender documents as specified in the tender invitation documents.
20. *Tender opening* means the time when tender documents are opened as specified in the tender invitation documents.
21. *Shortlist* means a shortened list of tenderers selected through process of evaluation. In the case of tendering for selection of consultants, a shortlist shall comprise consultants selected from a long list or from the list of consultants registered to participate in the tendering.
22. *Evaluation* means the inspection and assessment by bodies in charge of evaluation of tendering plans of projects, tendering results of tender packages as well as relevant tender documents prior to approval by the authorized person or the competent authority.
23. *Tender package price* means the price determined for each tender package in the tendering plan of a project based on the approved total invested capital, total estimated budget or estimated budget. In the case of tendering for selection of consultants for project preparation, the tender package price shall be approved by the authorized person prior to organizing the tendering.
24. *Tender price* means the price stated by a tenderer in the tender after deducting the discount (if any), including all expenses required for the implementation of the tender package.
25. *Assessment price* means the tender price in which errors and discrepancies (if any) have been rectified and adjusted and which is converted to the same ground (technical, financial, commercial and other contents) as the basis for comparison of tenders.
26. *Error rectification* means the rectification of errors in order to standardize tenders, comprising arithmetical errors, typographical errors, spelling mistakes, errors in the units used, made by the party calling for tenders to provide a basis for assessment.

27. *Discrepancy adjustment* means the addition or adjustment of contents which are insufficient or irrelevant in the tenders compared to the requirements of the tender invitation documents and the addition or adjustment of discrepancies between different parts of the tenders, made by the party calling for tenders.
28. *Proposed contract award price* means the price proposed by the party calling for tenders on the basis of the tender price of the tenderer proposed to be awarded with the contract after error rectification and discrepancy adjustment as required by the tender invitation documents.
29. *Contract award price* means the price of the authorized person or the competent authority approving the tendering results as the basis for the party calling for tenders to negotiate for finalization of the contract and signing thereof with the successful tenderer.

The contract award price shall not be higher than the tender package price in the approved tendering plan.

30. *Contract signing price* means the price agreed by the party calling for tenders and the successful tenderer after negotiation for finalization of the contract in accordance with the tendering results.
31. *Tendering results* means the contents approved by the authorized person or the competent authority of the name of the successful tenderer, the contract award price and the type of contract.
32. *Negotiation for finalization of contract* means the process of further negotiation to finalize the detailed contents of the contract with the successful tenderer for the purpose of signing.
33. *Tender guarantee* means the deposit of the tenderer of an amount of money (cash, cheque, bank guarantee or equivalent form) at an address for a definite term as stipulated in the tender invitation documents in order to secure the responsibility of the tenderer for its tender.
34. *Performance guarantee* means the deposit of the successful tenderer of an amount of money (cash, cheque, bank guarantee or equivalent form) at an address for a definite term as stipulated in the tender invitation documents and the tendering results in order to secure the responsibility for performance of the signed contract.

Article 4 *Forms of selecting tenderers*

1. Open tendering:

Open tendering is a form of tendering whereby the number of participating tenderers is not limited. The party calling for tenders must publicly announce conditions and time-limits for participation in the tendering by way of the mass media no later than ten (10) days prior to issuing tender invitation documents. Open tendering is the main form applied in tendering.

2. Limited tendering:

Limited tendering is a form of tendering whereby the party calling for tenders invites a limited number of capable tenderers (not less than five) to participate. The list of participating tenderers must be approved by the authorized person or the competent authority. The application of this form shall only be considered upon satisfaction of one of the following conditions:

- (a) Only a limited number of tenderers are capable of satisfying the requirements of the tender package;
- (b) The sources of capital used require limited tendering;
- (c) Limited tendering has certain advantages due to the specific circumstances relating to the tender package.

3. Appointment of tenderer:²

The appointment of a tenderer is the form of direct selection of a tenderer capable of satisfying the requirements of the tender package for the purpose of negotiating the contract.

This form shall only be applicable in the following special cases:

- (a) In the case of events of *force majeure* due to natural disasters, wars or breakdowns which should be immediately dealt with, a project owner (the person to whom the authorized person has assigned the responsibility to manage and implement the project) may immediately appoint a capable unit to carry out the work promptly. Within ten (10) days from the date of decision to appoint a tenderer, the project owner must report the contents of the appointment of the tenderer to the authorized person or the competent authority; if the authorized person or the competent

² As amended by article 1.2 of Decree 14-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

authority discovers that the appointment of the tenderer is not consistent with the regulations, he, she or it must promptly deal with the problem.

- (b) Tender packages of a research or experimental nature, of national confidentiality, security confidentiality or national defence confidentiality shall be decided by the Prime Minister.
- (c) Projects having a value of less than one billion Vietnamese dong in respect of procurement of goods or construction and installation; of less than five hundred (500) million Vietnamese dong in respect of consultancy.

In the case of tender packages of Group A projects entitled to appointment of a tenderer, the Prime Minister of the Government shall delegate the decision to ministers, heads of ministerial equivalent bodies and Government bodies, boards of management of State owned corporations established by the Prime Minister of the Government (that is, Corporations 91), or chairmen of people's committees of provinces and cities under central authority owning such projects.

When appointing a tenderer for the tender packages specified in this clause, the authorized person making the decision to appoint the tenderer shall be responsible before the law for his or her decision.

Where it is not necessary to appoint a tenderer, tendering shall be conducted in accordance with regulations. The discretionary division of a project into a number of small tender packages in order to appoint tenderers shall be strictly prohibited.

The Ministry of Finance shall make detailed provisions on appointment of tenderers for procurement of furniture, supplies, equipment and working facilities regularly used by State bodies and organizations and State owned enterprises; normal furniture, supplies, equipment and working facilities for the armed forces.

- (d) Other tender packages of a special nature due to the requirements of the funding organization, due to technical or technological complexity, or due to unforeseeable requirements of a project, the authorized person making the investment decision shall make a decision to appoint a tenderer on the basis of the evaluation report of the Ministry of Planning and Investment and the written opinions of the funding agency and relevant bodies.
- (dd) Tendering shall not be required in respect of the share of capital funded by the State Budget for projects of administrative bodies in order to undertake studies of planning for economic development, planning for

industry development or master planning for construction of urban and rural areas to which authorized State bodies have assigned the responsibility for implementation thereof, but a detailed contract shall be made and products shall be delivered as stipulated.

- (e) Tendering shall not be required in respect of tender packages for consultancy for preparation of a pre-feasibility study or a feasibility study, but the investor must select a consultant suitable to the requirements of the project.

Where the appointment of a tenderer is conducted in accordance with the provisions of sub-clauses (a), (b), (c) and (d) of this clause, the following three items shall be specified:

- Reasons for appointment of a tenderer;
- Experience and technical and financial management capacity of the tenderer proposed to be appointed;
- Value and volume approved by the authorized person or the competent authority as the basis for appointment of a tenderer (in the case of tender packages for construction and installation, the design and the estimated budget which are approved in accordance with regulations shall be required).

Where the consequences of a natural disaster, war or breakdown must be immediately dealt with, the project owner must determine volume and temporary estimate of value and afterwards shall prepare complete documentation and an estimated budget and submit them for approval as stipulated which shall be used as the basis for finalization.

4. Competitive offers:

This form shall be applied to tender packages for procurement of goods having a value of under two billion Vietnamese dong. Each tender package shall require at least three offers from three different tenderers on the basis of the order request in the tender invitation documents. Offers may be hand delivered, sent by fax, by mail or other means.

5. Direct procurement:

On the basis of compliance with article 4.3 of these Regulations, the form of direct procurement shall be applied in the case of supplementation of a former contract which has been completed (for less than one year) or to a contract which is being performed where the investor wishes to increase the quantity of goods or volume of work which was previously the subject of tendering

provided that the price or unit price in the previously signed contract is not exceeded. Prior to signing the contract, the tenderer must prove that it is technically and financially capable of performing the tender package.

6. Self-management:

This form shall only be applicable to tender packages which the investor is capable of performing on the basis of compliance with article 4.3 of these Regulations (beyond the scope stipulated in article 63 of the *Regulations on Management of Investment and Construction*).

7. Special procurement:

This form shall apply to extremely special industries where tendering is impossible without special requirements. The body in charge of the industry shall prepare a process of implementation which satisfies the objectives of the *Regulations on Tendering* for agreement by the Ministry of Planning and Investment and submission to the Prime Minister for decision.

Article 5 *Methods of tendering*

1. Single envelope tendering:

By this method, the tenderer shall submit the tender in one envelope. This method applies to tendering for procurement of goods and construction and installation.

2. Dual envelope tendering:

By this method, the tenderer shall submit technical and financial proposals in two separate envelopes at the same time. The technical proposal envelope shall be first considered for assessment. The tenderers which achieve a technical score of seventy (70) per cent or more shall have their financial proposal envelopes opened and considered. This method shall only apply to tendering for selection of consultants.

3. Two-phase tendering:

This method shall apply in the following cases:

- Tender packages for procurement of goods and construction and installation having the price of five hundred (500) billion Vietnamese dong or more;
- Tender packages for procurement of goods which require selection of complete equipment technology or which are technologically and

technically complex, or especially complex tender packages for construction and installation;

- Turn-key projects.

The process for implementing this method shall be as follows:

- (a) First phase: Tenderers shall submit their preliminary tender, consisting of technical and financial proposals (without prices), to the party calling for tenders for consideration. The party calling for tenders shall hold detailed discussions with each of the tenderers in order to reach agreement on the technical requirements and specifications for the purpose of the preparation and submission of official tenders by the tenderers.
- (b) Second phase: The party calling for tenders shall invite the tenderers participating in the first phase to submit their final complete technical proposals on the same technical basis and detailed financial proposals, including all implementation schedules, terms and conditions of the contract, and tender price.

Article 6 *Contracts*

1. The party calling for tenders and the successful tenderer must sign a contract in writing. The contract shall comply with the following principles:
 - (a) The applicable laws of the Socialist Republic of Vietnam relating to contracts must be strictly complied with. Where no relevant provisions are stipulated in the laws of Vietnam, the permission of the Prime Minister of the Government shall be required prior to execution of the contract.
 - (b) The contents of the contract must be approved by the authorized person or the competent authority (compulsory only for contracts to be signed with foreign tenderers or contracts to be signed with domestic tenderers on the basis of the tendering results approved by the Prime Minister of the Government).
2. Depending on the time-limit and nature of the tender package stipulated in the tendering plan, the contract may be performed in one of the following forms:
 - (a) A package contract is a contract which is performed for a package price and is applicable to tender packages which are clearly defined in terms of quantity and requirements in relation to quality and time-limits. Any

matter arising outside the contract, but not caused by the tenderer, shall be considered and decided by the authorized person or the competent authority.

- (b) A turn-key contract is a contract for all works of design, supply of equipment, construction and installation of a tender package performed by a tenderer. The investor shall be responsible for taking part in supervision of the performance process and accepting and taking over the completed project from the contractor in accordance with the signed contract.
- (c) A contract with adjustable price is a contract applicable to tender packages the exact quantity and volume of which cannot be accurately determined at the time of signing of the contract or the prices of which have been subject to considerable fluctuation due to a change in State policy and the duration of implementation of the contract exceeds twelve (12) months. The performance of contracts with adjustable price must comply with the provisions stipulated in article 7 of these Regulations.

Article 7 *Adjustments to the value of contracts*

An adjustment to the value of a contract shall only be carried out when:

- 1. Detailed provisions on conditions, limits of adjustable works or items and price adjustment formula are stipulated in the tender invitation documents approved by the authorized person or the competent authority.
- 2. After being certified by the parties concerned and permitted by the authorized person or the competent authority, it shall apply in the following cases:
 - (a) Where a change (increase or reduction) of quantity or volume arises not due to the tenderer;
 - (b) Where there is a change in prices resulting from a change in State policy in relation to costs of labour, raw material, supplies and equipment under contracts with adjustable price the duration of implementation of which exceeds twelve (12) months. The adjustment to the price shall be calculated only as from the thirteenth month from the commencement of the performance of the contract.
- 3. The adjusted value of the contract shall not exceed the total estimated budget or estimated budget or price of the tender package set out in the approved tendering plan. The total value of adjustments and value of contracts of the project shall not exceed the approved total invested capital.

Article 8 *Plans for project tendering*

1. A plan for project tendering shall be prepared by the party calling for tenders in accordance with these Regulations and must be approved by the authorized person or the competent authority. Where it is not yet possible to prepare a tendering plan for the whole project, the party calling for tenders may prepare a tendering plan for each part of the project as appropriate for each phase of implementation subject to permission of the authorized person.
2. A plan for project tendering shall have the following contents:
 - (a) Division of the project into different tender packages;
 - (b) Price of each tender package and financing sources;
 - (c) Form of selection of tenderers and method of tendering to be applied to each tender package;
 - (d) Time schedule for tendering in respect of each tender package;
 - (dd) Form of contract applicable to each tender package;
 - (e) Time schedule for performance of the contract.

Article 9 *Conditions for conducting tendering*

1. Tendering may only be conducted upon satisfaction of all of the following conditions:
 - (a) A written investment decision or investment licence is issued by the authorized person or the competent authority;
 - (b) The tendering plan is approved by the authorized person;
 - (c) The tender invitation documents are approved by the authorized person or the competent authority.

In the case of tendering to select consultants for the preparation of a project or tendering for selection of partners to perform a project, the written approval of the authorized person or the competent authority and the approved tender invitation documents shall be required as a condition for organization of tendering.

2. A participating tenderer must satisfy the following conditions:
 - (a) Having a certificate of business registration. In the case of tendering for procurement of complex equipment referred to in the tender invitation documents, in addition to the certificate of business registration, a copy of the licence to sell goods subject to patent rights of the manufacturer shall be required;
 - (b) Being technically and financially capable of satisfying the requirements of the tender package;
 - (c) A tenderer may, either as an individual tenderer or in partnership, submit only one tender in respect of each tender package. Where a corporation participates in a tender in its own name, its affiliates shall not be permitted to participate as independent tenderers in the tendering for the same tender package;
 - (d) The party calling for tenders shall not be permitted to participate in the capacity of a tenderer in respect of tender packages the tendering for which is organized by itself.

Article 10 *Conditions for international tendering and preferential treatment for tenderers*

1. International tendering may be only conducted in the following cases:
 - (a) Where no domestic tenderer satisfies the requirements of a tender package;
 - (b) In respect of projects funded with aid from international or foreign organizations pursuant to a treaty which requires international tendering.
2. A foreign tenderer participating in international tendering for construction and installation organized in Vietnam must either enter into a partnership with a Vietnamese contractor or undertake to use Vietnamese sub-contractors and must clearly specify the scope of work, volume and relevant unit price shared between the parties.³
3. The successful foreign tenderer must perform the undertaking as to the percentage of volume of work at the relevant unit price to be shared with the Vietnamese party being a partner in the partnership or the sub-contractor referred to in the tender. During negotiation for finalization of the contract, if

3 *As amended by article 1.3 of Decree 14-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.*

the successful foreign tenderer fails to perform the undertakings referred to in the tender, the tendering results shall be cancelled.

4. Tenderers participating in tendering in Vietnam must undertake to procure and to use materials and equipment which are suitable in terms of quality and price and are manufactured, processed or available in Vietnam.
5. Where two tenders of different foreign tenderers are assessed as equal, the tender providing a higher proportion of work to the Vietnamese party (as a partner in the partnership or sub-contractor) shall be accepted.
6. A domestic tenderer participating in international tendering (as an individual tenderer or in a partnership) shall be given priority in cases where its tender is considered to be equal to the tenders of foreign tenderers.
7. Where two tenders are assessed as equal, the tender providing a higher rate of labour shall be given priority.
8. Domestic tenderers in international tendering shall be entitled to preferential treatment in accordance with law.

Article 11 *Clarification of tenders*

Tenderers shall not be permitted to amend their tenders after the tender closing. Throughout the process of considering tenders, the party calling for tenders may request the tenderers to clarify certain contents of tenders by way of direct or indirect communication provided that equality between tenderers is ensured and that there is no change to the main substance of the tenders and tender price. All requests for clarification from the party calling for tenders and replies from tenderers must be made in writing and retained by the party calling for tenders in accordance with law.

Article 12 *Period of preparation of tenders and period of validity of tenders*

1. The deadline for tender closing and the period of validity of tenders shall be clearly stated in the tender invitation documents. Depending on the scale and complexity of the tender package, the period of preparation of tenders shall be at least fifteen (15) days in the case of domestic tendering (or seven days in the case of small scale tender packages) and thirty (30) days in the case of international tendering, as from the date of issue of tender invitation documents.

In special cases where the party calling for tenders wishes, prior to the expiry of the deadline for tender closing, to make modifications to certain contents of the tender invitation documents, it may extend the period of preparation of tenders.

Written modifications shall be sent to every tenderer participating in the tendering at least ten (10) days prior to the stipulated deadline for tender closing in order that the tenderers have sufficient time to complete their tenders.

2. The period of validity of tenders shall not exceed one hundred and eighty (180) days from the deadline for tender closing. In cases where the period of validity of a tender is extended, the party calling for tenders must so notify the tenderers after obtaining permission of the authorized person or the competent authority. Where a tenderer refuses to agree to such extension, the tender guarantee of such tenderer shall be refunded.

Article 13 *Tender opening, tender consideration, submission for approval and announcement of tendering results*

1. Tender opening:

After all tenders submitted on time are received in their original form and kept by the party calling for tenders in accordance with the regulations on archiving of confidential documents, the tenders shall be opened publicly at the time, on the date and at the location stated in the tender invitation documents and within a period not exceeding forty eight (48) hours from the deadline for tender closing (except for holidays provided by law).

The minutes of the tender opening shall include the following main contents:

- (a) Name of the tender package;
- (b) Date, time and location of the tender opening;
- (c) Names and addresses of the tenderers;
- (d) Tender price, tender guarantee and time schedule for performance;
- (dd) Other relevant contents.

Representative(s) of the party calling for tenders and participating tenderers must sign the minutes of the tender opening.

After the tender opening, the party calling for tenders must sign on each page of the original copy of the tenders for certification prior to assessment and retention in accordance with the regulations on archiving of confidential documents which shall be used as a legal basis for assessment and consideration.

2. Tender consideration:

The party calling for tenders shall study, assess in detail and classify the opened tenders on the basis of the requirements of the tender invitation documents and the criteria for assessment approved by the authorized person or the competent authority prior to tender opening. The assessment of tenders shall be conducted on the basis of the following principles:

- (a) The marking method shall be used for assessment of tenders for tender packages for consultancy services and tender packages for selection of partners, assessment of prequalification tenders and assessment of the technical aspects of tender packages for procurement of goods or for construction and installation;
- (b) The method of assessment price shall be used for tender packages for procurements of goods or for construction and installation in the following two steps:
 - Step 1: Using a point system for assessment in terms of the technical aspect in order to select a shortlist (namely, the list of tenderers basically satisfying the tender invitation documents on the basis of the criteria for assessment);
 - Step 2: Determining the assessment price in respect of tenders included in the shortlist for classification.
- (c) The price of the tender package referred to in the approved tendering plan, not the tender consideration price or floor price, shall be used.

3. Approval and announcement of tendering results:

The tendering results must be approved by the authorized person or the competent authority. The party calling for tenders may only announce the tendering results after approval by the authorized person or the competent authority.

Article 14 *Currency, taxes and language used in tendering*

1. The tendering currency is the currency stipulated by the party calling for tenders in the tender invitation documents on the principle of one currency for a volume of goods offered.

During assessment and comparison of tenders, the applicable rates of exchange between Vietnamese dong and foreign currencies shall be the exchange rates published by the State Bank of Vietnam at the time of the tender opening.

2. Tender invitation documents must clearly provide for taxes in accordance with law for tenderers to use as a basis for calculation of their tender price.
3. The language used in tendering shall be Vietnamese (for domestic tendering) and Vietnamese and English (for international tendering).

Article 15 *Responsibilities of the party calling for tenders*

In addition to the responsibilities for preparing and submitting tendering plans of projects for approval as referred to in article 8 of these Regulations, the party calling for tenders shall be responsible for conducting the tendering in accordance with the approved tendering plan or the written approval of the authorized person or the competent authority and the procedures for organization of tendering set out in articles 20, 22, 33, 45 and 47 of these Regulations, including:

1. Establishing an expert group or employing consultants to assist in tendering on the basis of the approval of the authorized person or the competent authority;
2. Preparing an overall report on the tendering process and submitting the tendering results to the authorized person or the competent authority for consideration and approval;
3. Announcing the successful tenderer and negotiating for finalization of the contract;
4. Submitting the contents of the contract for approval (in accordance with the provisions stipulated in article 6.1(b) of these Regulations) and signing the contract.

Article 16 *Composition, standards, responsibilities and powers of expert groups*

1. Composition of an expert group:

Depending on the nature and complexity of each tender package, the composition of the expert group shall include experts in the following fields:

- (a) Technical issues and technology;
- (b) Economic and financial issues;
- (c) Legal issues and other issues (if required).

The head of the expert group which is decided by the party calling for tenders and approved by the authorized person or the competent authority shall be responsible for managing its operation and compiling and preparing assessment reports or other relevant documents.

2. Standards of members of an expert group:
 - (a) Having professional qualifications relating to the tender package;
 - (b) Having knowledge of the specific contents of the tender package;
 - (c) Having experience in practical management or doing research;
 - (d) Having knowledge of tendering procedures.

3. An expert group shall have the following responsibilities and powers:
 - (a) To prepare legal documents and draft tender invitation documents;
 - (b) To receive and retain tenders;
 - (c) To analyse, assess, compare and classify tenders in accordance with the criteria for assessment referred to in the tender invitation documents and the criteria for detailed assessment approved prior to the tender opening;
 - (d) To compile documents relating to the assessment, consideration and selection of tenderers and prepare a report on the tender consideration;
 - (dd) To be responsible for expressing honestly and objectively their opinions in writing to the party calling for tenders during the analysis, assessment and classification of tenders and be liable before the law for their opinions. To be entitled to reserve their opinions for consideration by the superior authority;
 - (e) To be responsible for keeping information confidential and not to cooperate with any tenderer in any form;
 - (g) Not to take part in the evaluation of tendering results.

CHAPTER II

Tendering for Selection of Consultants

Article 17 *Content of consultancy*

1. Consultancy in respect of project preparation:
 - (a) Preparation of planning and master plans for development;
 - (b) Preparation of prefeasibility study reports;
 - (c) Preparation of feasibility study reports;
 - (d) Assessment of reports on planning, master plans for development, prefeasibility study reports and feasibility study reports.
2. Consultancy in respect of project implementation:
 - (a) Survey;
 - (b) Preparation of designs, total estimated budgets and estimated budgets;
 - (c) Assessment and verification of designs and total estimated budgets and estimated budgets (if any);
 - (d) Preparation of tender invitation documents;
 - (dd) Analysis and assessment of tenders;
 - (e) Supervision of construction and equipment installation.
3. Other consultancy services:
 - (a) Project management and financial arrangements;
 - (b) Administration of project implementation;
 - (c) Training, technology transfer and other services.

Consultants are not permitted to take part in the assessment of the results of services provided by themselves and are not permitted to participate in tendering for tender packages for procurement of goods or for construction and installation in respect of which they provide consultancy services (except for tender packages under turn-key contracts).

Article 18 *Forms of consultancy*

Forms of consultancy shall include:

1. Governmental or non-governmental consultancy organizations operating in accordance with law;
2. Independent experts or experts of an organization operating in accordance with law.

Article 19 *Requirements in respect of consultants*

1. A consultant must have sufficient professional qualifications as required by the tender invitation documents. An expert consultant must have certification of relevant professional qualifications.
2. A consultant shall be responsible to the party calling for tenders for the correctness, accuracy and objectivity in relation to his expertise and for completing the work in accordance with the signed contract.

Article 20 *Tendering procedures*

The organization of tendering for selection of consultants shall be carried out in accordance with the following procedures:

1. Formulation of the tender invitation documents which shall consist of:
 - (a) Tender invitation letter;
 - (b) Terms of reference (in relation to objectives, scope of work, time schedule, duties and responsibilities of consultants, responsibilities of the party calling for tenders and other relevant contents);
 - (c) Relevant basic information;
 - (d) Assessment standards;
 - (dd) Preferential conditions (if any);
 - (e) Any attached detailed appendices.
2. Announcement of registration of participation in tendering:

The announcement of registration of participation in tendering shall be made by appropriate means of communication or directly sent to tenderers

recommended by relevant bodies or organizations which provide information thereon.

3. Determination of shortlist:

- (a) A shortlist shall be determined on the basis of the selection criteria approved by the authorized person or the competent authority;
- (b) This shortlist must be approved by the authorized person or the competent authority.

4. Tender invitations:

The party calling for tenders shall provide the tender invitation documents to tenderers listed in the shortlist.

5. Receiving and retaining tenders:

The party calling for tenders shall only receive tenders submitted within the time-limit stipulated in the tender invitation documents and retain such tenders in accordance with the regulations on archiving of confidential documents.

6. Opening technical proposal envelopes:

This shall be carried out in accordance with the provisions stipulated in article 13.1 of these Regulations.

7. Assessment of technical proposals:

This shall be carried out on the basis of the assessment criteria set out in the tender invitation documents and the criteria for detailed assessment approved by the authorized person or the competent authority prior to the time of opening of technical proposal envelopes.

8. Opening financial proposal envelopes:

Financial proposal envelopes of tenderers achieving seventy (70) per cent or more of the total technical scores in accordance with the provisions stipulated in article 13.1 of these Regulations shall be opened at the same time.

9. General assessment:

Marking for classification must be based on the proportion of technical score to price score on the same ground referred to in the tender invitation documents; the percentage of price scores shall not exceed thirty (30) per cent of the total scores.

10. Submission of the list of classified tenderers for approval.

11. Contract negotiations:

The first ranking tenderer shall be invited by the party calling for tenders for contract negotiations. Where negotiations fail, the party calling for tenders shall invite the next ranking tenderer for contract negotiations, subject to approval of the authorized person or the competent authority.

The party calling for tenders shall carry out by itself, or employ experts to carry out, the tendering works stipulated in clauses 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of this article.

12. Submission of tendering results for approval.

13. Announcement of the successful tenderer and negotiation for finalization of the contract.

The investor shall notify tenderers participating in tendering of the approved tendering results and shall conduct negotiations with the successful tenderer for finalization of the contract.

14. Submission of the contents of the contract (in accordance with the provisions stipulated in article 6.1(b) of these Regulations) for approval and signing of the contract.

Article 21 *Consultancy expenses*

1. Foreign consultancy expenses shall include:

- (a) Payments made to consultancy experts, including basic salary, social expenses, management expenses, corporate profits and other allowances paid to experts;
- (b) Expenses other than salary, including airfares, per diem allowances, stationery, communications, working facilities, training, and other expenses;
- (c) Taxes payable in accordance with law;

(d) Contingencies:

Contingencies shall be determined in accordance with applicable regulations and shall only be used upon approval of the authorized person or the competent authority.

2. Domestic consultancy expenses shall be in accordance with applicable regulations.

CHAPTER III

Tendering for Procurement of Goods

Article 22 *Tendering procedures*

The tendering for procurement of goods shall be carried out in accordance with the following procedures:

1. Prequalification of tenderers (if any).
2. Formulation of tender invitation documents.
3. Issuance of tender invitation letters or tender invitation notices.
4. Receiving and retaining tenders.
5. Tender opening.
6. Assessment and classification of tenderers.

The party calling for tenders shall carry out by itself, or employ experts to carry out, the tendering works stipulated in clauses 1, 2, 3, 4, 5 and 6 of this article.

7. Submission of tendering results for approval.
8. Announcement of the successful tenderer and negotiation for finalization of the contract.
9. Submission of the contents of the contract for approval (in accordance with article 6.1(b) of these Regulations) and signing of the contract.

Article 23 *Prequalification of tenderers*

1. Prequalification of tenderers shall apply to tender packages having a value of three hundred (300) billion or more Vietnamese dong in order to select adequately capable and experienced tenderers for implementation and to satisfy the requirements set out in the tender invitation documents.
2. Prequalification shall be conducted in the following steps:
 - (a) Formulation of prequalification documents which include the following:
 - Prequalification invitation letters;
 - Instructions for prequalification;
 - Criteria for assessment;
 - Attached appendices;
 - (b) Issuance of prequalification invitation notice;
 - (c) Receipt and retention of prequalification tenders;
 - (d) Assessment of prequalification tenders;
 - (dd) Submission of prequalification results for approval;
 - (e) Announcement of prequalification results.

Article 24 *Tender invitation documents*

Tender invitation documents shall include the following:

1. Tender invitation letter;
2. Tender application form;
3. Instructions for tenderers;
4. Preferential conditions (if any);
5. Taxes payable in accordance with law;
6. Requirements in relation to technology, supplies, equipment, goods, technical specifications and origin;
7. Price schedules;

8. Criteria for assessment (including method and manner of conversion to the same basis for determining assessment prices);
9. General and specific conditions of the contract;
10. Tender guarantee form;
11. Contract form;
12. Performance guarantee form.

Article 25 *Tender invitation letter or notice*

A tender invitation letter or notice shall include the following:

1. Name and address of the party calling for tenders;
2. Outline of project, site and schedule of delivery of goods;
3. Instructions for understanding tender invitation documents;
4. Conditions for participation in tendering;
5. Time and place of receipt of tender invitation documents.

Article 26 *Instructions for tenderers*

The main contents of the instructions for tenderers shall include:

1. Brief description of the project;
2. Capital sources for the implementation of the project;
3. Requirements of capability, experience and legal status of tenderers, evidence and information relating to tenderers for a reasonable period prior to tendering;
4. Site visits (if any) and answers to queries of tenderers.

Article 27 Tenders

Tenders for supply of goods shall include the following:

1. Administrative and legal contents:
 - (a) Proper tender application (bearing the signature of the authorized person);
 - (b) Copy of the certificate of business registration. In the case of procurement of complex equipment referred to in the tender invitation documents, in addition to the certificate of business registration, a copy of the licence to sell goods subject to patent rights of the manufacturer shall be required;
 - (c) Documents introducing capabilities and experience of tenderers, including sub-contractors (if any);
 - (d) Tender guarantee.
2. Technical contents:
 - (a) Technical specifications of goods;
 - (b) Technical solutions and technology;
 - (c) Origin of goods and a certificate issued by manufacturer;
 - (d) Organization of construction, installation, training and technology transfer;
 - (dd) Time schedule for performance of the contract.
3. Commercial and financial contents:
 - (a) Tender prices accompanied by an explanatory statement and detailed price schedules;
 - (b) Conditions for delivery of goods;
 - (c) Financial conditions (if any);
 - (d) Conditions for payment.

Article 28 *Tender guarantees*

1. Tenderers must pay a tender guarantee when submitting their tenders. Where the method of two-phase tendering is applied, the tender guarantee shall be paid in the second phase.
2. The value of a tender guarantee shall be between one and three per cent of the tender price. The same tender guarantee amount may be fixed by the party calling for tenders for all tenderers in order to ensure the confidentiality of tender prices. The party calling for tenders shall determine the method and conditions for tender guarantees. Tender guarantees shall be refunded to losing tenderers no later than thirty (30) days after the date of announcement of the tendering results.
3. Tenderers shall not be refunded their tender guarantees in the following cases:
 - (a) Refusal to implement the contract after the contract has been awarded;
 - (b) Withdrawal of a tender after the tender closing;
 - (c) Breach of the *Regulations on Tendering* as referred to in article 60 of these Regulations.
4. Tender guarantees shall apply to open tendering and limited tendering only.
5. After payment of the performance guarantee has been made, the successful tenderer shall be refunded its tender guarantee.

Article 29 *Criteria for assessment of tenders*

Tenders shall be assessed on the basis of the following criteria:

1. Capability and experience of tenderers:
 - (a) Production and business capabilities, physical and technical facilities and qualifications of professional staff;
 - (b) Financial position (turnover, profits, and other norms);
 - (c) Experience in implementing similar contracts in Vietnam and abroad.

2. Technical criteria:

- (a) The capacity to satisfy the requirements in relation to quantity, quality and technical specifications of goods as stated in the tender invitation documents;
- (b) Economic and technical specifications, codes of goods, places of manufacture, manufacture standards and other issues;
- (c) Suitability and economic efficiency of technical solutions and methods of supplying goods;
- (d) Capability for equipment installation and ability of technical staff;
- (dd) Geographical adaptability;
- (e) Environmental impacts and solutions thereto.

3. Finance and prices:

The financing ability (if so required), commercial and financial conditions, and assessment prices.

4. Other criteria:

Time schedule for performance of the contract, technology transfer, training and other issues.

Article 30 *Assessment of tenders*

Tenders shall be assessed in accordance with the following procedures:

1. Preliminary assessment:

Preliminary assessment is for the purpose of rejecting tenders failing to satisfy the requirements and shall be carried out as follows:

- (a) Verifying the legality of tenders;
- (b) Considering whether tenders basically satisfy the tender invitation documents;
- (c) Clarifying tenders (if so required).

2. Detailed assessment:

Detailed assessment shall be carried out in accordance with the method of assessment price and consist of the following two steps:

(a) Step 1: Assessment of technical aspects in order to select a shortlist.

Assessment shall be carried out on the basis of the requirements and criteria for assessment set out in the tender invitation documents and the criteria for detailed assessment which are not contrary to the criteria for assessment set out in the tender invitation documents and approved by the authorized person or the competent authority prior to the time of tender opening. Tenderers achieving seventy (70) per cent or more of the total technical scores shall be shortlisted.

(b) Step 2: Assessment of financial and commercial aspects.

Assessment of financial and commercial aspects of tenders submitted by shortlisted tenderers shall be carried out on the same basis in accordance with the approved criteria for assessment.

The assessment of financial and commercial aspects for the purpose of determining the assessment price shall include the following:

- Error rectification;
- Discrepancy adjustment;
- Conversion of tender prices to the same currency;
- Conversion to a comparable basis;
- Determination of assessment prices of tenders.

3. Tenders shall be classified on the basis of assessment prices and a successful tenderer with the relevant assessment price shall be recommended.

Article 31 *Tendering results*

1. Any tenderer which has a proper tender, which satisfies the basic requirements set out in the tender invitation documents, which has the lowest assessment price and which has proposed a contract award price not exceeding the

approved limit of the tender package shall be considered for the award of the contract.

2. The tendering results shall be considered and approved by the authorized person or the competent authority.
3. The party calling for tenders shall invite the successful tenderer for negotiation for finalization of the contract. Failing that, the party calling for tenders shall invite the next ranking tenderer for negotiation subject to approval of the authorized person or the competent authority.

Article 32 *Performance guarantees*

1. The successful tenderer shall provide a performance guarantee for its responsibility for performance of the signed contract to the party calling for tenders.
2. The value of the performance guarantee shall, depending on the form and size of the contract, not exceed ten (10) per cent of the value of the contract. In special cases, a higher value performance guarantee may be required subject to the approval of the authorized person or the competent authority. The performance guarantee shall be effective until commencement of performance of the obligation to provide warranty or maintenance.
3. The performance guarantee shall include the following details:
 - (a) Time-limit for provision: the successful tenderer must provide the performance guarantee prior to signing of the contract;
 - (b) The performance guarantee shall be provided in cash, cheque or bank guarantees or equivalent form;
 - (c) Period of validity of the guarantee;
 - (d) Currency used in the guarantee.
4. The performance guarantee shall be applicable to all forms of selection of tenderers stipulated in article 4 of these Regulations, except for the form of self-management.

CHAPTER IV

Tendering for Construction and Installation**Article 33** *Tendering procedures*

Procedures for tendering for construction and installation shall be carried out in accordance with the following order:

1. Prequalification of tenderers (if any).
2. Formulation of tender invitation documents.
3. Issuance of tender invitation letters or tender invitation notices.
4. Receipt and retention of tenders.
5. Tender opening.
6. Evaluation and classification of tenderers.

The party calling for tenders shall carry out by itself, or employ experts to carry out, the tendering works stipulated in clauses 1, 2, 3, 4, 5 and 6 of this article.

7. Submission of tendering results for approval.
8. Announcement of the successful tenderer and negotiation for finalization of the contract.
9. Submission of the contents of the contract for approval (in accordance with article 6.1(b) of these Regulations) and signing of the contract.

Article 34 *Prequalification of tenderers*

1. The prequalification of tenderers shall apply to tender packages having a value of two hundred (200) billion or more Vietnamese dong in order to select adequately capable and experienced tenderers for implementation and to satisfy the requirements set out in the tender invitation documents.

2. Prequalification of tenderers shall be conducted in the following steps:
 - (a) Formulation of prequalification documents which shall include the following:
 - Prequalification invitation letters;
 - Instructions for prequalification;
 - Prequalification assessment criteria;
 - Attached appendices.
 - (b) Issuance of prequalification invitation notice.
 - (c) Receipt and retention of prequalification tenders.
 - (d) Assessment of prequalification tenders.
 - (dd) Submission of prequalification results for approval.
 - (e) Announcement of prequalification results.

Article 35 *Tender invitation documents*

Tender invitation documents shall include the following:

1. Tender invitation letter;
2. Tender application form;
3. Instructions for tenderers;
4. Preferential conditions (if any);
5. Taxes payable in accordance with law;
6. Technical designs accompanied by the estimated amount of materials and technical instructions.
7. Construction and installation time schedule;
8. Criteria for assessment (including method and manner of conversion to the same basis for determining assessment prices);
9. General and specific conditions of the contract;

10. Tender guarantee form;
11. Contract form;
12. Performance guarantee form.

Article 36 *Tender invitation letter or notice*

A tender invitation letter or notice shall include the following:

1. Name and address of the party calling for tenders;
2. Outline of project, site, time of construction and other issues;
3. Instructions for understanding tender invitation documents;
4. Conditions for participation in the tendering;
5. Time and place for receipt of tender invitation documents.

Article 37 *Instructions for tenderers*

The instructions for tenderers shall include:

1. Brief description of the project;
2. Capital sources for the implementation of the project;
3. Applicable technical standards;
4. Requirements of capability, experience and legal status of tenderers, evidence and information relating to tenderers for a reasonable period prior to tendering;
5. Site visits (if any) and answers to queries of tenderers.

Article 38 *Tenders*

Tenders for construction and installation shall include the following:

1. Administrative and legal contents:
 - (a) Proper tender application form (bearing the signature of the authorized person);
 - (b) Copy of the business licence;

- (c) Documents introducing the capabilities and experience of tenderers, including sub-contractors (if any);
 - (d) Partnership agreement (where a partnership participates in tendering);
 - (dd) Tender guarantee.
2. Technical contents:
- (a) Solutions and organization of construction and installation in respect of the tender package;
 - (b) Time schedule for performance of the contract;
 - (c) Technical specifications, suppliers of building materials and supplies;
 - (d) Measures to ensure quality.
3. Commercial and financial contents:
- (a) Tender price accompanied by an explanatory statement and detailed price schedules;
 - (b) Financial conditions (if any);
 - (c) Conditions for payment.

Article 39 *Tender guarantees*

A tender guarantee for construction and installation shall be subject to the same provisions as stipulated in article 28 of these Regulations for tender guarantees for procurement of goods.

Article 40 *Criteria for assessment of tenders*

Tenders shall be assessed on the basis of the following criteria:

1. Technical and quality criteria:
- (a) Degree of satisfaction of technical requirements and requirements for quality of materials and equipment as specified in the design documents;
 - (b) Suitability and feasibility of technical solutions and organization of construction and installation;

- (c) Assurance of environmental hygiene and other conditions, such as fire prevention and labour safety, must be ensured;
 - (d) Degree of satisfaction of construction and installation equipment (quantity, type, quality and availability for use);
 - (dd) Measures to ensure quality.
2. Experience and capability of tenderers:
- (a) Experience in implementing projects with similar technical conditions in similar geographical areas and site;
 - (b) Number and qualifications of workers and technicians directly involved in the implementation of the project;
 - (c) Financial capability (turnover, profits and other norms).
3. Finance and prices:
- Financing capability (if so required), commercial and financial conditions and assessment prices.
4. Construction and installation schedule:
- (a) Ability to comply with the overall construction and installation schedule as stated in the tender invitation documents;
 - (b) Suitability of the schedule for completion of interrelated items of the project.

Article 41 *Assessment of tenders*

Tenders shall be assessed in accordance with the following order:

1. Preliminary assessment:
- Preliminary assessment shall be for the purpose of rejecting tenders failing to satisfy requirements and shall include:
- (a) Verifying the legality of tenders;
 - (b) Considering whether tenders basically satisfy the tender invitation documents;
 - (c) Clarifying tenders (if so required);

2. Detailed assessment:

Detailed assessment shall be carried out in accordance with the method of assessment price and shall include the following two steps:

(a) Step 1: Assessment of technical aspects in order to select a shortlist:

Assessment shall be carried out on the basis of the requirements and criteria for assessment stipulated in the tender invitation documents and the criteria for detailed assessment which are not inconsistent with the assessment criteria stipulated in the tender invitation documents and are approved by the authorized person or the competent authority prior to the time of tender opening. Tenderers achieving seventy (70) per cent or more of the total technical scores shall be shortlisted.

(b) Step 2: Assessment of financial and commercial aspects:

Assessment of financial and commercial aspects of shortlisted tenderers shall be carried out on the same basis in accordance with the approved criteria for assessment;

Assessment of financial and commercial aspects for the purpose of determining assessment prices shall include the following:

- Error rectification;
- Discrepancy adjustment;
- Conversion of tender prices to the same currency;
- Conversion to a comparable basis;
- Determination of assessment prices of tenders.

3. Tenders shall be classified on the basis of assessment prices and a successful tenderer with the relevant contract award price shall be proposed.

Article 42 *Tendering results*

1. Any tenderer which has a proper tender, which satisfies the basic requirements set out in the tender invitation documents, which has the lowest assessment price and which proposes a contract award price not exceeding the approved limit of the tender package, total estimated budget or estimated budget (where

the estimated budget or total estimated budget is lower than the approved limit of the tender package) shall be considered for the award of the contract.

2. The tendering results shall be considered and approved by the authorized person or the competent authority.
3. The party calling for tenders shall invite the successful tenderer for negotiation for finalization of the contract. Failing that, the party calling for tenders shall invite the next ranking tenderer for negotiations, subject to approval of the authorized person or the competent authority.

Article 43 *Performance guarantees*

A performance guarantee for a construction and installation contract shall be subject to the same provisions as stipulated in article 32 of these Regulations for performance guarantees for contracts for procurement of goods.

CHAPTER V

Tendering in Respect of Small Scale Tender Packages

Article 44 *Principles for organization of tendering*

1. Applicable to the tender packages set out in article 3.12 of these Regulations on the basis of compliance with the objectives of tendering set out in article 1 and the detailed provisions in article 45 of these Regulations.
2. Tendering in respect of small scale tender packages shall be carried out on the basis of the following principles:
 - (a)⁴ Enterprises in all economic sectors with their principal office or branch office located within a province or city shall be permitted to participate in tendering for projects located in such locality. In the case of limited tendering, it is only necessary to invite a minimum number of three tenderers to participate. Where the number of participating tenderers is less than three, other tenderers outside the locality shall be invited to participate.

A local tenderer shall be given priority in the award of a contract if its tender is assessed as equal to the tenders of other tenderers.

⁴ As amended by article 1.4 of Decree 14-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

- (b) The method of single envelope tendering shall apply to all tender packages.

Article 45 *Organization of tendering*

1. Tendering procedures:

- (a) Formulation of tender invitation documents.
- (b) Issuance of tender invitation letters or tender invitation notices.
- (c) Receipt of tenders, tender opening, assessment and classification of tenderers.

The party calling for tenders shall carry out by itself, or employ experts to carry out, the tendering works stipulated in sub-clauses (a), (b) and (c) of this clause.

- (d) Submission of tendering results for approval and signing of the contract.

2. Tender invitation documents:

The tender invitation documents formulated by the party calling for tenders should be simple and clear, but ensure the sufficient requirements of tenderers, including the following matters:

- (a) Tender invitation letter and tender application form;
- (b) Requirements in respect of the tender package:
- With respect to procurement of goods: technical specifications, technical instructions and implementation schedule;
 - With respect to construction and installation: technical designs accompanied by the approved estimated amount of materials, technical instructions and implementation schedule;
- (c) Criteria for assessment (of satisfaction or non-satisfaction) of the technical requirements set out in clause 2(b) of this article;
- (d) Tender guarantee form and performance guarantee form.

3. Tenders:

Tenders prepared by tenderers must be truthful and feasible and shall include:

- (a) Tender application; copy of the certificate of business registration; tender guarantee;
 - (b) Technical proposals and implementation schedules;
 - (c) Tender price.
4. Assessment of tenders:
- (a) Only proper tenders in which the tender price does not exceed the approved limit of the tender package after error rectification shall be assessed;
 - (b) Assessment shall be carried out on the basis of the criteria set out in the tender invitation documents in order to determine which tenders satisfy the requirements set out in the tender invitation documents. Any tenderer which satisfies the requirements set out in the tender invitation documents and technical requirements and which has the lowest tender price (after error rectification and discrepancy adjustment in accordance with the requirements set out in the tender invitation documents) shall be proposed for the award of the contract.
5. Tendering results:
- (a) Tendering results shall be approved by the authorized person or the competent authority;
 - (b) The party calling for tenders shall invite the successful tenderer to finalize and to sign a contract.
6. Tender guarantees and performance guarantees:
- Subject to the provisions stipulated in articles 28 and 32 of these Regulations, a tender guarantee equal to one per cent of the tender price and a performance guarantee equal to three per cent of the value of the contract shall apply.

CHAPTER VI

Tendering for Selection of Partners for Implementation of Projects**Article 46** *Applicable principles*

Based on the list of investments published annually by the Government or proposed by investors, where two or more partners are interested in the implementation of a project, tendering shall be carried out in order for the authorized person to consider and select a partner for implementation of the project in the following cases:

1. A project being in conception;
2. A project the pre-feasibility study or feasibility study of which has been approved;
3. Requirements in relation to a number of works.

Article 47 *Order of tendering for selection of partners for implementation of projects*

Where seven or more partners are interested in the implementation of the same project, prequalification shall be carried out. Prequalification shall be carried out in accordance with the provisions stipulated in articles 23.2 or 34.2 of these Regulations.

The tendering procedures for selection of partners for implementation of projects shall consist of the following steps:

1. Formulation of tender invitation documents:

Tender invitation documents shall be formulated on the basis of the requirements in relation to purposes, contents, scope of works and implementation schedule of the project. The tender invitation documents shall include:

- (a) Tender invitation letter;
- (b) Basic requirements in respect of the project;
- (c) Instructions for tenderers;
- (d) Relevant information;

- (dd) Criteria for assessment;
- (e) Attached detailed appendices.

2. Tender invitation:

The party calling for tenders shall select a method of notification suitable to the form of selecting tenderers.

3. Receipt and retention of tenders:

The party calling for tender shall receive and retain tenders in accordance with law.

4. Tender opening.

5. Assessment of tenders:

Assessment shall be carried out in accordance with the marking method. Tenderers achieving seventy (70) per cent or more of the total scores shall be classified and submitted to the authorized person for consideration and decision on the award of the contract.

The assessment and classification of tenders shall be carried out in the following two steps:

(a) Preliminary assessment:

Tenders shall be considered with respect to administrative and legal aspects and satisfaction of the requirements set out in the tender invitation documents.

(b) Detailed assessment and classification:

Detailed assessment shall be carried out on the basis of the criteria for assessment set out in the tender invitation documents and the criteria for detailed assessment approved by the authorized person or the competent authority prior to the time of tender opening and shall include the following main items:

- Error rectification;
- Detailed assessment of technical, commercial and financial aspects and technology transfer (if any);
- Classification of tenderers.

6. Submission of tendering results for approval.
7. Announcement of the successful tenderer and negotiation for finalization of the contract:

Based on the approved tendering results, the party calling for tenders shall invite the successful tenderer for negotiation for finalization of the contract.

8. Submission of the contents of the contract for approval and signing of the contract.

Article 48 *Tender guarantees and performance guarantees*

Based on the nature of each project, the authorized person shall determine the application of a tender guarantee or performance guarantee in accordance with the provisions stipulated in articles 28 and 32 of these Regulations.

CHAPTER VI

State Administration of Tendering

Article 49 *Bodies assuming State administration of tendering*

1. The Government shall assume unified administration of tendering throughout the country.
2. The Ministry of Planning and Investment shall be the focal body to assist the Government in administration of tendering.
3. Ministers and heads of ministerial equivalent bodies and Government bodies shall assume State administration of tendering within the scope of their respective responsibilities and shall, at the same time, appoint a deputy minister or corresponding deputy (in ministerial equivalent bodies and Government bodies) to be directly in charge of tendering.
4. Chairmen of people's committees provinces and cities under central authority, districts, provincial cities, wards, communes and townships shall assume State administration of tendering in respect of tender packages under their authority and shall, at the same time, appoint a deputy to be directly in charge of tendering.

Article 50 *State administration of tendering*

State administration of tendering shall include:

1. Drafting, promulgating or submitting for promulgation legal instruments in relation to tendering;
2. Organizing and providing guidelines for implementation;
3. Organizing the evaluation of plans for project tendering and tendering results;
4. Approving plans for project tendering and tendering results;
5. Carrying out inspection of tendering;
6. Reviewing, assessing and reporting on the status of tendering and implementation of the *Regulations on Tendering*;
7. Dealing with problems and complaints relating to tendering.

Article 51 *Responsibilities of the authorized person or the competent authority*

1. Approving the following basic items of the tendering process:
 - (a) Plans for project tendering;
 - (b) Lists of tenderers taking part in limited tendering;
 - (c) Shortlists of consultants taking part in tendering;
 - (d) Prequalification invitation documents, criteria for assessment of prequalification and results of prequalification of tenderers;
 - (dd) Tender invitation documents;
 - (e) Criteria for assessment of tenders;
 - (g) Lists of tenderers classified on the basis of technical proposals and general lists classified on the basis of technical and financial proposals (in the case of tendering for selection of consultants);
 - (h) Tendering results;
 - (i) Contents of contracts (in the case of contracts with foreign tenderers or contracts with domestic tenderers on the basis of the tendering results approved by the Prime Minister of the Government).

2. Directing the party calling for tenders in the negotiation, signing and implementation of the contract with the successful tenderer.
3. Inspecting the implementation of the *Regulations on Tendering* by the party calling for tenders.

Article 52 *Delegation of responsibility for tendering*

Responsibility for approval during the tendering process shall be performed on the basis of the following principles:

- The person authorized to approve projects shall have the duty of, and the responsibility for, approving plans for project tendering and tendering results of tender packages having a high value.
- Delegating the power to or authorizing an authority at a lower level to approve the tendering results of tender packages having a low value.
- Bodies and individuals taking part in the evaluation shall be responsible for their opinions regarding the evaluation.

Specific responsibilities of the authority at each level shall be stipulated as follows:

1. The Prime Minister of the Government shall approve, or delegate approval of, the following:
 - (a) Tendering plans for Group A projects and equivalent;
 - (b) Tendering results of tender packages on the basis of the value listed in Table 1 in article 53 of these Regulations;
 - (c) Proposals for appointment of tenderer, direct procurement or self-management in respect of tender packages set out in clauses 3, 5 and 6 of article 4 of these Regulations;

With respect to sub-clauses (a) and (b) of clause 1 of this article, the Prime Minister of the Government shall issue an approval on the basis of the evaluation report submitted by the Ministry of Planning and Investment and written opinions of relevant authorities. With respect to sub-clause (c) of clause 1 of this article, the Prime Minister shall approve on the basis of the evaluation report of the Ministry of Planning and Investment and the written opinions of the financing body and relevant authorities;

- (d) Decisions on inspection and dealing with breaches of the *Regulations on Tendering*.
2. The Minister of Planning and Investment shall be responsible for the following:
- (a) Evaluating and submitting the following to the Prime Minister of the Government for approval:
- Tendering plans for Group A projects and equivalent;
 - Tendering results of tender packages of Group A projects and equivalent on the basis of the value listed in Table 1 in article 53 of these Regulations;
 - Proposals for appointment of tenderer, direct procurement or self-management in respect of tender packages set out in clauses 3, 5 and 6 of article 4 of these Regulations;
- (b) Evaluating the tendering results of other tender packages at the request of the Prime Minister of the Government;
- (c) Agreeing on (in respect of projects under his authority to issue investment licences) plans for project tendering and tendering results of tender packages of projects in respect of which the Ministry of Planning and Investment issues an investment licence, in accordance with the provisions stipulated in article 2.2(b) of these Regulations.
3. Ministers, heads of ministerial equivalent bodies and Government bodies, boards of management of State owned corporations established by the Prime Minister of the Government, and chairmen of provinces and cities under central authority shall be responsible for the following:
- (a) Reporting or providing written opinions on tendering plans for relevant Group A projects and equivalent;
- (b) Submitting the tendering results of tender packages for approval as required or providing written opinions on the tendering results of relevant tender packages under the authority of approval of the Prime Minister of the Government;

- (c) Approving the basic items of the tendering process:⁵
- With respect to tender packages of Group A projects and equivalent, in accordance with sub-clauses (b), (c), (d), (dd), (e) and (g) of clause 1 of article 51 of these Regulations;
 - With respect to tender packages of Group B and C projects and equivalent, except for projects of subsidiary enterprises entitled to make the investment decision, in accordance with sub-clauses (a), (b), (c), (d), (dd), (e) and (g) of clause 1 of article 51 of these Regulations;
- (d) Approving the tendering results of tender packages on the basis of the value listed in Table 1 in article 53 of these Regulations;
- (dd) Approving contents of contracts (in accordance with the provisions stipulated in article 6.1(b) of these Regulations);
- (e) Agreeing on (in respect of projects under their authority to issue investment licences) plans for project tendering and tendering results of tender packages of projects in respect of which they issue an investment licence, in accordance with the provisions stipulated in article 2.2(b) of these Regulations (on the basis of the evaluation by the tendering assisting bodies).
4. Chairmen of people's committees of districts, provincial cities, townships, communes and wards shall be responsible for the following:
- Approving basic items set out in article 51 of these Regulations during the tendering process in respect of projects under their decision-making authority on the basis of the evaluation opinions of the relevant tendering assisting bodies.
5. Boards of management of joint venture enterprises and legal representatives of business co-operation contracts shall have the following responsibilities in respect of the projects set out in article 2.2(b) of these Regulations:
- (a) Approving tendering plans for projects on the basis of the written consent of the investment licence-issuing body;
 - (b) Approving the tendering results of all tender packages of projects on the basis of the consent of the investment licence-issuing body;

5 *As amended by article 1.5 of Decree 14-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.*

- (c) Approving the basic items set out in sub-clauses (b), (c), (d), (dd), (e), (g) and (i) of clause 1 of article 51 of these Regulations;
- (d) Deciding on appointment of tenderer, direct procurement or self-management in respect of tender packages set out in clauses 3, 5 and 6 of article 4 of these Regulations on the basis of the consent of the investment licence-issuing body.

Article 53 *Delegation of authority for approval and evaluation of tendering results*

Based on the approved limits of tender packages of the projects referred to in sub-clauses (a), (c) and (dd) of clause 2 of article 2 of these Regulations, the evaluation and approval of the tendering results shall be carried out in accordance with Table 1⁶ below:

⁶ *As amended by article 1.6 of Decree 14-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.*

Table 1 *Delegation of authority for approval and evaluation of tendering results*

<i>Group of projects</i>	<i>Approving authority</i>	<i>Evaluating authority</i>	<i>Tender packages in Branch I (billion dong)</i>		<i>Tender packages in Branch II (billion dong)</i>		<i>Tender packages in Branch III (billion dong)</i>	
			<i>Consultancy services</i>	<i>Goods and construction and installation</i>	<i>Consultancy services</i>	<i>Goods and construction and installation</i>	<i>Consultancy services</i>	<i>Goods and construction and installation</i>
Group A projects and equivalent	Prime Minister of Government	Ministry of Planning and Investment	20 or more	100 or more	15 or more	75 or more	10 or more	50 or more
	Ministers, heads of ministerial equivalent bodies and Government bodies, boards of management of State owned corporations established by Prime Minister	Relevant assisting bodies	All tender packages of less than 20	All tender packages of less than 100	All tender packages of less than 15	All tender packages of less than 75	All tender packages of less than 10	All tender packages of less than 50
	Chairmen of provinces and cities under central authority	Department of Planning and Investment						

Group B and C projects and equivalent	Ministers, heads of ministerial equivalent bodies and Government bodies and boards of management of State owned corporations established by Prime Minister	Relevant assisting bodies	All tender packages of projects
	Chairmen of provinces and cities under central authority	Department of Planning and Investment	
	Chairmen of people's committees of districts, provincial cities, townships, communes and wards	Relevant assisting bodies	Deciding by himself/herself and being responsible for tender packages of projects for which he/she makes an investment decision in accordance with law
	Authorized persons of State owned enterprises entitled to make investment decision	Relevant assisting bodies	All tender packages of projects

Notes:

- Branch I includes the following industries: electricity, petroleum, chemicals, manufacture of machinery, cement, metallurgy, exploitation and processing of minerals, transportation (bridges, sea ports, airports, railways, national roads).
- Branch II includes the following industries: light industries, irrigation, transportation (other than those in Branch I), water supply and drainage, infrastructure facilities, new urban areas, manufacture of materials, electronics, informatics, post and telecommunications.
- Branch III consists of all remaining industries.

Article 54 *Time-limits for assessment of tenders and evaluation of tendering results*

1. The time-limit for assessment of tenders calculated from the time of tender opening to the time of submission of the tendering results to the authorized person or the competent authority for approval shall not exceed sixty (60) days in the case of domestic tendering and ninety (90) days in the case of international tendering. Where the method of two-phase tendering is applied, the time-limit for assessment of tenders shall be calculated from the time of tender opening in the second phase.
2. The time-limit for evaluation of tendering results shall be stipulated as follows:
 - (a) With respect to tender packages under the authority of approval of the Prime Minister of the Government: no more than thirty (30) days from the date of receipt of complete and proper documentation;
 - (b) With respect to other tender packages: no more than twenty (20) days from the date of receipt of complete and proper documentation.

Article 55 *Dealing with problems during tendering*

1. Where there is a reason to make modifications to the price of a tender package or the contents of a tender package, the party calling for tenders shall perform the procedures for adjustment to the tendering plan in accordance with the applicable regulations prior to submission of tendering results for approval.
2. Where the number of tenderers submitting a tender is less than three, the party calling for tenders shall submit a report on preparation for the tendering to the authorized person or the competent authority for permission for extension of the deadline for tender closing in order to increase the number of tenders or permission for tender opening in order to assess the submitted tenders.
3. Where the tender prices of all tenders, the arithmetical errors in which have been rectified or which have been supplemented or adjusted in accordance with the requirements set out in the tender invitation documents, exceed the price of the tender package stated in the approved tendering plan, the party calling for tenders shall report the matter to the authorized person or the competent authority for consideration to permit tenderers having tenders which satisfy the basic requirements set out in the tender invitation documents to re-offer prices or, at the same time of price re-offering, to re-consider the price of the tender package stated in the approved tendering plan and contents of the tender invitation documents (where necessary).
4. Where the price proposed for signing of a contract exceeds the contract award price, the party calling for tenders shall report the matter to the authorized

person (if the price proposed for signing of the contract exceeds the price of the tender package) or the competent authority (if the price proposed for signing of the contract is lower than the price of the tender package) for consideration and decision.

5. Tendering shall be cancelled in any of the following circumstances:
 - (a) The objectives stated in the tender invitation documents are changed due to objective reasons;
 - (b) All tenders fail to satisfy the basic requirements set out in the tender invitation documents;
 - (c) There is evidence that tenderers have conspired to avoid competition in tendering, affecting the interests of the party calling for tenders.

Based on the decision of the authorized person or the competent authority, the party calling for tenders shall be responsible for notifying all tenderers of the cancellation or re-organization of the tendering.

6. Where the two tenders assessed as the best tenders are equal (in scores or assessment price), the tenderer having the lower tender price after arithmetical error rectification and addition or adjustment in accordance with the requirements set out in the tender invitation documents shall be considered for the award of the contract (except in the cases referred to in clauses 5, 6 and 7 of article 10 of these Regulations).
7. A tender shall be rejected in any of the following circumstances:
 - (a) The tender fails to satisfy the preconditions set out in the tender invitation documents;
 - (b) The tender fails to satisfy the basic requirements in terms of technical issue, schedule of implementation and financial and commercial conditions;
 - (c) The tenderer does not accept arithmetical errors identified and requested to be rectified by the party calling for tenders, or has an arithmetical error causing a difference of more than fifteen (15) per cent from the tender price;
 - (d) The total value of discrepancies exceeds ten (10) per cent of the tender price.

Article 56 *Confidentiality of tenders, documents and information*

All bodies, organizations and individuals taking part in a tendering process and tender consideration must keep confidential all tenders, documents and information in accordance with the following provisions:

1. The contents of tender invitation documents must not be disclosed to any party prior to the date of issue of tender invitation documents.
2. Tenders, notebooks, minutes of tender assessment meetings, comments from experts or consultants in respect of each tenderer and other relevant documents sealed or marked as "confidential", "highly confidential" or "top secret" must not be disclosed.
3. The tendering results must not be disclosed prior to announcement thereof by the party calling for tenders.
4. Any contact or purchase or sale of information on the assessment of tenders during the tendering process shall not be permitted.
5. During tender consideration, from the time of tender opening to the time of announcement of the tendering results, the information referred to in clause 2 of this article shall not be published by means of mass media.⁷

Any disclosure of confidential information shall be dealt with in a timely manner in accordance with article 60 of these Regulations.

Article 57 *Expenses and fees for tendering*

1. The party calling for tenders may sell tender invitation documents at the selling price determined by the authorized person or the competent authority; in the case of domestic tendering, the price of a set of tender invitation documents shall not exceed five hundred thousand (500,000) Vietnamese dong; in the case of international tendering, it shall be determined in accordance with international practice; and no other fee shall be collected from tenderers. Utilization of revenue must comply with the law.
2. Expenses for the organization of tendering and tender consideration incurred by the party calling for tenders shall be included in general expenses of projects as stipulated by the Ministry of Finance in agreement with the Ministry of Construction and the Ministry of Planning and Investment.

⁷ Clause 5 was inserted by article 1.7 of Decree 14-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.

3. The fee for evaluation of tendering results shall be included in the general expenses of the project and shall be equal to one hundredth of one (0.01) per cent of the total value of the tender package, but the maximum fee shall not exceed thirty (30) million Vietnamese dong. The Ministry of Finance shall be responsible for providing detailed guidelines for management and utilization of fees for evaluation of tendering results.

CHAPTER VII

Inspection and Dealing with Breaches

Article 58 *Inspection of tendering*

1. The Prime Minister of the Government shall decide on inspection and dealing with breaches in tendering, where necessary.
2. The Ministry of Planning and Investment shall, together with relevant ministries, branches and local authorities, conduct inspection of tendering throughout the country.
3. Relevant organizations under ministries, branches and localities which are delegated with responsibility to assume administration of tendering shall conduct inspection of tendering within their branches or localities.

Article 59 *Contents and powers of the bodies conducting inspection of tendering*

1. The inspection of tendering shall be conducted as follows:
 - (a) Periodical and irregular inspections during the tendering process;
 - (b) Inspection when there are any problems or complaints of organizations or individuals.
2. During inspection, bodies conducting inspection shall have the following powers:
 - (a) To request organizations and individuals concerned to provide full documents and to answer on relevant issues;
 - (b) To investigate, to collect evidence and documents relating to the contents and objects of inspection and to prepare and submit reports to the authorized person or the competent authority for consideration and decision;

- (c) To propose to the authorized person to deal with breaches in tendering in accordance with article 60 of these Regulations.

Article 60 *Dealing with breaches*

1. Any person breaching the *Regulations on Tendering* shall, depending on the seriousness of the breach, be subject to administrative penalty or prosecution for criminal liability in accordance with law.
2. Any tenderer breaching the *Regulations on Tendering* shall, depending on the seriousness of the breach, be removed from the list of participating tenderers and shall not be entitled to a refund of the tender guarantee or participation in any tendering for a period of between one and three years, or shall be dealt with in accordance with law.
3. Any person who takes advantage of his or her position and power to breach the *Regulations on Tendering*, such as disclosure of confidential files, documents and information, conspiracy, bribery, fraudulence and other breaches, shall, depending on the seriousness of the breach, be subject to administrative disciplinary action or prosecution for criminal liability in accordance with law.
4. Any person breaching the *Regulations on Tendering* and causing damage shall be liable to pay compensation in accordance with law.

CHAPTER VIII

Implementing Provisions**Article 61** *Organization of implementation*

1. The Ministry of Planning and Investment shall, in co-ordination with the Ministry of Finance, the Ministry of Trade, the Ministry of Construction and other relevant ministries, branches and local authorities, provide detailed guidelines for the implementation of these Regulations.
- 2.⁸ The Ministry of Finance shall, in co-ordination with relevant ministries and branches, be responsible for providing guidelines for and inspecting implementation of tendering for procurement of goods, supplies, equipment and working facilities by State bodies, the armed forces, mass organizations and State owned enterprises; procurement of normal goods, supplies and working facilities of the armed forces funded by capital from the State Budget.
3. The Ministry of Labour, War Invalids and Social Affairs shall, in co-ordination with the Ministry of Finance, the Ministry of Construction and relevant ministries and branches, provide guidelines on expenses of domestic consultancy services and salaries of domestic experts working on a contractual basis for successful foreign tenderers in Vietnam.
- 4.⁹
5. The Ministry of Construction shall, in co-ordination with relevant ministries and branches, study and submit to the Prime Minister of the Government regulations on preferential treatment for domestic tenderers participating in tendering.
6. Ministers, heads of ministerial equivalent bodies, heads of Government bodies, and chairmen of people's committees of provinces and cities under central authority shall be responsible for the implementation of these Regulations and, in December every year, for submission of reports on implementation of tendering in the year to the Ministry of Planning and Investment for preparation of a general report which shall be submitted to the Prime Minister of the Government.

8 *As amended by article 1.8 of Decree 14-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.*

9 *Clause 4 was deleted by article 1.8 of Decree 14-2000-ND-CP of the Government dated 5 May 2000, effective as of 20 May 2000.*

7. If any problems not covered by the *Regulations on Tendering* arise, bodies and entities should report to the authorized person or the competent authority for consideration and decision.

On behalf of the Government
The Prime Minister

PHAN VAN KHAI