

No. 115/2024/ND-CP

Hanoi, September 16, 2024

DECREE

ELABORATING SOME ARTICLES OF AND INTRODUCING MEASURES FOR IMPLEMENTING LAW ON BIDDING REGARDING SELECTION OF INVESTORS EXECUTING INVESTMENT PROJECTS INVOLVING LAND USE

Pursuant to the Law on Government Organization dated June 19, 2015;

Pursuant to the Law on Organization of Local Governments dated June 19, 2015;

Pursuant to the Law on Amendments to the Law on Government Organization and the Law on Local Government Organization dated November 22, 2019;

Pursuant to the Law on Bidding dated June 23, 2023;

Pursuant to the Land Law dated January 18, 2024;

Pursuant to the Law on amendments to the Land Law No. 31/2024/QH15, the Housing Law No. 27/2023/QH15, the Law on Real Estate Business No. 29/2023/QH15 and the Law on Credit Institutions No. 32/2024/QH15 dated June 26, 2024;

Pursuant to the Law on Investment dated June 17, 2020;

At the request of the Minister of Planning and Investment of Vietnam;

The Government promulgates a Decree elaborating some articles of and introducing measures for implementing the Law on Bidding regarding selection of investors executing investment projects involving land use.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Decree elaborates some articles of and introduces measures for implementing the Law on Bidding regarding selection of investors executing investment projects involving land use. To be specific:

1. Elaboration of some articles of the Law on Bidding regarding selection of investors executing investment projects involving land use, including:

- a) Clause 6 Article 6 regarding assurance of competitiveness in investor selection;
- b) Clause 6 Article 10 regarding incentives in investor selection;
- c) Clause 3 Article 15 regarding investor selection costs;
- d) Clause 4 Article 35 regarding investor selection procedures;
- dd) Clause 3 Article 46 regarding investor selection process;
- e) Clause 5 Article 50 and point c clause 2 Article 84 regarding online bidding procedures, costs and roadmap; national investor database; cases in which the bidding for investor selection is not conducted on Vietnam E-Procurement System (VNEPS);
- g) Clause 5 Article 62 regarding bid evaluation methods and criteria;
- h) Clause 2 Article 73 regarding contents of contract for execution of investment project involving land use;
- i) Clause 4 Article 86 regarding inspection and supervision of bidding for investor selection;
- k) Clause 4 Article 88 regarding handling of certain situations in investor selection;
- l) Clause 2 Article 96 on transition clause.

2. Elaboration of point b clause 1 and clause 9 Article 126 of the Land Law regarding selection of investors executing investment projects involving land use.

3. Measures for implementing the Law on Bidding regarding selection of investors executing investment projects involving land use, including:

- a) Disclosure of information on investment projects involving land use whose investment guidelines do

not require approval;

b) Execution of investment projects involving land use.

4. Capacity and experience requirements to be satisfied by members of expert teams and appraisal teams; connection and information sharing between VNEPS and other information systems; and actions against violations in bidding shall comply with corresponding provisions of Articles 19, 96 and 125 of the Government's Decree No. 24/2024/ND-CP dated February 27, 2024 elaborating some articles of and introducing measures for implementing the Law on Bidding regarding contractor selection.

Article 2. Regulated entities

1. Organizations and individuals (hereinafter referred to as "entities") that participate in or are involved in selection of investors executing investment projects involving land use as prescribed in Article 4 of this Decree.

2. Entities performing bidding activities other than those specified in Article 4 of this Decree may apply provisions of the Law on Bidding as prescribed in clause 4 Article 2 of the Law on Bidding.

Article 3. Definitions

For the purpose of this Decree, these terms are construed as follows:

1. "investor selection progress schedule" means a schedule that delineates all tasks to be performed during the investor selection and corresponding milestones for completing such tasks, and shall be used as the basis for conducting the investor selection as prescribed in clause 3 Article 49 of the Law on Bidding.

2. "EOI requester" means an agency or unit affiliated to a Ministry or ministerial agency, specialized agency, agency or unit affiliated to a provincial People's Committee, agency or unit affiliated to an economic zone management board (for investment projects in economic zones) or another agency as prescribed by specialized sector or industry law, or district-level People's Committee that is assigned to carry out procedures for invitation for EOIs (Expression of Interest).

3. "competent authority" means an authority that approves investment guidelines as prescribed in the Law on Investment or that makes a decision to conduct bidding for investor selection. In respect of a project whose investment guidelines are subject to approval given by the National Assembly or the Prime Minister, the competent authority shall be the authority that makes a decision to conduct bidding for investor selection.

4. "authorities making decision to conduct bidding for investor selection" include ministries, ministerial agencies, provincial People's Committees, economic zone management boards and other agencies as prescribed by specialized sector and industry laws.

5. "total investment" means the sum of preliminarily estimated project execution costs, costs of compensation, support and relocation (if any) and other costs as prescribed in specialized sector or industry law (if any).

Article 4. Investment projects involving land use which require bidding for investor selection as prescribed in Land Law

1. Investment projects involving land use prescribed in point a clause 1 Article 126 of the Land Law;

2. Investment projects involving land use prescribed in point b clause 1 Article 126 of the Land Law, including:

a) Projects on investment in and construction of solid domestic waste treatment facilities as prescribed in regulations of law on environmental protection;

b) Projects on investment in and construction of water supply facilities as prescribed in regulations of law on production, supply and consumption of clean water;

c) Projects on investment in and construction of markets as prescribed in regulations of law on market development and management;

d) Projects on investment in and construction of roadside stations as prescribed in regulations of specialized law on road;

dd) Projects on investment in and construction of aviation service facilities at airports and aerodromes that require bidding as prescribed in regulations of law on civil aviation;

e) Investment projects in the fields of education, health, culture, sports and environment that require bidding as prescribed in regulations of law on promotion of private sector involvement in case there are at least 02 investors registering for project execution, except projects in points a and b of this clause;

g) Projects on investment in and construction of social housing; projects on renovation and re-

construction of apartment buildings; projects on investment in and construction of housing for people's armed forces which require bidding as prescribed in regulations of law on housing in case there are at least 02 investors registering for project execution. Provisions of this point do not apply to social housing projects prescribed in clauses 1, 2, 3 and point c clause 4 Article 84 of the Housing Law No. 27/2023/QH15; projects on renovation and re-construction of apartment buildings prescribed in clauses 1 and 2 Article 68 of the Housing Law No. 27/2023/QH15; projects on investment in and construction of housing for people's armed forces prescribed in clause 1 Article 106 of the Housing Law No. 27/2023/QH15;

h) Investment projects on horse and dog racing courses that also provide horse and dog racing betting services which require bidding in accordance with regulations of law on betting on horse and dog racing and international football in case there are at least 02 investors registering for project execution and investment guidelines have been approved by the Prime Minister in accordance with regulations of law on investment and specialized sector or industry law;

i) Projects on investment in and construction of energy works which require bidding in accordance with regulations of law on electricity in case there are at least 02 investors registering for project execution;

k) Other projects as prescribed in Article 79 and point b clause 1 Article 126 of the Land Law.

3. Land banks used for executing the projects in clauses 1 and 2 of this Article must meet the following conditions:

a) They fall in the cases of land expropriation prescribed in Article 79 of the Land Law; In case the land zone used for executing a project includes the land prescribed in clause 1 Article 217 of the Land Law, the State shall expropriate the land for allocating or leasing the entire land zone through bidding for selection of qualified investor to execute the project;

b) They are included in the list of land zones subject to bidding for selection of investors executing investment projects involving land use which is decided by the provincial People's Council in accordance with regulations of the Land Law.

Article 5. Assurance of competitiveness

1. From the date of issue of EOI requests, each investor applying for execution of the investment project involving land use shall be required to display its legal and financial independence from the following:

a) The competent authority, the EOI requester;

b) The consultant on preparation of application for approval of investment guidelines (for projects whose investment guidelines require approval), or project proposal (for projects whose investment guidelines do not require approval), except projects proposed by investors;

c) The consultant on preparation of pre-feasibility study report or feasibility study report if the pre-feasibility study report or feasibility study report must be prepared before sending EOI requests as prescribed by specialized sector or industry law, except projects proposed by investors;

d) The consultant on preparation of EOI request and evaluation of applications for project execution.

2. From the date of issue of EOI requests, each investor participating in the bidding (bidder) does not hold shares or stakes of the following consultants:

a) The consultant on preparation of application for approval of investment guidelines (for projects whose investment guidelines require approval), or project proposal (for projects whose investment guidelines do not require approval), except projects proposed by investors;

b) The consultant on preparation of pre-feasibility study report or feasibility study report if the pre-feasibility study report or feasibility study report must be prepared before sending bidding documents as prescribed by specialized sector or industry law, except projects proposed by investors;

c) The consultant on preparation and appraisal of bidding documents; bid evaluation; appraisal of investor selection result.

3. From the date of issue of EOI requests/bidding documents, each investor applying for project execution/bidder is considered to be legally and financially independent from the competent authority/procuring entity/EOI requester if neither the investor/bidder nor the competent authority/procuring entity/EOI requester holds more than 50% of shares, total voting shares or stakes of each other. In case an investor applies for project execution or participates in bidding in the capacity of a consortium, capital holding is determined adopting the following formula:

$$\text{Capital holding} = \sum_{i=1}^n X_i \times Y_i$$

Where:

X_i: holding by the competent authority/ procuring entity/EOI requester of stakes, shares or voting shares of the consortium member i.

Y_i: holding of the equity by the consortium member i under the consortium agreement.

n: number of members of the consortium.

4. From the date of issue of EOI requests/bidding documents, the investor applying for project execution/bidder and any of the consultants specified in clause 1 and clause 2 of this Article do not jointly hold more than 30% of shares, total voting shares or stakes of another entity. In case of consortium investor or consortium consultant, the capital holding is determined adopting the following formula:

a) Capital holding of another entity and the consortium investor is determined adopting the following formula:

$$\text{Capital holding} = \sum_{i=1}^n X_i \times Y_i$$

Where:

X_i: holding by the entity of stakes, shares or voting shares of the consortium investor i.

Y_i: holding of the equity by the consortium investor i under the consortium agreement.

n: number of members of the consortium.

b) Capital holding of another entity and the consortium consultant is determined adopting the following formula:

$$\text{Capital holding} = \sum_{i=1}^n X_i \times Y_i$$

Where:

X_i: holding by the entity of stakes, shares or voting shares of the consortium consultant i under the consortium agreement.

Y_i: ratio of responsibility assigned in the consortium agreement i under the consortium agreement.

n: number of members of the consortium.

5. If an investor that is organized under the parent company - subsidiary model in accordance with regulations of law on enterprises submits an application for project execution or participates in bidding for execution of an investment project involving land use:

a) The parent company or a subsidiary or a consortium of the parent company and its subsidiaries may only submit one application for project execution or one bid;

b) The investor applying for project execution/bidder and a consultant performing any of the consulting tasks specified in clauses 1 and 2 of this Article do not establish and maintain the parent company - subsidiary relationship from the date of issue of EOI requests/bidding documents.

6. Capital holding by the parties shall be determined on the basis of the percentages specified in enterprise registration certificates, establishment decisions and other documents of equivalent validity.

Article 6. Incentives in investor selection

1. Eligible entities and incentive rates:

a) An investor that adopts solutions for applying advanced technologies, high technologies, eco-friendly technologies and/or best available techniques for reducing environmental pollution to the

project which poses high risk of adverse environmental impacts as prescribed in the Law on environmental protection shall be entitled to 5% incentive when having its bid evaluated;

b) An investor that commits to carry out technology transfer and/or perform high technology activities in respect of high technologies and high-tech products included in the List of high technologies given priority for investment and development and the List of recommended high technologies promulgated by the Prime Minister in accordance with regulations of law on high technologies or in the List of technologies recommended for transfer in accordance with regulations of law on technology transfer shall be entitled to 2% incentive when having its bid evaluated.

2. In order to enjoy the incentives prescribed in clause 1 of this Article, the investor shall included documentary evidences of its solutions for applying advanced technologies, high technologies, eco-friendly technologies and/or best available techniques or legitimate rights to use technologies as prescribed in regulations of law on high technologies, technology transfer, environmental protection, and other relevant laws in its submitted bid.

3. Determination of incentives:

The combined score of the entity eligible for incentives shall be determined adopting the following formula:

$$T'_{TH} = T_{TH} + T_{TH} \times M_{UD}$$

Where:

T'_{TH} : combined score of the investor eligible for incentives, including the incentive rate for comparison and ranking.

T_{TH} : combined score of the investor eligible for incentives before application of the incentive rate.

M_{UD} : incentive rate to which the investor is entitled as prescribed in clause 1 of this Article.

4. The investor that is eligible for incentives as prescribed in clause 1 of this Article and is selected to conclude the contract shall be required to fulfill the commitments in its bid and the contract for execution of investment project involving land use.

Article 7. Management of costs and revenues from investor selection

1. Limits on costs associated with the investor selection which is directly carried out by the competent authority, EOI requester, procuring entity, or appraisal team:

a) The cost of preparation of EOI request/bidding documents is equal to 0,05% of total investment but shall not exceed VND 200.000.000 (two hundred million);

b) The cost of appraisal of each content of the bidding documents/investor selection result is equal to 0,02% of total investment but shall not exceed VND 100.000.000 (one hundred million);

c) The cost of evaluation of applications for project execution/bids is equal to 0,03% of total investment but shall not exceed VND 200.000.000 (two hundred million);

d) In case an investor selection process is re-organized, the cost of preparation of EOI request/bidding documents or the cost of appraisal of bidding documents shall not exceed 50% of the actually incurred cost for performing such a task in the previous investor selection as prescribed in point a or b of this clause.

2. The competent authority, EOI requester, procuring entity, or appraisal team may hire qualified consultants to fulfill the tasks in clause 1 of this Article if its personnel are incapable of performing such tasks. In this case, costs associated with the investor selection are subject to the following provisions:

a) Costs are determined in consideration of contents and scope of tasks, performance duration, capacity and experience of the consultant, and salary norms as prescribed by law and other factors;

b) In case regulations on salaries of experts are not available, the salaries of experts shall be determined on the basis of statistical reports on experience and salaries/remunerations paid to experts engaged in similar projects for a given period or to total investment.

3. Types of costs associated with the investor selection which is directly carried out by the competent authority, EOI requester, procuring entity, or appraisal team:

a) Costs of surveys and collection of project-related information as the basis for preparing the EOI request/bidding documents, including the cost of preparation of the proposal for the investment project whose investment guidelines do not require approval or preparation of the application for approval of investment guidelines for the project whose investment guidelines require approval (if any);

b) Costs of office supplies, translation, information dissemination and communications;

c) Costs of meetings which are held to serve the formal request for EOI, invitation to bid and bid opening;

d) Costs of publishing of information on the investor selection on VNEPS;

dd) Other costs of preparation of EOI request; preparation and appraisal of bidding documents; evaluation of applications for project execution/bids, appraisal of investor selection result; bid opening and settlement of petitions.

4. Costs associated with the investor selection on VNEPS shall be determined according to corresponding provisions in point a clause 11 Article 12 of the Government's Decree No. 24/2024/ND-CP dated February 27, 2024 elaborating some articles of and introducing measures for implementing the Law on Bidding regarding contractor selection. Bid submission fees, fees payable by the successful investor and fees for connecting to the bid security function on VNEPS shall be paid according to the roadmap for application of online investor selection specified in Article 62 of this Decree.

5. The costs specified in clauses 1, 2 and 3 of this Article shall be covered using funding for covering recurrent expenditures of the competent authority, EOI requester, procuring entity, or appraisal team.

6. Cost estimates are made on the following grounds: decision on approval of investment guidelines or written approval of information on the investment project involving land use; relevant policies and regimes applicable according to regulations of law in force.

7. Preparation, approval and compliance with estimates of costs associated with the investor selection as prescribed in clauses 1, 2 and 3 of this Article shall comply with in accordance with regulations of law on preparation, approval and compliance with estimates of recurrent expenditures covered by state budget. To be specific:

a) Pursuant to provisions of the Law on State Budget and clause 6 of this Article, the EOI requester, procuring entity or appraisal team shall prepare the cost estimate for each of the costs specified in clause 3 of this Article, and include the estimated costs in its annual budget estimate which shall be then submitted to a competent authority for approval in accordance with regulations of law on state budget;

b) After the annual budget estimate is approved, the competent authority shall allocate the estimate of recurrent expenditures to relevant in-charge units in accordance with regulations of law on state budget;

c) If there is a new project requiring bidding in the year, the EOI requester, procuring entity or appraisal team shall prepare an additional cost estimate and submit it to a competent authority for approval in accordance with regulations of law on state budget.

8. Management of investor selection costs:

a) Management, payment and final statement of investor selection costs shall comply with regulations of law on state budget. In case the EOI requester, procuring entity or appraisal team that is a public service unit takes charge of the investor selection tasks, management, payment and final statement of investor selection costs shall comply with regulations of law on financial autonomy of public service units;

b) In case consultants are employed to perform a part or all of the tasks specified in clause 1 of this Article, total costs of the investor selection, inclusive of taxes, shall not exceed the costs of hiring consultants specified in the approved cost estimate. The consultant shall be paid under terms and conditions of the contract signed by and between the competent authority, procuring entity or EOI requester and the consultant. Management, use, payment and final statement of funding for making payments to the consultant shall comply with applicable regulations of law on state budget.

9. Management of revenues from the investor selection:

a) For international bidding, the selling price (inclusive of taxes) of a set of electronic bidding documents shall not exceed VND 30.000.000 (thirty million);

b) The procuring entity shall pay the amount of revenues earned from selling electronic bidding documents as prescribed in point a of this clause that remains after fulfilling tax obligations to state budget within 03 working days from the deadline for submission of bids.

Article 8. Fees for settlement of investors' petitions against investor selection result

1. In case an investor's petition against the investor selection result is considered by a competent person, the investor filing the petition (hereinafter referred to as "petitioner") shall pay petition settlement fee to the standing assistance section of the Petition settlement advisory board (hereinafter referred to as "Advisory Board") as prescribed in point dd clause 2 Article 90 of the Law on Bidding.

2. The fee paid by the petitioner to the Advisory Board as prescribed in clause 1 of this Article is equal to 0,02% of total investment it made in the project but shall not exceed VND 200.000.000 (two hundred million). If the petition that is under consideration is withdrawn, 50% of the fee paid shall be returned to the petitioner in case the Advisory Board is not yet established or has been established but does not yet convene any meeting. If the Advisory Board has convened a meeting, the fee paid by the

petitioner will be forfeited.

The standing assistance section of the Advisory Board shall pay the remaining fee paid by the petitioner to state budget within 07 working days from the day on which the petition is withdrawn.

3. The standing assistance section of the Advisory Board shall prepare and submit the estimate of costs of settlement of each petition to the Advisory Board's Chairperson for approval.

4. Total estimated costs approved by the Advisory Board's Chairperson as prescribed in clause 3 of this Article shall not exceed the fee paid by the petitioner as prescribed in clause 2 of this Article.

5. The Advisory Board's Chairperson shall decide the predetermined costs, under the approved cost estimate, of tasks performed by members of the Advisory Board, the standing assistance section of the Advisory Board and other costs associated with the petition settlement. Remunerations of the Advisory Board who are officials or public employees shall be paid in accordance with regulations of law.

6. The standing assistance section of the Advisory Board shall provide funding for covering costs incurred during the settlement of the petition according to the cost estimate approved by the Advisory Board's Chairperson.

7. Upon completion of the petition settlement, the Advisory Board's Chairperson shall confirm the total amount of costs actually incurred. If total amount of costs actually incurred is smaller than the fee paid by the petitioner to the Advisory Board, the standing assistance section of the Advisory Board shall return the unused amount of fee to the petitioner within 07 working days from the day on which the Advisory Board's Chairperson gives confirmation of total amount of costs actually incurred.

8. If it is concluded that the contents of the petition are true, the petition settlement report must clearly indicate that the petition settlement fee will be returned to the petitioner. The standing assistance section of the Advisory Board shall request the procuring entity in writing to return an amount equal to the fee paid by the petitioner minus the amount which has been returned to the petitioner by the standing assistance section of the Advisory Board as prescribed in clause 7 of this Article (if any) to the petitioner.

9. Funding for making return of money to the petitioner according to the petition settlement report is subject to the following provisions:

a) If the procuring entity is an administrative unit or public service unit, funding for making such return is derived from its estimated funding for recurrent expenditures;

b) If the procuring entity is not an administrative unit or public service unit, funding for making such return is derived from its funding for covering business expenses.

10. The entity(ies) at fault as defined in the petition settlement report given by the competent authority shall pay compensation to the procuring entity in accordance with regulations of law.

Article 9. Investor selection process

1. For a project applying competitive bidding or limited bidding method under single-stage one-envelope procedure as prescribed in clause 1 Article 35 of the Law on Bidding, the investor selection process includes the following steps:

a) Public disclosure of the investment project involving land use;

b) Preparation for bidding for investor selection;

c) Organization of bidding for investor selection;

d) Bid evaluation;

dd) Submission, appraisal, approval and disclosure of investor selection result;

e) Negotiation, completion and signing of contract.

2. For a project involving valuable architectural structures as prescribed by the Law on Architecture and applying competitive bidding method under single-stage two-envelope procedure as prescribed in clause 2 Article 35 of the Law on Bidding, the investor selection process includes the following steps:

a) Public disclosure of the investment project involving land use;

b) Preparation for bidding for investor selection;

c) Organization of bidding for investor selection;

d) Evaluation of technical proposals;

dd) Evaluation of financial proposals;

e) Submission, appraisal, approval and disclosure of investor selection result;

g) Negotiation, completion and signing of contract.

3. For a project which has specific sectoral, regional or local socio-economic development requirements but of which specific technical, social and environmental standards are not yet determined, and applies the competitive bidding method under two-stage one-envelope procedure as prescribed in clause 3 Article 35 of the Law on Bidding, the investor selection process includes the following steps:

- a) Public disclosure of the investment project involving land use;
- b) Preparation for bidding for investor selection - first stage;
- c) Organization of bidding for investor selection - first stage;
- d) Preparation and organization of bidding for investor selection - second stage;
- dd) Evaluation of second stage bids;
- e) Submission, appraisal, approval and disclosure of investor selection result;
- g) Negotiation, completion and signing of contract.

4. For a project requiring determination of the number of interested investors as prescribed in clause 2 Article 46 of the Law on Bidding and points e, g, h, i and k clause 2 Article 4 of this Decree, the investor selection process includes the following steps:

- a) Public disclosure of the investment project involving land use;
- b) Formal request for EOI;
- c) In case there are at least 02 investors meeting the conditions set out in the EOI request, provisions of points b, c, d, dd and e clause 1 of this Article (for a project applying the competitive bidding method under single-stage one-envelope procedure) or provisions of points b, c, d, dd, e and g clause 2 of this Article (for a project applying the competitive bidding method under single-stage two-envelope procedure) or provisions of points b, c, d, dd, e and g clause 3 of this Article (for a project applying the competitive bidding method under two-stage one-envelope procedure) shall apply.

5. The investor selection process is elaborated in Appendix I enclosed herewith.

Chapter II

INVESTOR SELECTION PROCESS FOR PROJECTS APPLYING COMPETITIVE BIDDING OR LIMITED BIDDING METHOD UNDER SINGLE-STAGE ONE-ENVELOPE PROCEDURE

Section 1. PUBLIC DISCLOSURE OF INVESTMENT PROJECT INVOLVING LAND USE

Article 10. Disclosure of investment project involving land use whose investment guidelines require approval

1. Based on the list of land zones subject to bidding for execution of investment projects involving land use decided by the Provincial People's Council, the competent authority as prescribed in the Law on investment or the investor shall prepare an application for approval of investment guidelines as the basis for following procedures for approval of investment guidelines.

2. The competent authority creates a task-specific account and delegate the account use right to its affiliated agency or unit or specialized agency to post the decision on approval of investment guidelines on VNEPS as prescribed in point a clause 2 Article 47 of the Law on Bidding within 05 working days from day on which the decision is issued.

Article 11. Disclosure of investment project involving land use whose investment guidelines do not require approval

1. For a project of which the execution is organized by a competent authority:

a) Based on the list of land zones subject to bidding for execution of investment projects involving land use decided by the Provincial People's Council, the competent person shall assign an agency or unit affiliated to a Ministry or ministerial agency, specialized agency, agency affiliated to a provincial People's Committee or an economic zone management board or another agency as prescribed by specialized sector or industry law, or district-level People's Committee to organize the preparation of the project proposal which must include the contents in points b, c, d, dd and e clause 2 Article 47 of the Law on Bidding, and meet the conditions set out in Article 4 of this Decree;

b) The assigned agency/unit as prescribed in point a of this clause shall submit the project information to the competent person for approval. The written approval of the information on the investment project involving land use (hereinafter referred to as "project information") includes the contents in points b, c, d, dd and e clause 2 Article 47 of the Law on Bidding;

c) The competent authority creates a task-specific account and delegates the account use right to its affiliated agency or unit or specialized agency to post the project information on VNEPS within 05

working days from day on which the approval of the project information is given.

2. Investors may propose investment projects involving land use other than those approved and disclosed as prescribed in clause 1 of this Article, unless they are not allowed to propose projects as prescribed in specialized sector and industry laws. Required contents, procedures for preparing a project proposal, and approval of project information are subject to the following provisions:

a) The investor shall prepare a project proposal which includes the contents in points b, c, d and e clause 2 Article 47 of the Law on Bidding and corresponding contents prescribed in points a, b and c clause 1 Article 33 of the Law on Investment. The investor shall incur all costs associated with the preparation of the project proposal;

b) For an investment project in which the provincial People's Committee acts as the competent authority, the investor shall, either directly or by post, submit 04 packages of the project proposal documents to the Provincial Department of Planning and Investment. Within 03 working days from its receipt of the project proposal, the Provincial Department of Planning and Investment shall request the Chairperson of the provincial People's Committee to assign a specialized agency to consider the project proposal submitted by the investor.

For an investment project in which a Ministry, ministerial agency, economic zone management board or another agency as prescribed by specialized sector or industry law acts as the competent authority, the investor shall, either directly or by post, submit 04 packages of the project proposal documents to the agency or unit assigned by the Minister or the head of ministerial agency, economic zone management board or another agency to receive and consider the investor's project proposal.

Where a Ministry, ministerial agency, economic zone management board or another agency has issued a decision to assign an agency or unit in charge of receiving project proposals, the investor's project proposal shall be submitted to this agency or unit.

c) Within 25 days from the day on which it is assigned, the assigned agency or unit prescribed in point b of this clause shall cooperate with relevant agencies in considering the compliance of the received project proposal with the provisions of Article 4 of this Decree and relevant plannings/plans as prescribed in law on planning and specialized sector or industry law, and requesting the competent person to give approval of the project information. The written approval of project information includes the contents in points b, c, d, dd and e clause 2 Article 47 of the Law on Bidding;

d) The competent authority shall organize the publishing of the project information as prescribed in point c clause 1 of this Article.

Section 2. PREPARATION FOR BIDDING FOR INVESTOR SELECTION

Article 12. Preparation and approval of investor selection progress schedule

1. The competent person shall assign their affiliated agency or unit or specialized agency to prepare the investor selection progress schedule as prescribed in Appendix II enclosed herewith.

2. The competent person shall consider giving approval of the investor selection progress schedule which includes decisions on the procuring entity, method and procedure for bidding for investor selection, and starting time of the investor selection process.

3. For an investment project involving land use whose investment guidelines require approval as prescribed by the Law on Investment, the investor selection progress schedule shall be approved separately or at the same time as the decision on approval of investment guidelines.

4. For an investment project involving land use whose investment guidelines do not require approval, the investor selection progress schedule and the project information shall be approved at the same time.

5. The competent authority creates a task-specific account and delegates the account use right to its affiliated agency or unit or specialized agency to post the approved investor selection progress schedule on VNEPS within 05 working days from day on which the written approval is given.

Article 13. Grounds for approval of bidding documents

1. Plannings, plans and programs, including:

a) Relevant plannings and plans as prescribed in law on planning, specialized sector and industry laws and relevant laws in case there are any changes in relevant plannings and plans after approval of investment guidelines or project information is given;

b) Detailed planning or sub-zone planning of 1/2.000 scale which has been approved by a competent authority. In case of a multi-functional investment project involving land use, the project shall be determined based on its main work item or the main work item of the highest grade in case a project consists of multiple main work items as prescribed in the Law on Construction.

2. The list of land zones subject to bidding for execution of investment projects involving land use decided by the Provincial People's Council; the list of works and projects requiring land expropriation

approved by competent authority; annual district-level land use plan (for a project whose investment guidelines do not require approval) in accordance with regulations of the Land Law.

3. The decision on approval of investment guidelines (for a project whose investment guidelines require approval in accordance with regulations of the Law on Investment) or written approval of the project information (for a project whose investment guidelines do not require approval).

4. The investor selection progress schedule as prescribed in clause 2 Article 12 of this Decree.

5. Other documents as prescribed in specialized sector and industry laws and relevant laws (if any).

Article 14. Preparation, appraisal and approval of bidding documents

1. The procuring entity assigns an expert team to prepare bidding documents which include the contents prescribed in Article 48 of the Law on Bidding and shall be provided for investors to prepare their bids. Regarding an energy project, the bidding documents also include the draft power purchase agreement which has been drawn with the consent of the power buyer in accordance with regulations of law on electricity.

Bidding documents may be prepared before the documents in Article 13 of this Decree are approved by competent authorities but the approval of bidding documents must be given on the grounds specified in Article 13 of this Decree.

2. Bid evaluation methods and criteria comply with Articles 45 through 49 of this Decree.

3. Appraisal and approval of bidding documents:

a) The procuring entity shall submit the draft bidding documents and relevant documents to the competent person and the appraisal team;

b) The appraisal team shall carry out appraisal of the bidding documents according to Article 54 of this Decree;

c) The competent person shall consider giving a written approval of bidding documents on the basis of the proposal for approval and report on appraisal of bidding documents.

Article 15. Shortlisting in limited bidding

1. The procuring entity shall draw up a shortlist of at least 03 investors that meet the requirements of the investment project involving land use and wish to bid, and submit it to the competent person for approval.

2. After it is approved, the procuring entity shall publish the approved shortlist on VNEPS.

3. Shortlisted investors shall not be allowed to establish a consortium together to bid.

Section 3. ORGANIZATION OF BIDDING FOR INVESTOR SELECTION

Article 16. Conditions for issuance of bidding documents

Bidding documents shall be issued to serve the investor selection only when all of the following conditions are met:

1. A decision on approval of investment guidelines (for a project whose investment guidelines require approval) or written approval of the project information (for a project whose investment guidelines do not require approval) is available;

2. The investment project involving land use has been disclosed as prescribed in Article 10 or 11 of this Decree;

3. Bidding documents have been approved;

4. Other conditions as prescribed in specialized sector or industry law (if any).

Article 17. Invitation for bid, issuance, modification and clarification of bidding documents; extension of deadline for submission of bids

1. Invitation for bid:

a) The invitation for bid is published as prescribed in clause 2 Article 8 of the Law on Bidding. For a project requiring international competitive bidding as prescribed in clause 2 Article 11 of the Law on Bidding, the invitation for bid shall be posted in both English and Vietnamese on VNEPS and on the website of the relevant supervisory ministry or provincial People's Committee (if any) or an English newspapers published in Vietnam;

b) Letters of invitation for bid are sent to shortlisted investors (in case of limited bidding).

2. Issuance of bidding documents:

a) In case of international competitive bidding, bidding documents are issued free of charge on VNEPS. The procuring entity shall post all files of the bidding documents on VNEPS;

b) In case of domestic limited bidding, bidding documents are issued free of charge to shortlisted investors;

c) In case of international bidding, the investor is required to pay an amount equaling the selling price of 01 set of electronic bidding documents when submitting its bid.

3. Modification of bidding documents:

In case any modifications are made to the bidding documents after they are issued, the procuring entity shall publish the modification decision, the addenda and modified bidding documents on VNEPS. The decision to modify bidding documents must be published at least 15 days (in case of domestic bidding) or 25 days (in case of international bidding) before the deadline for submission of bids. If this time requirement cannot be met, the deadline for submission of bids must be extended.

4. Clarification of bidding documents:

a) In case of domestic bidding, the investor shall send its request for clarification to the procuring entity via VNEPS at least 07 days before the deadline for submission of bids;

b) In case of international bidding, the investor shall directly send its request for clarification to the procuring entity at least 15 days before the deadline for submission of bids;

c) The procuring entity shall publish its response to the investor's request for clarification on VNEPS or, where necessary, convene a pre-bid meeting to clarify the contents of the bidding documents as requested by investors.

If a pre-bid meeting is convened, the procuring entity shall make a record of clarification of bidding documents, indicating all contents discussed at the meeting, and publish it on VNEPS.

d) Clarifications to the bidding documents must be published on VNEPS at least 02 before the deadline for submission of bids and must not be contrary to the contents of the bidding documents previously published on VNEPS. Should the clarifications to the bidding documents result in changes to the bidding documents, the modification of the bidding documents shall be subject to provisions of clause 3 of this Article.

5. The modification decision and record of clarification of the bidding documents are considered as an integral part of the bidding documents.

6. If the deadline for submission of bids needs to be extended, the procuring entity shall publish the notice of extension and decision on approval of such extension on VNEPS. Reasons for extension and new deadline for submission of bids must be clearly indicated in the notice of extension.

Article 18. Preparation, submission, receipt, management, modification, substitution and withdrawal of bids

1. Investors prepare and submit bids according to the requirements of the bidding documents.

2. The procuring entity receives all bids submitted by investors before the deadline for submission of bids and manages such received bids as confidential documents until the investor selection result is made available; shall not reveal any information included in received bids, except those publicly disclosed upon bid opening.

3. An investor that wishes to modify, replace or withdraw its submitted bid shall be required to send a written request to the procuring entity. The procuring entity shall only accept the investor's modification, substitution or withdrawal of the bid if the investor's written request is received by the deadline for submission of bids.

4. The bid or any document submitted by the investor to the procuring entity after the deadline for submission of bids is considered invalid, unopened and rejected, except clarifications of the bid which are provided at the request of the procuring entity or clarifications/additional documents submitted by the investor at its discretion for the purpose of proving its eligibility, capacity and experience.

Section 4. EVALUATION OF BIDS FOR PROJECTS APPLYING SINGLE-STAGE ONE-ENVELOPE PROCEDURE

Article 19. Bid opening

1. The bid opening shall be held in public within 02 hours from the deadline for submission of bids. The procuring entity shall only open the bids received prior to the deadline for submission of bids according to the requirements of the bidding documents in the witness of the investors' representatives who attend the bid opening, regardless of whether an investor is present or not.

2. The procuring entity checks the seals, opens every bid in the alphabetical order of investors' names, and reads out the following information:

a) Name of the investor;

b) The quantity of the original and copies;

c) The value regarding land use efficiency proposed by the investor in the bid (in case bids are evaluated using land use efficiency criteria); the number of not-for-profit public work items or the value of social assistance services or other social welfare services provided for social protection beneficiaries which is determined in cash or expressed as the number of beneficiaries (in case of a project prescribed in clause 1 Article 4 of this Decree in which the bid evaluation criteria specified in point d or dd clause 1 Article 49 of this Decree are applied);

d) The value regarding investment efficiency in sector/industry/local development proposed by the investor in the bid, including one of the following information pieces: the monetary value of contributions made to state budget; percentage of revenues to be paid by the investor to state budget; prices of goods/services; number of not-for-profit public work items; value of social assistance services or other social welfare services provided for social protection beneficiaries which is determined in cash or expressed as the number of beneficiaries; types, toxicity and total amount of pollutants released to the environment; area of land used and land use coefficient; payment made to state budget and increase rate proposed by the investor for execution of an investment project on construction of aviation service facilities; electricity price, for an investment project on construction of energy works; planned time for delivery of housing serving relocation, for an apartment building renovation and reconstruction project (in case evaluation of investment efficiency in sector/industry/local development is employed);

dd) Proposed increase or decrease in the value specified in point c or d of this clause (if any);

e) Validity period of the bid;

g) Value and validity period of the bid security;

h) Other relevant information (if any).

3. The bid opening record shall include the information prescribed in clause 2 of this Article, be countersigned by the representative of the procuring entity and investors' representatives attending the bid opening, and sent to investors submitting bids.

4. The representative of the procuring entity shall countersign the original copies of the letter of bid, power of attorney of the investor's legal representative (if any), consortium agreement (if any), bid security, part indicating information on the investment and business plan, and proposals concerning land use efficiency or efficiency of investments in sector/industry/local development included in each bid.

Article 20. Bid evaluation rules

1. The bid evaluation shall be carried out on the basis of the bid evaluation methods and criteria and other requirements laid down in the bidding documents, and the bids and clarifications thereto submitted by investors in order to select an investor that meets all capacity and experience requirements and has feasible technical and financial plans for executing the project.

2. Copies shall be used in bid evaluation. Each investor shall assume responsibility for the consistency between the originals and the copies of the documents included in its bid. In the event of discrepancy between them which does not change the investor's rank, the original shall prevail. In the case the discrepancy between the original and the copy results in different evaluation results and change in the investor's rank, the bid of that investor shall be rejected.

3. During the bid evaluation, the procuring entity shall examine technical and financial aspects of the bid in order to confirm that the bid does not contain any deviations, reservations or omissions, in which:

a) Deviation means a departure from the requirements specified in the bidding documents; reservation means the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the bidding documents; omissions means the failure to submit part or all of the information or documentation required in the bidding documents;

b) Provided that a bid is substantially responsive to the requirements of the bidding documents, the procuring entity may waive any nonconformity in the bid that does not constitute a material deviation, reservation, or omission;

c) Provided that a bid is substantially responsive to the requirements of the bidding documents, the procuring entity may request the investor to submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or errors in the bid related to documentation requirements. Requesting information and documentation on such nonconformities shall not affect the investor's proposals concerning the land use efficiency or investment efficiency in sector/industry/local development. Failure of the investor to comply with the request of the procuring entity may result in the rejection of its bid.

Article 21. Clarification of bids

1. If, after the bid opening, an investor is found to have not yet submitted documents proving its

eligibility, financial statements, and documents proving its experience in executing similar projects, the procuring entity shall request the investor to clarify and/or submit additional documents proving its eligibility, capacity and experience. The investor shall clarify its bid upon receipt of the request from the procuring entity. Clarification of contents about eligibility, capacity and experience of an investor must ensure no change in the substance of the eligibility, capacity and experience of the investor.

2. If, after the bid closing, an investor finds that existing documents proving its eligibility, capacity and experience have yet to be submitted together with its bid, the investor shall be allowed to submit such documents to the procuring entity for clarification of its bid. The procuring entity shall receive clarifications and/or additional documents submitted by the investor to prove its eligibility, capacity and experience for further evaluation. These documents shall form part of the bid.

3. Clarification of the proposals concerning investment and business plan, land use efficiency or investment efficiency in sector/industry/local development must ensure no change in corresponding proposals included in the submitted bid.

4. Clarification of bid shall be only conducted between the procuring entity and the investor whose bid needs to be clarified. Clarifications to the bid must be made in writing and kept by the procuring entity as part of the investor's bid.

Article 22. Bid evaluation

1. Examination of the validity of bid, including:

a) Examine the number of originals and copies of the bid;

b) Examine component documents of the bid, including: letter of bid, consortium agreement (if any), power of attorney to sign the letter of bid (if any); bid security; documents proving the eligibility of the person signing the letter of bid (if any); documents proving the investor's eligibility, capacity and experience; proposals concerning investment and business plan; proposals concerning land use efficiency or investment efficiency in sector/industry/local development; other component documents of the bid;

c) Examine the consistency between the original and copies to serve the detailed evaluation of the bid.

2. Evaluation of the validity of bid:

An investor's bid shall be considered valid if meeting all of the following conditions:

a) The original of the bid is available;

b) The submitted letter of bid is valid, and bears the signature of the investor's lawful representative and seal (if any) as requested in the bidding documents. If the investor is a consortium, the letter of bid must have been signed and sealed (if any) by the lawful representatives of all members of the consortium or by the member assigned to sign the letter of bid on behalf of the consortium under the consortium agreement;

c) The value in the letter of bid must be specific and expressed both in figures and in words; proposal of different values concerning the land use efficiency or investment efficiency in sector/industry/local development or with conditions that are disadvantageous to the competent authority or the procuring entity is prohibited;

d) The validity period of the bid meets the requirements of the bidding documents;

dd) The investor has furnished a valid bid security;

e) The investor's name is not included in two or more bids as an independent investor or consortium member;

g) The consortium agreement that bears the signatures and seals (if any) of the lawful representatives of all consortium members is available;

h) The investor has provided documents proving its eligibility as prescribed in Article 5 of the Law on Bidding;

i) The investor is eligible to have land allocated or leased by the State and meets all relevant eligibility requirements for land allocation or land lease as prescribed in the Land Law;

k) The investor is not prohibited from doing real estate business, and does not have its business suspended at its discretion or according to a court's judgment or decision or a competent authority's decision in accordance with regulations of law on real estate business (applicable to real estate projects).

The investor whose bid is valid will be further evaluated according to clause 3 of this Article.

3. Evaluation of bid:

a) The bid evaluation consists of evaluation of capacity and experience of the investor and its partners engaged in the project execution (in case experience of the investor's partners is used), and

evaluation of investment and business plan, land use efficiency and investment efficiency in sector/industry/local development;

b) The bid shall be evaluated applying the evaluation methods and criteria set out in the bidding documents.

4. Upon completion of the bid evaluation, the expert team shall make a bid evaluation report and send it to the procuring entity for consideration. Such a bid evaluation report shall clearly indicate the following information:

a) List of ranked investors;

b) List of investors whose bids are nonresponsive and rejected; reasons for bid rejection;

c) Comments on competitiveness, fairness, transparency and economic efficiency of the investor selection. Where regulations on competitiveness, fairness, transparency and economic efficiency in bidding are not complied with, reasons and remedial measures must be given.

5. Choosing successful investor:

An investor shall be proposed for contract award if meeting all of the conditions set out in Article 50 of this Decree.

Section 5. EVALUATION OF BIDS FOR PROJECTS APPLYING SINGLE-STAGE TWO-ENVELOPE PROCEDURE

Article 23. Technical proposal opening

1. The technical proposal opening shall be held in public within 02 hours from the deadline for submission of bids. The technical proposal opening shall be conducted following the procedures in Article 19 of this Decree. When opening technical proposals, the procuring entity shall only read out information and make a bid opening record containing the information in points a, b, e, g and h clause 2 Article 19 of this Decree.

2. All financial proposals submitted by investors shall be put in a separate envelop which must be duly sealed and bear signatures of the procuring entity's representative and investors' representatives who are present at the technical proposal opening.

Article 24. Evaluation of technical proposals

1. Examination of validity of technical proposal, including:

a) Examine the number of the original and copies of the technical proposal;

b) Examine the component documents of the technical proposal, including: letter of technical bid, consortium agreement (if any), power of attorney to sign the letter of bid (if any); bid security; documents proving the eligibility of the person signing the letter of bid (if any); documents proving the investor's eligibility, capacity and experience; proposals concerning investment and business plan; proposals concerning land use efficiency or investment efficiency in sector/industry/local development; other component documents of the technical proposal;

c) Examine the consistency between the original and copies to serve the detailed evaluation of the technical proposal.

2. Evaluation of validity of technical proposal:

An investor's technical proposal shall be considered valid if meeting all of the following conditions:

a) The original of the technical proposal is available;

b) The submitted letter of bid included in the technical proposal is valid, and bears the signature and seal (if any) of the investor's lawful representative as requested in the bidding documents. If the investor is a consortium, the letter of bid must have been signed and sealed (if any) by the lawful representatives of all members of the consortium or by the member assigned to sign the letter of bid on behalf of the consortium under the consortium agreement;

c) The validity period of the technical proposal meets the requirements of the bidding documents;

d) The investor has furnished a valid bid security;

dd) The investor's name is not included in two or more technical proposals as an independent investor or a consortium member;

e) There is a valid consortium agreement (if the investor is a consortium);

g) The investor has provided documents proving its eligibility as prescribed in Article 5 of the Law on Bidding;

h) The investor is eligible to have land allocated or leased by the State and meets all relevant eligibility requirements for land allocation or land lease as prescribed in the Land Law;

i) The investor is not prohibited from doing real estate business, and does not have its business suspended at its discretion or according to a court's judgment or decision or a competent authority's decision in accordance with regulations of law on real estate business (applicable to real estate projects).

3. Clarification of technical proposals shall be made following the procedures in Article 21 of this Decree.

4. Evaluation of technical proposal:

a) Technical proposals shall be evaluated following the rules set out in Article 20 of this Decree;

b) The investor that has a valid technical proposal and meets capacity and experience requirements/investment and business plan requirements shall have its technical proposal opened and further evaluated.

Article 25. Approval of list of technically responsive investors

1. The procuring entity shall consider giving a written approval of the list of technically responsive investors according to the written request for approval of the list of technically responsive investors submitted by the expert team.

2. The procuring entity shall send notice of the list of technically responsive investors to all investors that have submitted bids and invite them to the financial proposal opening. The notice shall clearly indicate the time and location of the financial proposal opening.

Article 26. Financial proposal opening

1. Financial proposals of all investors whose names appear on the list of technically responsive investors shall be opened in the public at the time, date and location specified in the notice of the list of technically responsive investors. The bid opening record shall include the information in points a, b, c, d, dd, e and h clause 2 Article 19 of this Decree, and be sent to all investors that have submitted bids.

2. The representative of the procuring entity shall countersign the original copies of the letter of bid, power of attorney of the investor's legal representative (if any), consortium agreement (if any), proposals concerning land use efficiency or efficiency of investments in sector/industry/local development included in each financial proposal.

Article 27. Evaluation of financial proposals

1. Examination of validity of financial proposal, including:

a) Examine the number of the original and copies of the financial proposal;

b) Examine the component documents of the financial proposal, including: letter of bid included in the financial proposal; proposals concerning land use efficiency or efficiency of investments in sector/industry/local development; other documents constituting the financial proposal;

c) Examine the consistency between the original and copies to serve the detailed evaluation of the financial proposal.

2. Evaluation of validity of financial proposal:

The investor's financial proposal shall be considered valid if meeting all of the following conditions:

a) The original of the financial proposal is available;

b) The submitted letter of financial bid is valid, and bears the signature and seal (if any) of the investor's lawful representative as requested in the bidding documents. If the investor is a consortium, the letter of bid must have been signed and sealed (if any) by the lawful representatives of all members of the consortium or by the member assigned to sign the letter of bid on behalf of the consortium under the consortium agreement;

c) The value in the letter of financial bid must be specific and expressed both in figures and in words; proposal of different values concerning the land use efficiency or investment efficiency in sector/industry/local development or with conditions that are disadvantageous to the competent authority or the procuring entity is prohibited;

d) The validity period of the financial proposal meets the requirements of the bidding documents.

The investor whose financial proposal is valid will have its financial proposal further evaluated according to clause 4 of this Article.

3. Clarification of financial proposals shall be made following the procedures in Article 21 of this Decree.

4. Evaluation of financial proposal:

a) Financial proposals shall be evaluated following the rules set out in Article 20 of this Decree;

b) Detailed evaluation of financial proposals and ranking of investors shall be carried out using the evaluation methods and criteria set out in the bidding documents.

5. Upon completion of the bid evaluation, the expert team shall make a bid evaluation report and send it to the procuring entity for consideration. Such a bid evaluation report shall clearly indicate the following information:

a) List of ranked investors;

b) List of investors whose bids are nonresponsive and rejected; reasons for bid rejection;

c) Comments on competitiveness, fairness, transparency and economic efficiency of the investor selection. Where regulations on competitiveness, fairness, transparency and economic efficiency in bidding are not complied with, reasons and remedial measures must be given.

6. The successful investor shall be chosen as prescribed in Article 50 of this Decree.

Section 6. SUBMISSION, APPRAISAL, APPROVAL AND DISCLOSURE OF INVESTOR SELECTION RESULT

Article 28. Submission, appraisal and approval of investor selection result

1. Submission, appraisal and approval of the investor selection result are subject to the following provisions:

a) Based on the bid evaluation report, the procuring entity shall submit the investor selection result which must include the procuring entity's opinions on evaluation results given by the expert team to the competent person and the appraisal team for appraisal.

b) The investor selection result shall be appraised by the appraisal team as prescribed in Article 55 of this Decree before it is approved;

c) The competent person shall consider giving approval for the investor selection result in writing on the basis of the request for approval and report on appraisal of investor selection result.

2. In case an investor is selected as successful investor, the decision on approval of the investor selection result shall include the following information:

a) Name of the project;

b) Name of the successful investor; name of the economic organization established by the successful investor (if any);

c) The information in point c or point d clause 2 Article 19 of this Decree;

d) Other contents (if any).

3. If the successful investor establishes an economic organization after the investor selection result is approved, the investor shall send information on the name of that economic organization to the competent authority for being added to the decision on approval of the investor selection result.

4. In case of bid cancellation as prescribed in point a clause 2 Article 17 of the Law on Bidding, the decision on approval of the investor selection result or the bid cancellation decision must clearly indicate the reasons for bid cancellation and responsibilities of relevant parties.

5. If the name of the successful investor or the name of the economic organization established by the successful investor is changed as a result of transfer of the investment project or transfer of shares/stakes of the economic organization established by the successful investor according to clause 2 Article 76 of the Law on Bidding, clause 3 and 4 Article 52 of this Decree, the competent authority shall consider approving such transfer and revising the decision on approval of the investor selection result.

Article 29. Disclosure of investor selection result

1. Within 05 working days from the day on which the decision on approval of the investor selection result is issued by a competent person, the procuring entity shall publish information on the investor selection result on VNEPS as prescribed in point d clause 2 Article 7 and clause 4 Article 8 of the Law on Bidding, and notify the investor selection result to all investors that have submitted bids in writing.

2. The notice of the investor selection result shall include:

a) The information prescribed in clause 2 Article 28 of this Decree;

b) The list of unsuccessful investors, in which reasons for disqualification of each investor must be also indicated;

c) The plan for negotiation, completion and signing of contract with the successful investor.

Section 7. NEGOTIATION, COMPLETION AND SIGNING OF CONTRACT

Article 30. Negotiation and completion of contract

1. Based on the investor selection result, the first-ranked investor shall be invited to negotiate and complete the contract. If the invited investor is not present or refuses to conduct negotiation and completion of contract, its bid security shall be forfeited.
2. The negotiation and completion of contract shall be conducted on the basis of:
 - a) The bid evaluation report;
 - b) The bid and clarifications thereto (if any) submitted by the investor;
 - c) Bidding documents.
3. Contract negotiation and completion rules:
 - a) Contents of the contract negotiation and completion shall not include the investor's proposals which are conformable with requirements of the bidding documents;
 - b) Contract negotiation and completion must be conducted in a manner that ensures no change in the substance of the bid.
4. Contents of contract negotiation and completion:
 - a) Negotiate and complete the contents that are proposed in the bid but are inconsistent or not fully detailed; nonconformities between the bidding documents and the bid that may lead to disputes or affect rights and obligations of the parties during the performance of the contract;
 - b) Negotiate the issues that arise during the investor selection (if any) in order to complete detailed contents of the contract;
 - c) Negotiate other contents concerning the project in order to establish grounds for stipulating rights, obligations and responsibilities in the contract;
 - d) Other necessary contents.
5. The successful investor shall not be allowed to change, withdraw or refuse to perform its proposals in the bid which have been considered responsive by the procuring entity, unless such changes make the project more efficient.
6. In case the contract negotiation and completion process is unsuccessful, the procuring entity shall request the competent person to consider invalidating the investor selection result and inviting the next-ranked investor to the contract negotiation and completion. If the contract negotiation and completion conducted with the next-ranked investor is successful, the procuring entity shall submit, appraise, approve and publish the investor selection result according to Articles 28 and 29 of this Decree. If the contract negotiation and completion conducted with the next-ranked investor is still unsuccessful, the procuring entity shall request the competent person to consider issuing decision on bid cancellation as prescribed in point a clause 2 Article 17 of the Law on Bidding.

Article 31. Signing of contract for execution of investment project involving land use and publishing of main contents thereof

1. The contract for execution of investment project involving land use shall be signed in accordance with provisions of Articles 71, 72, 74 and 75 of the Law on Bidding.
2. The contract for execution of investment project involving land use (hereinafter referred to as "project contract") shall include the main contents as prescribed in Article 73 of the Law on Bidding, Appendix III enclosed herewith and provisions of the Land Law, Law on Real Estate, Law on Construction, and relevant specialized sector or industry law (if any).
3. Within 05 working days from the effective date of the project contract, the procuring entity shall publish the main contents of the contract on VNEPS. Information to be published includes:
 - a) Name of the project; contract number; signing date of the contract;
 - b) Name and address of the competent authority;
 - c) Name and address of the successful investor; name and address of the economic organization established by the successful investor (if any);
 - d) Objectives and scale of the project;
 - dd) Planned project execution schedule; area of land used and land use term;
 - e) Project location;
 - g) Estimated total investment;
 - h) The information in point c or point d clause 2 Article 19 of this Decree;
 - i) Other contents (if any).

Chapter III. INVESTOR SELECTION PROCESS FOR PROJECTS APPLYING COMPETITIVE

BIDDING METHOD UNDER TWO-STAGE ONE-ENVELOPE PROCEDURE

Article 32. Preparation for first bidding-stage

1. Two-stage one-envelope procedure shall be adopted in the competitive bidding for selection of investor to execute an investment project involving land use which has specific sectoral, regional or local socio-economic development requirements but of which specific technical, social and environmental standards are not yet determined as prescribed in clause 3 Article 35 of the Law on Bidding.

2. Preparation for first bidding-stage includes the following steps:

- a) Preparation and approval of the investor selection progress schedule as prescribed in Article 12 of this Decree, in which specific progress schedule of each stage must be indicated;
- b) Disclosure of the project information as prescribed in Article 10 or 11 of this Decree;
- c) Preparation of first stage bidding documents as prescribed in clause 3 of this Article;
- d) Appraisal and approval of first stage bidding documents as prescribed in clause 3 Article 14 of this Decree.

3. The first-stage bidding documents are prepared on the grounds specified in Article 13 of this Decree, and include the following main contents:

- a) General information on the project, including: the project's name; objectives; investment scale; total investment; project location; current use of land, and area of the land zone used for executing the project; land use purpose; approved planning targets; project execution duration/schedule;
- b) Instructions for preparation and submission of first-stage bids;
- c) Eligibility requirements to be satisfied by the investor as prescribed in Article 5 of the Law on Bidding;
- d) Requirements regarding eligible entity and conditions for land allocation or lease by the State as prescribed in the Land Law;
- dd) The requirement that the investor is not prohibited from doing real estate business, and does not have its business suspended at its discretion or according to a court's judgment or decision or a competent authority's decision in accordance with regulations of law on real estate business (applicable to real estate projects);
- e) The requirement that the investor is required to declare history of finished or in-progress contracts involved in disputes or lawsuits;
- g) Preliminary requirements regarding investment and business plan; land use efficiency or investment efficiency in sector/industry/local development to serve the investor's communication with the procuring entity;
- h) Other necessary contents (if any).

The first-stage bidding documents neither require investors to provide proposals concerning land use efficiency or investment efficiency in sector/industry/local development nor furnish bid security.

Article 33. Organization of first bidding-stage

1. Invitation to submit first-stage bids shall comply with provisions of clause 1 Article 17 of this Decree.

2. Issuance, modification and clarification of the bidding documents shall comply with provisions of clauses 2, 3 and 4 Article 17 of this Decree.

3. Preparation, submission, receipt, management, modification, substitution and withdrawal of bids shall comply with provisions of Article 18 of this Decree.

4. Bid opening:

a) The bid opening shall be held in public within 02 hours from the deadline for submission of bids. The bid opening shall be conducted following the procedures in Article 19 of this Decree. The procuring entity shall only read out information and make a bid opening record containing the information in points a, b, e and h clause 2 Article 19 of this Decree.

b) The procuring entity's representative shall countersign the original of the letter of bid, power of attorney of the investor's legal representative (if any), consortium agreement (if any), and other important contents of each bid.

5. Discussion about first-stage bids:

a) Based on the requirements set forth in the bidding documents and the investor's proposals in their first-stage bids, the procuring entity shall discuss with each investor to set out exact requirements regarding business land, land use efficiency or investment efficiency in sector/industry/local

development as the basis for completing the second-stage bidding documents;

b) Discussion about first-stage bids shall change neither the decision on approval of investment guidelines (for a project whose investment guidelines require approval) nor written approval of the project information (for a project whose investment guidelines do not require approval);

c) A discussion record will be made, bear signatures of the representatives of the procuring entity and the investor, and be sent directly to the investor.

Article 34. Preparation for and organization of second bidding-stage

1. Second-stage bidding documents are prepared on the grounds specified in Article 13 of this Decree and results of discussion about first-stage bids.

2. The second-stage bidding documents shall include the contents prescribed in clauses 1 and 2 Article 14 of this Decree.

3. Appraisal and approval of second-stage bidding documents shall comply with provisions of clause 3 Article 14 of this Decree.

4. Organization of bidding:

a) The procuring entity invites the investors that have submitted first-stage bids to receive the second-stage bidding documents. Modification and clarification of the second-stage bidding documents shall comply with provisions of clauses 3 and 4 Article 17 of this Decree;

b) Preparation, submission, receipt, management, modification, substitution and withdrawal of bids shall comply with provisions of Article 18 of this Decree;

c) The bid opening shall comply with provisions of Article 19 of this Decree.

Article 35. Evaluation of second-stage bids

1. Bids shall be evaluated following the bid evaluation rules set out in Article 20 of this Decree.

2. Clarification of bids shall comply with provisions of Article 21 of this Decree.

3. Evaluation of second-stage bids shall comply with provisions of Article 22 of this Decree.

Article 36. Submission, appraisal, approval and disclosure of investor selection results; negotiation, completion and signing of project contract, disclosure of information thereon

1. Submission, appraisal, approval and disclosure of investor selection result shall comply with provisions of Articles 28 and 29 of this Decree.

2. Negotiation, completion and signing of project contract, and disclosure of information thereon shall comply with provisions of Articles 30 and 31 of this Decree.

Chapter IV

INVESTOR SELECTION PROCESS FOR PROJECTS REQUIRING DETERMINATION OF INTERESTED INVESTORS

Article 37. Application of procedures for invitation for EOI

1. Procedures for invitation for EOI are employed to projects requiring determination of interested investors as prescribed in specialized sector or industry laws in points e, g, h, i and k clause 2 Article 4 of this Decree.

2. International EOI request procedures apply to investment projects involving land use prescribed in clause 1 of this Article, except the cases in points a, b, c and d clause 2 Article 11 of the Law on Bidding and other cases as prescribed in specialized sector or industry laws.

3. A competent person shall assign an agency/unit affiliated to a Ministry or ministerial agency, specialized agency, an agency affiliated to a provincial People's Committee or economic zone management board or district-level People's Committee to act as an EOI requester.

4. The EOI requester shall follow the procedures in Articles 38 through 43 of this Decree.

5. A competent authority shall create a task-specific account and delegate account use rights to the EOI requester for publishing information and EOI request on VNEPS.

Article 38. Preparation for request for EOI

Before sending EOI requests, the competent authority shall publish the project information on VNEPS according to one of the following provisions:

1. For a project whose investment guidelines require approval, the competent authority shall publish the decision on approval of investment guidelines.

2. For a project whose investment guidelines do not require approval, the competent authority shall,

based on the project proposal prepared and approved as prescribed in Article 11 of this Decree, publish the information prescribed in points b, c, d and e clause 2 Article 47 of the Law on Bidding.

Article 39. Preparation and approval of EOI request

1. The EOI requester shall assign an expert team to prepare the EOI request which shall include the information in clause 2 of this Article to serve the investors' preparation of their applications for project execution. The EOI request is prepared on the grounds specified in clauses 1, 2, 3 and 5 Article 13 of this Decree.

The EOI request may be prepared before the documents in clauses 1, 2, 3 and 5 Article 13 of this Decree are approved by competent authorities but the approval of EOI request must be given on these grounds.

2. The EOI request shall include:

a) Instructions to investors;

b) Eligibility requirements to be satisfied by the investor as prescribed in Article 5 of the Law on Bidding;

c) Requirements regarding eligible entity and conditions for land allocation or lease by the State as prescribed in the Land Law;

d) The requirement that the investor is not prohibited from doing real estate business, and does not have its business suspended at its discretion or according to a court's judgment or decision or a competent authority's decision in accordance with regulations of law on real estate business (applicable to real estate projects);

dd) Methods and criteria for preliminary evaluation of capacity and experience of investors as prescribed in clauses 3 and 4 of this Article;

e) Document forms used in EOI request response;

g) Information and requirements regarding execution of the investment project involving land use;

h) Other relevant contents (if any).

3. Investors' capacity and experience shall be preliminarily evaluated on pass/fail basis. An investor shall be considered to have met preliminary capacity and experience requirements if all criteria are considered passed.

4. An investor's capacity and experience shall be preliminarily evaluated according to the following criteria:

a) Required equity as prescribed in point a clause 1 Article 46 of this Decree;

b) The investor's experience in executing similar projects as prescribed in points a and b clause 2, clause 3 and clause 4 Article 46 of this Decree;

c) In respect of an investment project on renovation and re-construction of an apartment building, in addition to the criteria set out in points a and b of this clause, criteria for preliminary evaluation of an investor's capacity and experience shall also include the requirement regarding the compensation and relocation plan as prescribed in the Housing Law.

5. In case of domestic request for EOIs for a project to which the application of advanced technologies and/or international management experience is encouraged, the EOI request may apply the provisions of clause 5 Article 46 of this Decree.

6. The EOI request shall only include the requirements serving the purpose of selecting an investor satisfying eligibility, capacity and experience requirements for executing the project; do not include any conditions that limit the participation of investors or give advantage for one or some investors resulting in unfair competition.

7. The EOI request shall be prepared and approved at the same time as a decision on approval of investment guidelines (for a project whose investment guidelines require approval as prescribed in the Law on Investment) or preparation and approval of the project information (for a project whose investment guidelines do not require approval), or after this decision or approval is ratified or given by a competent authority.

Article 40. Invitation for EOI, issuance, modification and clarification of EOI request; extension of deadline for submission of applications for project execution

1. The invitation for EOI is published on VNEPS as prescribed in clause 2 Article 8 of the Law on Bidding. For a project requiring international invitation for EOI as prescribed in clause 2 Article 37 of this Decree, the invitation for EOI shall be posted in both English and Vietnamese on VNEPS and on the website of the relevant supervisory ministry or provincial People's Committee (if any) or an English newspapers published in Vietnam.

2. The EOI request is issued on VNEPS. The EOI requester shall provide free of charges all files of the EOI request on VNEPS.

3. In case modifications are made to the EOI request after it is issued, the EOI requester shall publish the modification decision, the addenda and modified EOI request on VNEPS. The decision to modify the EOI request must be published on VNEPS at least 10 days before the deadline for submission of applications for project execution.

4. Clarification of EOI request:

a) An investor requiring clarification of the EOI request shall send its request for clarification to the EOI requester via VNEPS at least 05 days before the deadline for submission of applications for project execution;

b) The record of clarification of the EOI request shall be published on VNEPS at least 02 days before the deadline for submission of applications for project execution;

c) Clarifications to the EOI request must not be contrary to the contents of the EOI request previously published on VNEPS. Should the clarifications to the EOI request result in changes to the EOI request, the modification of the EOI request shall be subject to provisions of clause 3 of this Article;

d) The modification decision and record of clarification of the EOI request are considered an integral part of the EOI request.

5. If the deadline for submission of applications for project execution needs to be extended, the EOI requester shall publish the notice of extension and decision on approval of such extension on VNEPS. Reasons for extension and the new deadline must be clearly indicated in the notice of extension.

Article 41. Preparation, submission, receipt, modification, withdrawal and clarification of applications for project execution

1. Investors prepare and submit applications for project execution via VNEPS according to the requirements of the EOI request. The minimum period between the first date on which the EOI request is issued and the deadline for submission of applications for project execution which is given for investors to prepare their applications shall be 30 days.

2. An application for project execution submitted by the investor includes an application form, documents proving the investor's eligibility, capacity and experience, and other relevant documents (if any).

3. An application for project execution may only be modified or withdrawn before the deadline for submission of applications for project execution.

4. Investors shall have the burden of clarifying their applications for project execution at the request of the EOI requester or shall, at their discretion, send clarifications and/or submit additional documents proving their eligibility, capacity and experience in case they find that existing documents about their capacity and experience have yet to be submitted together with their applications. Clarification of applications shall be made on VNEPS.

Article 42. Opening and evaluation of applications for execution of investment projects involving land use

1. The bid opening shall be made on VNEPS within 02 hours from the deadline for submission of applications for execution of investment projects involving land use.

2. The EOI requester shall organize evaluation of all applications for execution of investment projects involving land use submitted by investors. The evaluation of applications for project execution shall be carried out on the basis of evaluation methods and criteria and other requirements laid down in the EOI request, and the applications for project execution and clarifications thereto submitted by investors.

Article 43. Submission, approval and disclosure of invitation for EOI result

1. Based on the results of the evaluation of applications for execution of investment projects involving land use, the EOI requester shall submit the invitation for EOI result to the competent person for consideration and approval, and organize the investor selection according to the following provisions:

a) If there are at least two investors meeting the requirements of the EOI request, the investor selection shall be carried out adopting the competitive bidding;

b) If there is only one investor submitting application and meeting the requirements of the EOI request or there is more than one investor submitting application but only one investor meeting the requirements of the EOI request, procedures for investor approval shall be followed as prescribed in the Law on Investment;

c) If there is no investor submitting application or no investor meeting the requirements of the EOI request, a written notice of termination of procedures for invitation for EOI shall be given.

2. For a project specified in point a clause 1 of this Article, the competent person shall consider giving approval of the investor selection progress schedule as prescribed in Article 12 of this Decree. The approval includes decisions on the procuring entity, method and procedure for bidding for investor selection, and starting time of the investor selection process. The method of bidding for investor selection shall be determined according to the following provisions:

a) Domestic competitive bidding method will be employed if there is no foreign investor submitting application for project execution or no foreign investor meeting the requirements of the EOI request as prescribed in point dd clause 2 Article 11 of the Law on Bidding;

b) International competitive bidding method will be employed if there is at least a foreign investor meeting the requirements of the EOI request.

3. In the case prescribed in point c clause 1 of this Article, the competent person shall give a written notice of termination of procedures for invitation for EOI and consider following one of these procedures:

a) Re-follow procedures for invitation for EOI within a time limit decided by the competent person;

b) Review and modify the EOI request in a manner that still ensures the compliance of the EOI request with the decision on approval of investment guidelines or written approval of the project information, and re-follow procedures for invitation for EOI.

4. Based on the decision issued by the competent person as prescribed in clause 1 of this Article, the EOI requester shall publish the invitation for EOI result, the investor selection progress schedule or written notice of termination of procedures for invitation for EOI on VNEPS.

Article 44. Process of bidding for investor selection

The process of the competitive bidding for investor selection shall comply with provisions of Section 2 through 7 Chapter II or III of this Decree.

Chapter V

BID EVALUATION METHODS AND CRITERIA

Article 45. Evaluation methods

1. Bids submitted by investors shall be evaluated adopting the methods and criteria in Article 62 of the Law on Bidding and sub-criteria in Articles 46 through 49 of this Decree. Bids shall be evaluated on the scale of 100 or 1.000 points.

2. For a project prescribed in clause 1 Article 4 of this Decree, a combined score is the sum of capacity and experience score, investment and business plan score, and land use efficiency score. The proportion of each score shall be as follows:

a) Capacity and experience score accounts for 20% - 30% of total score;

b) Investment and business plan score accounts for 20% - 30% of total score;

c) Land use efficiency score accounts for 40% - 60% of total score.

3. For a project prescribed in clause 2 Article 4 of this Decree (except the projects in clauses 4 and 7 of this Article), a combined score is the sum of capacity and experience score, investment and business plan score, and score of investment efficiency in sector/industry/local development. The proportion of each score shall be as follows:

a) Capacity and experience score accounts for 30% - 40% of total score;

b) Investment and business plan score accounts for 30% - 50% of total score;

c) Score of investment efficiency in sector/industry/local development accounts for 10% - 40% of total score.

4. For an energy project prescribed in point i clause 2 Article 4 of this Decree, a combined score is the sum of capacity and experience score, investment and business plan score, and score of investment efficiency in sector/industry/local development. The proportion of each score shall be as follows:

a) Capacity and experience score accounts for 5% - 10% of total score;

b) Investment and business plan score accounts for 5% - 10% of total score;

c) Score of investment efficiency in sector/industry/local development accounts for 80% - 90% of total score.

5. An investor is required to achieve the following minimum scores to be further evaluated and ranked:

a) The required minimum combined score is 70% of total score;

b) The required minimum score of a sub-criterion is 60% of its maximum score. For a project applying

the single-stage two-envelope bidding procedure, the required minimum score of each of the sub-criteria specified in Articles 46 and 47 of this Decree is 70% of its maximum score;

c) The required minimum score of a criterion is 50% of its maximum score.

The investor that has achieved the minimum score required for each of the criteria specified in this Clause and the highest combined score shall be ranked first.

6. For a project which has specific business, investment, management and sector or industry development requirements as prescribed in the Law on Investment and specialized sector or industry law, the bidding documents shall impose one or some specific criteria for evaluation of the investor's investment and business plan or land use efficiency, or investment efficiency in sector/industry/local development without developing a point scale for these criteria.

7. For a project on construction of social housing or housing for people's armed force, the point scale, score and criteria for evaluation shall comply with provisions of the Housing Law.

Article 46. Capacity and experience evaluation criteria

1. Criteria for evaluation of an investor's financial and funding arrangement capacity consist of:

a) Equity which is determined on the basis of total investment of the project;

The minimum equity required for a real estate project or any of the projects specified in points d, dd, h and k clause 2 Article 4 of this Decree shall be determined in accordance with regulations of the Law on Real Estate Business.

The equity of a consortium investor is the sum of equity amounts of all members of the consortium and each member shall meet the requirements corresponding to its contribution to the consortium's equity under the consortium agreement. The lead member of the consortium must hold at least 30% of the equity. Each member of the consortium must hold at least 15% of the equity.

b) Investor's capacity to raise borrowed capital. The borrowed capital of a consortium investor is the sum of borrowed capital amounts of all members of the consortium;

c) Financial indicators (if any).

2. Criteria for evaluation of an investor's experience in executing similar projects are established on the basis of investment area and scale, time and level of finishing of work items/projects, and consist of:

a) Experience in investment in and construction of similar projects/ work items;

b) Experience in operating and running business of similar projects/ work items (applicable to a project with specific operation and business requirements to provide products/services, in conformity with the objectives, nature and management requirements of each project);

c) Experience of key personnel and equipment as required by specialized sector or industry law;

f) History of disputes and lawsuits against finished and in-progress projects;

dd) History of the investor's suspended or terminated investments in the province or central-affiliated city where the project will be executed (if any).

3. In case of a consortium, the consortium investor's experience in executing similar projects as prescribed in clause 2 of this Article is determined taking into account total projects executed by all members of the consortium.

4. The investor is allowed to use experience of its partners to prove its experience in executing similar projects as prescribed in clause 2 of this Article. Partners are organizations entering into contracts with the investor or the investor's subsidiaries that are recommended in the investor's bid to engage in the execution of the investment project involving land use. In this case, the partner's experience and capacity to fulfill tasks must be evaluated according to the requirements laid down in the bidding documents.

5. In case of domestic bidding for a project to which the application of advanced technologies and/or international management experience is encouraged, the bidding documents may include a provision that the investor is allowed to choose a partner that is a foreign contractor.

6. Regarding an investment project involving land use for which procedures for invitation for EOI have been completed and there are at least two investors meeting the requirements of the EOI request as prescribed in point a clause 1 Article 43 of this Decree, capacity and experience evaluation criteria set out in the bidding documents must be updated and modified on the basis of the approved EOI request, clauses 1 through 5 of this Article and the documents specified in Article 13 of this Decree.

Article 47. Criteria for evaluation of investor's investment and business plan

1. Technical evaluation criteria:

- a) The conformity of the investor's investment and business plan (in terms of scope, scale, preliminarily estimated total costs, project's duration, execution schedule, investment phasing, space and architectural/landscape diagrams which must be in line with overall layout of the construction works) with the planning approved by a competent authority in accordance with regulations of law on planning, law on construction, specialized sector or industry law, and relevant laws;
- b) Feasibility of solutions for applying technologies proposed by the investor (if any); technology transfer requirements (if any);
- c) Satisfaction of business conditions as prescribed in the Law on Investment and specialized sector or industry law (if any); requirements concerning the plan to put the project into operation;
- d) For a project on construction of mixed-purpose urban areas, technical evaluation criteria include those specified in points a, b, c of this clause and the requirements regarding the synchronization of technical and social infrastructure systems with housing system as prescribed in laws on construction, urban management and housing for construction of new urban areas or urban renovation and gentrification; the conformity of the investment plan proposed by the investor with housing development program/plan;
- dd) For a project on apartment building renovation or re-construction, technical evaluation criteria include those specified in points a, b, c of this clause and the requirements regarding the project's duration and deadline for completion of compensation, support, relocation and temporary residence tasks, the conformity of the investment plan proposed by the investor with housing development program/plan, and apartment building renovation or re-construction plan as prescribed in the Housing Law;
- e) For a project on construction of solid domestic waste treatment facilities, technical evaluation criteria include those specified in points a, b, c of this clause and the requirements concerning the conformity of technologies proposed by the investor with criteria of technologies for solid domestic waste treatment, and quality of solid domestic waste treatment services rendered by the investor in accordance with regulations of law on environmental protection;
- g) For a project on horse and dog racing courses that also provide horse and dog racing betting services, technical evaluation criteria include those specified in points a, b, c of this clause and the requirements concerning the compliance of the plan for investment in betting systems and the plan for provision of betting services with regulations of law on betting on horse and dog racing and international football;
- h) For a project on construction of water supply facilities, technical evaluation criteria include those specified in points a, b, c of this clause and the requirements concerning quality of clean water, water loss reduction and assurance of safe, stable and uninterrupted water supply as prescribed in regulations of law on production, supply and consumption of clean water;
- i) For a project on construction of aviation service facilities at an airport or aerodrome, technical evaluation criteria include those specified in points a, b, c of this clause and the requirements concerning main functions of the facility, synchronization of technical and landscape infrastructure systems and the general layout, continuity of services (if any);
- k) For a project in fields in which private sector involvement is encouraged, technical evaluation criteria include those specified in points a, b, c of this clause and the requirements concerning quality of goods/services provided by the investor, compliance of the investment plan proposed by the investor with regulations on types, criteria, scale and standards of establishments in which private sector involvement is encouraged, solutions for use of advanced and modern equipment and high technologies in medical examination and treatment (for a project in health sector);
- l) For a market construction project, technical evaluation criteria include those specified in points a, b, c of this clause and the requirements concerning the compliance of the investment plan proposed by the investor with criteria, standards and technical regulations on markets, technical requirements and solutions for ensuring public order and security, fire fighting and prevention, food safety and environmental hygiene;
- m) For an energy project, technical evaluation criteria include those specified in points a, b, c of this clause and other standards as prescribed by the Ministry of Industry and Trade of Vietnam (if any).

2. Social evaluation criteria:

- a) Requirements concerning the plan and funding for compensation, support and relocation tasks as prescribed in the Land Law (if any);

In case the investor is required to advance funding for covering compensation, support and relocation costs, the bidding documents must also include the rules for paying compensation, support and relocation costs in accordance with regulations of the Land Law. The investor must provide a commitment in its bid that it will advance funding for covering compensation, support and relocation costs according to the requirements of the bidding documents of the competent authority on the basis

of the approved compensation, support and relocation plan as prescribed in the Land Law;

b) Requirements concerning provision of social welfare for local workers by means of use of local workers, human resource training, average income and average income growth rate; provision of social assistance services for social protection beneficiaries or other social welfare services provided by the investor for local area to meet demands of local area where the project will be to executed;

c) For a project in health or education sector in which private sector involvement is encouraged, social evaluation criteria include those specified in points a and b of this clause and the requirements concerning satisfaction of demands and provision of healthcare, education and training benefits for people;

d) For a market construction project, social evaluation criteria include the criterion specified in point a of this clause and the requirements concerning provision of social welfare and security benefits to meet local demands (including trading and consumption of goods of local residents; creation of jobs for local residents; financial contributions, commitments to develop markets in ethnic minority and mountainous regions, if selected); measures or plans for improving quality of services at markets (provision of training for workers, traders and household businesses at markets in food safety, civilization of commerce, selling skills, and application of digital skills to sale of goods in order to improve quality of services at markets);

dd) For a project on apartment building renovation or re-construction, social evaluation criteria include the criterion specified in point b of this clause and the requirements concerning the compensation and relocation plan which must include some contents proposed by the procuring entity in accordance with regulations of the Housing Law for each specific project in conformity with the plan approved under the EOI request.

3. Environmental evaluation criteria:

The procuring entity/expert team shall establish environmental evaluation criteria in the bidding documents in conformity with the project execution requirements, including one, some or all of the following:

a) Requirements concerning the conformity of goods/services supplied with regulations of law on environment, reduction of waste discharged, and promotion of eco-friendly products/services;

b) Requirements concerning environmental protection, clean production and energy saving;

c) Requirements concerning land use targets and coefficient as prescribed in laws on land and construction; use of natural resources as prescribed by law; biodiversity conservation, improvement of soil, natural resources and natural ecosystems at the region where the project is executed as prescribed in the Law on environmental protection;

d) Requirements concerning solutions for minimizing adverse impacts on the environment, transfer and application of advanced technologies, high technologies, eco-friendly technologies and/or best available techniques (for a project which poses high risk of adverse environmental impacts as prescribed in the Law on environmental protection).

Article 48. Criteria for evaluation of land use efficiency

1. Criteria for evaluation of land use efficiency apply to the project prescribed in clause 1 Article 4 of this Decree and are specified in the bidding documents on the basis of the minimum payment to state budget (m) prescribed in clause 3 of this Article.

2. The investor shall propose the rate of payment to state budget in its bid (M) based on the minimum payment to state budget (m) specified in the bidding documents, provided that $M \geq m$.

3. Minimum payment to state budget is the average increase per area after the auction of land use rights (LURs), expressed as a percentage, of all reference land zones, land banks and land parcels as prescribed in clause 4 of this Article, and is calculated adopting the following formula:

$$m = \frac{\sum_{i=1}^n \frac{X_i - Y_i}{Y_i}}{n} \times 100\%$$

Where:

X_i : the winning price of the auction for LURs over the reference land zone, land bank or land parcel i.

Y_i : the starting price of the auction for LURs over the reference land zone, land bank or land parcel i.

n: number of reference land zones, land banks and land parcels.

4. A reference land zone, land bank or land parcel must meet the following conditions:

a) It has the same purpose of use as the land bank which will be used for executing the subject project. In case the land bank to be used for executing the project is used for multiple purposes, a land

zone, land bank or land parcel which is used to serve any of the purposes of the land bank to be used for executing the subject project may be used as reference;

b) It has been successfully auctioned and the auction winner has fulfilled financial obligations to the State in accordance with regulations of the Land Law within 03 years preceding the day on which a decision on approval of investment guidelines is issued or a written approval of project information is given;

c) It is located in a similar geographical area to the land zone, land bank or land parcel to be used for executing the subject project as prescribed in clause 5 of this Article.

5. The reference land zone, land bank or land parcel is considered to be located in a similar geographical area to the land zone, land bank or land parcel to be used for executing the subject project if:

a) It is located in the same district-level administrative division where the subject project will be executed. If a project involves at least two district-level administrative divisions, all land zones, land banks or land parcels in these district-level administrative divisions may be used as reference;

b) In case the district-level administrative division where the subject project will be executed has no land zone, land bank or land parcel meeting the conditions in point b clause 4 of this Article, a land zone, land bank or land parcel in another district-level administrative division which borders and belongs to the same province or central-affiliated city as the district-level administrative division where the subject project will be executed shall be used as reference. In case the district-level administrative division where the subject project will be executed borders more than one district-level administrative division, determination of the reference district-level administrative division shall be subject to the competent person's decision.

If the bordering district-level administrative division has no land zone, land bank or land parcel which can be used as reference, land zones, land banks or land parcels in other district-level administrative divisions of the same province or central-affiliated city shall be used as reference;

c) In case the provincial-level administrative division where the subject project will be executed has no land zone, land bank or land parcel meeting the conditions in point b clause 4 and point b of this clause, a land zone, land bank or land parcel which has been successfully auctioned in 04 - 07 years preceding the day on which a decision on approval of investment guidelines is issued or a written approval of project information is given, and is located in a similar geographical area as prescribed in point a or b of this clause shall be used as reference. The reference time shall be decided by the competent person.

6. In case there is no land zone, land bank or land parcel which can be used as reference as prescribed in clauses 4 and 5 of this Article, the average increase in payments to state budget of all investment projects involving land use located in the same provincial-level administrative division which have been successfully bidden for in 05 years preceding the day on which a decision on approval of investment guidelines is issued or a written approval of project information is given.

7. In case reference land zones, land banks and land parcels cannot be determined as prescribed in clauses 4, 5 and 6 of this Article for calculating the minimum payment to state budget (m), this value shall not be stipulated in the bidding documents. The investor shall itself propose the rate of payment to state budget in its bid (M) as the basis for evaluation of its bid and making payment to state budget as prescribed in clause 8 of this Article.

8. Payment of value M to state budget shall be subject to the following provisions:

a) Payment to state budget is calculated on the basis of the value M proposed by the investor in its bid and the land levy/land rent paid to state budget by the successful investor as prescribed in the Land Law, and adopting the following formula:

Payment to state budget at time of payment of land levy/land rent = M x Land levy/land rent payable by the investor at time of payment of land levy/land rent

b) The value prescribed in point a of this clause is paid to state budget according to the method, procedures and deadline for payment of land levy/land rent prescribed in the Land Law. The obligation to pay this value is separated from the obligation to pay land levy/land rent and other financial obligations towards state budget to be fulfilled by the investor in accordance with regulations of law;

c) The method, schedule and deadline for payment of the value prescribed in point a of this clause are specified in the contract.

9. Based on the functions, tasks and powers of the specialized agency affiliated to the competent authority as prescribed by law and specific conditions of each locality, the Chairperson of the provincial People's Committee shall assign a land authority to take charge and cooperate with the procuring entity in making statistical report on reference land zones, land banks and land parcels as prescribed in clauses 4 and 5 of this Article as the basis for determination of the value m in the bidding documents.

If authorized to approve the bidding documents, the Chairperson of the district-level People's Committee or head of a specialized agency or an affiliated agency of the provincial People's Committee, or head of economic zone management board shall assign a competent land authority to take charge of making statistical report on reference land zones and land banks as prescribed in clauses 4 and 5 of this Article as the basis for determination of the value m in the bidding documents.

Article 49. Criteria for evaluation of investment efficiency in sector/industry/local development

1. Criteria for evaluation of investment efficiency in sector/industry/local development apply to the projects specified in clause 2 Article 4 of this Decree. Based on the sector/industry/local development requirements, except the projects specified in clauses 2, 3 and 4 of this Article, the criteria for evaluation of investment efficiency in sector/industry/local development shall be established on the basis of one of the following:

- a) Minimum cash payment to state budget;
- b) Minimum rate of revenues paid to state budget;
- c) Price bracket and maximum price as prescribed in the Pricing Law and/or specialized sector or industry law;
- d) Minimum number of not-for-profit public works which is determined based on the list of projects and works needing investments in the local area where the subject project will be executed;
- dd) Minimum value of social assistance services or other social welfare services provided for social protection beneficiaries which is determined in cash or expressed as the number of beneficiaries based on the list of social protection beneficiaries or social assistance services of the local area where the subject project will be executed;
- e) Maximum limits on types, toxicity and total amount of pollutants released to the environment as prescribed in the Law on Environmental Protection;
- g) Maximum area of land used and land use coefficient.

2. For an energy project, the criteria for evaluation of investment efficiency in sector/industry/local development include the ceiling electricity price which must be lower than the ceiling price of the price bracket issued by the Ministry of Industry and Trade of Vietnam and pricing rules unanimously agreed with the power purchaser in accordance with regulations of law on electricity and specified in the bidding documents.

3. For a project on construction of aviation service facilities at an airport or aerodrome, the criterion for evaluation of investment efficiency in sector/industry/local development is the minimum payment to state budget which is specified in the bidding documents and determined as follows:

a) Within the first 05 years from the day on which the project is put into operation and aviation services are provided, the bidding documents shall not impose the minimum payment to state budget. The investor proposes the payment to state budget in the unit prescribed in the bracket of prices for franchising aviation services corresponding to each service.

The cash payment to state budget shall be determined according to the value proposed by the investor in its bid as prescribed in this point;

b) From the sixth year onwards, the bidding documents imposes the minimum payment to state budget which is the mean value of the minimum price and the maximum price in the announced bracket of prices for franchising aviation services corresponding to each service in accordance with regulations of law on civil aviation. The investor shall propose an increase in the minimum payment to state budget.

The cash payment to state budget equals the minimum payment specified in the bidding documents plus the increase proposed by the investor in its bid as prescribed in this point;

c) The procuring entity determines the proportion of scores of the criteria specified in points a and b of this clause;

d) During the performance of the contract, if the State makes any changes in the bracket of prices for franchising aviation services, the minimum value specified in point b of this clause shall be changed accordingly. The increase proposed by the investor in its bid remains unchanged.

4. For a project on apartment building renovation or re-construction, the criterion for evaluation of investment efficiency in sector/industry/local development is the maximum period during which the investor will transfer housing to serve relocation in accordance with regulations of the Housing Law as prescribed in the bidding documents.

5. Values and rates specified in points a, b clause 1 and points a, b clause 3 of this Article are separated from the investor's obligations to state budget as prescribed by law.

6. Payment of the values specified in points a, b clause 1 and points a, b clause 3 of this Article to

state budget is subject to the following provisions:

- a) The payment to state budget is determined according to the value proposed by the investor in its bid;
- b) The method, schedule and deadline for payment of the value prescribed in point a of this clause are specified in the contract.

7. For a project specified in clause 1 Article 4 of this Decree, in addition to the criteria specified in Article 48 of this Decree, the bidding documents may also include the criterion in point d or point dd clause 1 of this Article. In this case, the bidding documents must specify the corresponding proportion of the score of the criterion in point d or point dd clause 1 of this Article which shall not exceed 10% of the score specified in point c clause 2 Article 45 of this Decree.

8. The value of the investment efficiency in sector/industry/local development proposed by the investor in its bid shall be neither lower than the minimum value nor higher than the maximum value or ceiling value according to the evaluation criteria specified in the bidding documents.

Article 50. Contract awarding rules

1. An investor may be considered successful and awarded the contract if the investor:

- a) has a substantially responsive bid;
- b) meets capacity and experience requirements;
- c) meets requirements regarding the investment and business plan;
- d) meets requirements regarding land use efficiency (if the criteria for evaluation of land use efficiency are applied);
- dd) meets requirements regarding investment efficiency in sector/industry/local development (if the criteria for evaluation of investment efficiency in sector/industry/local development are applied);
- e) has the highest combined score of capacity and experience, investment and business plan, and land use efficiency/ investment efficiency in sector/industry/local development criteria.

2. The notice of investor selection result sent to an unsuccessful investor must provide the reasons that its bid was unsuccessful.

Chapter VI

EXECUTION OF INVESTMENT PROJECTS INVOLVING LAND USE

Article 51. Establishment of economic organization executing investment project involving land use of successful investor

1. The successful investor shall directly execute the investment project involving land use or establish an economic organization in charge of executing the project. If a foreign investor wins the bid, it shall be required to establish an economic organization in order to have land allocated or leased for executing the project in accordance with regulations of the Land Law.

Establishment, management, operation and dissolution of the economic organization established by the successful investor for executing the investment project involving land use shall comply with regulations of law applicable to the business type of such economic organization, the Law on Investment, the Law on Enterprises, the Land Law, the Law on Real Estate Business and specialized sector or industry law.

2. If an economic organization is established to execute the investment project involving land use as prescribed in clause 1 of this Article, the investor must include information on such establishment in its bid.

3. The economic organization established by the successful investor as prescribed in clauses 1 and 2 of this Article shall be wholly owned by the investor, and be required to meet land allocation/land lease conditions set out in the Land Law and conditions for establishment, management, operation and dissolution set out in regulations of law applicable to the business type of such economic organization, the Law on Investment, the Law on Enterprises, the Land Law, the Law on Real Estate Business and specialized sector or industry law.

4. The economic organization established by the successful investor shall have the following rights and obligations:

- a) Have land allocated or leased by the State to execute the investment project involving land use in accordance with regulations of the Land Law;
- b) Inherit rights and obligations of the successful investor according to the commitments in its bid, and terms and conditions of the project contract;
- c) Fulfill financial obligations regarding land levy/land rent in accordance with regulations of the Land

Law.

Article 52. Execution of investment project involving land use by successful investor or economic organization established by successful investor

1. The successful investor or the economic organization established by the successful investor shall organize the execution of the investment project involving land use in accordance with terms and conditions of the project contract, and provisions of the Law on Enterprises, the Law on Investment, the Law on Construction, the Land Law, the Law on Real Estate Business and relevant laws.

2. The successful investor or the economic organization established by the successful investor shall advance funding for covering compensation, support and relocation costs in accordance with regulations of the Land Law. If it fails to advance funding by the prescribed deadline from its receipt of the request from a competent authority, the performance security furnished by the investor shall be forfeited as prescribed in point b clause 4 Article 75 of the Law on Bidding. In this case, reimbursement of funding advanced by the successful investor to cover compensation, support and relocation costs shall comply with provisions of the Land Law.

3. During the execution of the investment project involving land use, the successful investor or the economic organization established by the successful investor shall be allowed to transfer partial or entire project if it satisfies:

a) the conditions set out in the Law on Investment; the Law on Real Estate Business (applicable to real estate projects); specialized sector or industry law and relevant laws;

b) the conditions set out in clause 2 Article 76 of the Law on Bidding.

4. Transfer of shares/stakes by shareholders/members of the economic organization established by the successful investor before the project is put into official operation may be carried out if the following conditions are met:

a) The transfer is approved by the competent person;

b) The transferee must have legal status and meet relevant operational conditions set out in regulations of law applicable to the business type of the economic organization, the Law on Investment, the Law on Enterprises, the Land Law, the Law on Real Estate Business and specialized sector or industry law; have capacity and experience in proportion to the number of shares/stakes to be received (if a part of the project is transferred) or have capacity and experience equivalent to or higher than those of the transferor (if the entire project is transferred); inherit rights and obligations to execute the project as undertaken by the transferor in its bid and the project contract;

c) In addition to the conditions in points a and b of this clause, an investor that receives shares/stakes transferred by a consortium member must also meet the minimum equity requirement for each consortium member laid down in point a clause 1 Article 46 of this Decree.

From the day on which the project is put into official operation, the transfer of shares/stakes shall comply with regulations of the Law on Enterprises, regulations of law applicable to the business type of the economic organization without requiring satisfaction of the conditions set out in this clause.

5. Transfer of the investment project involving land use and transfer of shares/stakes of the economic organization as prescribed in clauses 3 and 4 of this Article must be specified in the contract.

Based on terms and conditions of the contract and opinions given by the procuring entity about the investor that wishes to receive the transfer, the competent person consider approving the application for transfer of the investment project involving land use or transfer of shares/stakes of the economic organization.

If an application for transfer is approved, the competent person shall assign the procuring entity to review and modify the contract.

6. In case the transfer of the project or shares/stakes prescribed in clauses 3 and 4 of this Article results in modification of the investment project, after obtaining an approval from a competent person as prescribed in clause 5 of this Article, the transferor (i.e. the investor or the economic organization established by the investor) shall follow procedures for modification of the investment project in accordance with regulations of the Law on Investment and relevant laws before making modifications to the project contract.

7. The successful investor or the economic organization established by the successful investor shall be required to fulfill all financial obligations to the State that arise from the transfer of the project or shares/stakes prescribed in clauses 3 and 4 of this Article.

8. The successful investor or the economic organization established by the successful investor is entitled to make capital contribution or increase their charter capital for executing other investment projects (if any) provided that there is no change in rights and obligations undertaken by the investor in its bid and the project contract.

9. During the execution of the investment project involving land use, if the investment project whose investment guidelines require approval must be modified as prescribed in point a clause 1 Article 76 of the Law on Bidding (except the cases prescribed in clauses 3 and 4 of this Article) or any modifications to the investment project whose investment guidelines do not require approval result in changes in the project contract, the competent person shall assign the procuring entity to consider and evaluate technical and financial capacity of the investor.

In this case, the investor must meet technical and financial requirements for executing the modified investment project. If the investor meets technical and financial requirements, the competent person shall assign the procuring entity to instruct the investor or the economic organization established by the investor to follow procedures for modification of the investment project in accordance with regulations of the Law on Investment, and assign the procuring entity to review the project contract for making modifications thereto after the project has been modified.

Article 53. Execution of investment projects involving land use by investors approved as prescribed in Law on Investment

1. An investor shall be approved to execute an investment project involving land use according to the investor approval decision and regulations of the Law on Enterprises, the Law on Investment, the Law on Construction, the Land Law, the Law on Real Estate Business, specialized sector or industry law and relevant laws.

2. The approved investor shall directly execute the investment project involving land use or establish an economic organization in charge of executing the project. Establishment, management, operation and dissolution of the economic organization established by the approved investor for executing the investment project involving land use shall comply with regulations of law applicable to the business type of such economic organization, the Law on Investment, the Law on Enterprises, the Land Law, the Law on Real Estate Business and specialized sector or industry law.

3. The approved investor shall have land allocated/leased by the State and fulfill financial obligations regarding land levy/land rent in accordance with regulations of the Land Law.

Chapter VII

CONTENTS OF APPRAISAL AND RESPONSIBILITY TO CARRY OUT APPRAISAL AND APPROVAL DURING INVESTOR SELECTION

Article 54. Appraisal of bidding documents

1. Documents submitted for appraisal/approval include:

- a) A written request for approval of bidding documents made by the procuring entity;
- b) The draft bidding documents;
- c) Photocopies of the decision on approval of investment guidelines (for a project whose investment guidelines require approval in accordance with regulations of the Law on Investment) or written approval of the project information (for a project whose investment guidelines do not require approval);
- d) Other documents as prescribed in the specialized sector or industry law and relevant laws.

2. Contents of appraisal:

- a) Examine legal grounds and documents used as the basis for preparing the bidding documents;
- b) Examine the suitability of the bidding documents for the scale, objectives, scope of tasks, and duration of the project; the compliance of the bidding documents with regulations of the Law on Bidding and relevant laws;
- c) Consider dissenting opinions (if any) given by entities participating in the preparation of the bidding documents;
- d) Other relevant contents.

3. Contents of appraisal report:

- a) Overview of the project information and legal grounds for preparing the bidding documents;
- b) Summation of opinions given by relevant agencies/units (if any).
- c) Comments and opinions of the appraisal team about the contents specified in clause 2 of this Article; assenting or dissenting opinions about the draft bidding documents;
- d) Proposals and recommendations of the appraisal team for approval of the bidding documents; proposed remedial measures against the bidding documents whose contents are found unconfirmable with regulations of the Law on Bidding and relevant laws; recommendations on the case where there are no grounds for approval of the bidding documents;
- dd) Other opinions (if any).

4. Before the appraisal report is signed, the appraisal team may convene a meeting with relevant parties to discuss and consider the contents of the bidding documents given dissenting opinions (where necessary).

Article 55. Appraisal of investor selection result

1. Documents submitted for appraisal/approval include:

- a) A written request for approval of investor selection result made by the procuring entity;
- b) Bid evaluation report made by the expert team;
- c) Photocopies of the bidding documents, the bid closing record, the bid opening record, bids of investors and other relevant documents.

2. Contents of appraisal:

- a) Examine the documents used as the basis for organization of the bidding for investor selection;
- b) Inspect the punctuality during the process of bidding for investor selection;
- c) Inspect the bid evaluation; compliance with regulations of the Law on Bidding and relevant laws during the bid evaluation;
- d) Consider dissenting opinions (if any) between the procuring entity and the expert team; or between members of the expert team;
- dd) Other relevant contents.

3. Contents of appraisal report:

- a) Overview of the project information and legal grounds for organization of bidding for investor selection;
- b) Summary of the investor selection process and the procuring entity's recommendations on the investor selection result;
- c) Summation of opinions given by relevant agencies/units (if any);
- d) Comments and opinions of the appraisal team about the contents specified in clause 2 of this Article, and the achievement of objectives of ensuring competitiveness, fairness, transparency, economic efficiency and accountability during the bidding for investor selection; assenting or dissenting opinions about the investor selection result;
- dd) Proposals and recommendations of the appraisal team for approval of the investor selection result; proposed remedial measures against non-compliance with regulations of the Law on Bidding and relevant laws during the bidding for investor selection; recommendations on the case where there are no grounds for approval of the investor selection result;
- e) Other opinions (if any).

Article 56. Responsibilities of Ministers, heads of ministerial agencies, Chairpersons of provincial People's Committees, and heads of economic zone management boards

1. Consider approving invitation for EOI results and investor selection results.

2. Consider approving EOI requests.

3. Consider approving the bidding documents or authorize the heads of agencies affiliated to Ministries or ministerial agencies, specialized agencies, agencies affiliated to provincial People's Committees or economic zone management boards or district-level People's Committees to consider approving the bidding documents.

4. Perform other tasks of competent persons as prescribed in Article 77 of the Law on Bidding;

Article 57. Responsibilities of heads of agencies affiliated to Ministries or ministerial agencies, specialized agencies, agencies affiliated to provincial People's Committees or economic zone management boards or district-level People's Committees

1. Perform tasks under the responsibility of the procuring entity as prescribed in Article 79 of the Law on Bidding; consider approving the list of technically responsive investors.

2. Perform tasks under the responsibility of the EOI requester as prescribed in clause 4 Article 37 of this Decree.

3. Perform other investor selection-related tasks with authorization of competent authorities.

Article 58. Responsibilities of appraisal teams

1. Each Provincial Department of Planning and Investment shall organize appraisal of the following contents:

a) The bidding documents for the projects in which the Chairperson of the provincial People's Committee acts as the competent person, except the cases specified in clause 3 of this Article;

b) Investor selection results for the projects in which the Chairperson of the provincial People's Committee acts as the competent person.

2. An agency/unit assigned by a Minister, head of ministerial agency or head of economic zone management board to take charge of appraisal tasks shall organize appraisal of the following contents:

a) The bidding documents for the projects in which the Minister, head of ministerial agency or head of economic zone management board acts as the competent person, except the cases specified in clause 3 of this Article;

b) Investor selection results for the projects in which the Minister, head of ministerial agency or head of economic zone management board acts as the competent person.

3. In case the procuring entity is authorized to consider approving the bidding documents as prescribed in point d clause 2 Article 79 of the Law on Bidding and clause 3 Article 56 of this Decree, it shall establish an appraisal team or assign its affiliated unit to organize appraisal of the bidding documents.

4. The organization or individual vested with appraisal tasks may employ a consultant with appropriate capacity and experience to perform such appraisal tasks if it is incapable of doing so.

Chapter VIII

HANDLING OF SITUATIONS, INSPECTION AND SUPERVISION OF BIDDING FOR INVESTOR SELECTION

Article 59. Handling of certain situations in investor selection

1. At the bid closing time, if there is no application for project execution or bid is received, the EOI requester or the procuring entity shall request the competent person to consider handling the case adopting any of the following methods:

a) Allow extension of the deadline for submission of bids for up to 30 days;

b) Decide cancellation of invitation for EOI or invitation for bid, and request the EOI requester or the procuring entity to modify the EOI request or bidding documents and re-organize the investor selection.

2. At the bid closing time, if there are less than 03 investors submitting applications for project execution or bids, the EOI requester or the procuring entity shall request the competent person to consider handling the case within 24 hours from the bid closing time adopting any of the following methods:

a) Allow extension of the deadline for submission of bids, review and modify the EOI request or bidding documents (where necessary) for the purpose of increasing the number of investors applying for project execution or submitting bids. In this case, investors must be provided with the new deadline for submission of bids and corresponding time limits for making modifications or adding additional information to their submitted applications for project execution or bids. If the EOI request or bidding documents are modified, investors that have submitted applications for project execution or bids are entitled to modify, replace or withdraw their submitted applications or bids;

b) Allow immediate opening of bids to carry out bid evaluation.

3. If the bidding documents are found to have information that leads to unclear or different interpretations during the bid evaluation or may falsify the investor selection result, the procuring entity shall request the competent person to consider handling the situation according to the following steps:

a) Modify and clarify the bidding documents, provided that such modifications and clarifications must not be contrary to the decision on approval of investment guidelines (for a project whose investment guidelines require approval) or written approval of the project information (for a project whose investment guidelines do not require approval), regulations of the Law on Bidding and specialized sector or industry law;

b) Notify all investors whose bids have been submitted of modification of the bidding documents and request them to submit additional bids for modified contents or other contents of their bids which are affected by modifications to the bidding documents (where necessary);

c) Organize re-evaluation of bids.

4. Upon completion of the shortlisting procedure for an investment project involving land use to which the limited bidding method is applied, if there are less than 03 investors meeting the project's requirements, the procuring entity shall request the competent person to consider approving the shortlist containing less than 03 investors.

5. Upon completion of the bid evaluation, if there are at least two investors achieving the same combined score which is also the highest score, the investor achieving the higher land-use efficiency score, for a project in clause 1 Article 4 of this Decree, or the higher capacity and experience score, for any of the projects in points a, b, c, d, dd, e, g, h and k clause 2 Article 4 of this Decree, or the higher score of investment efficiency in sector/industry/local development, for a project in point i clause 2 Article 4 of this Decree, shall be proposed for contract award.
6. At the time of signing of contract, if the successful investor no longer is no longer technically and/or financially qualified to execute the investment project involving land use as prescribed in the bidding documents, the next-ranked investor shall be invited to negotiate and complete the contract. In this case, the investor invited to the contract negotiation and completion shall be required to restore the validity of its bid and bid security if its bid has expired and its bid security has been returned or released.
7. In case there is a change in holding ratio of equity of a consortium investor that wins the bid but has not yet signed the project contract or the signed project contract is not yet effective, the procuring entity shall evaluate and update information on the investor's capacity as prescribed in Article 46 of this Decree in order to ensure that the requirements regarding the investor's capacity and the minimum holding of equity of each consortium member are satisfied as prescribed in Article 46 of this Decree. After the investor's capacity information has been updated, the procuring entity shall request the competent person to consider making decision to follow subsequent procedures as prescribed in this Decree.
8. If VNEPS encounters a problem requiring a long time to complete troubleshooting, the Ministry of Planning and Investment of Vietnam shall notify on VNEPS the guidelines for investor selection, including organization of offline investor selection, during the system failure and troubleshooting.
9. In case the EOI requester/procuring entity finds that the information it posted on VNEPS is different from the approved one before the bid closing time, the EOI requester/procuring entity shall request the competent person to remove such incorrect information for re-posting the correct one.
10. In case its branch, factory or representative office is split from the juridical person as prescribed in the Civil Code, the receiving investor or the investor that is established from the branch, factory or representative office shall inherit capacity and experience in bidding of such a branch, factory or representative office.
11. If a partner proposed by the investor in its bid is unable to engage in the contract performance as a result of force majeure event, the investor may replace another partner whose capacity and experience must be substantially equal to or better than the partner originally proposed in its bid, provided that such replacement shall not affect any of the proposals in its bid. In this case, the procuring entity shall consider evaluating the partner's capacity and experience according to the requirements of the bidding documents, and submit a report to the competent person for consideration and decision.
12. For a project for which projects with similar total investment are unavailable, based on data on projects for which investors have been successfully selected available on VNEPS, the EOI requester/procuring entity shall request the competent person to consider including in the EOI request/bidding documents the requirements regarding experience in executing similar projects which shall not be less than 90% of those included in the EOI request/bidding documents of the project in the same sector or industry whose total investment is most comparable to that of the subject project. In this case, the competent person may stipulate the value of the performance security which is 3% of total investment of the project.
13. For a project to which the application of advanced technologies, high technologies, eco-friendly technologies and/or best available techniques is required for reducing environmental pollution, the investor is entitled to use projects/works which it has directly executed and of which it makes capital contribution to equity and technologies have been successfully applied to prove its experience in executing similar projects/works. Similar projects must be supported with documents proving that technologies/techniques have been recognized as prescribed in the specialized sector or industry law and other relevant laws. In this case, the competent person may stipulate the value of the performance security which is 3% of total investment of the project.
14. In case the phasing of the project execution duration is included in the decision on approval of the project's investment guidelines, the procuring entity shall request the competent person to consider including in the bidding documents the provision that the performance security shall be returned in each stage of the project as agreed upon in the project contract, unless the performance security is forfeited.
15. Apart from the situations in clauses 1 through 14 of this Article, the EOI requester/ procuring entity shall report any other situation that arises during the investor selection to the competent person to consider making decision on the basis of ensuring the achievement of all objectives in bidding, including competitiveness, fairness, transparency, economic efficiency and accountability.

Article 60. Inspection of bidding for investor selection

1. Authority to conduct inspection of bidding for investor selection:

- a) The Ministry of Planning and Investment of Vietnam shall play the leading role and organize inspection of bidding for investor selection nationwide according to periodical plans;
- b) Each Minister, head of ministerial agency or head of economic zone management board shall play the leading role and organize inspection of bidding for investor selection for a project in which he/she acts as the competent person;
- c) Chairpersons of provincial People's Committees shall play the leading role and organize inspection of bidding for investor selection for projects in which they act as competent persons. Provincial Departments of Planning and Investment shall assist Chairpersons of provincial People's Committees in organizing inspection of bidding for investor selection in their provinces.

2. Contents of inspection of bidding for investor selection:

- a) Promulgation of guidelines and directives for performing investor selection tasks;
- b) Public disclosure of the investment project involving land use (for a project whose investment guidelines require approval); preparation, approval and disclosure of the project information (for a project whose investment guidelines do not require approval);
- c) Preparation and approval of the EOI request; evaluation of applications for project execution, and approval of invitation for EOI results;
- d) Preparation, appraisal and approval of bidding documents; bid evaluation; appraisal and approval of investor selection results;
- dd) Contents of the signed contract and compliance with legal grounds for signing and performance of the contract;
- e) Other necessary contents.

3. Responsibilities of the inspection team, members of the inspection team, inspected entity or unit, inspection rules, forms, methods, duration, funding, and procedures for inspection shall comply with corresponding provisions of Articles 115 through 122 of the Government's Decree No. 24/2024/ND-CP dated February 27, 2024.

Article 61. Supervision of bidding for investor selection

1. Supervision of bidding for investor selection as prescribed in point a clause 3 Article 86 of the Law on Bidding shall be included in supervision of the investment project or overall investment supervision conducted by investment authorities/authorities in charge of investment registration in accordance with regulations of the Law on Investment.

2. Authority to conduct supervision of bidding for investor selection:

- a) Each Minister, head of ministerial agency or head of economic zone management board shall play the leading role and organize supervision of bidding for investor selection for a project in which he/she acts as the competent person or which is in a sector under his/her jurisdiction;
- b) Chairpersons of provincial People's Committees shall play the leading role and organize supervision of bidding for investor selection for projects in their responsible provinces in which they act as competent persons. Provincial Departments of Planning and Investment shall assist Chairpersons of provincial People's Committees in organizing supervision of bidding for investor selection in their provinces.

3. Contents of supervision of bidding for investor selection:

- a) Public disclosure of the investment project involving land use (for a project whose investment guidelines require approval); preparation, approval and disclosure of the project information (for a project whose investment guidelines do not require approval);
- b) Preparation, appraisal and approval of bidding documents;
- c) Bid evaluation;
- d) Appraisal of investor selection results;
- dd) Results of negotiation, completion and signing of contract.

4. Upon expiry of the contract, the competent authority in charge of performing state management of investment shall conduct supervision of the investment project or overall investment supervision as prescribed in the Law on Investment in order to ensure that the investor has fulfilled all commitments during the execution of the investment project.

Chapter IX

ONLINE INVESTOR SELECTION

Article 62. Roadmap for application of online investor selection

1. From September 01, 2025: Initiate online procedures for domestic invitation for EOI as prescribed in Article 63 of this Decree on VNEPS.
2. From January 01, 2026: Carry out online investor selection for investment projects involving land use that apply domestic competitive bidding or limited bidding under single-stage one-envelope procedure or single-stage two-envelope procedure as prescribed in Article 64 of this Decree on VNEPS.
3. For investment projects involving land use that require international bidding, online investor selection procedures shall not be applied but information on investor selection must be published on VNEPS as prescribed in clause 2 Article 7 of the Law on Bidding.

Article 63. Process of online invitation for EOI

1. Online invitation for EOI, issuance of online EOI request:

- a) The online invitation for EOI (hereinafter referred to as "E-TBMQT") is published on VNEPS as prescribed in clause 2 Article 8 of the Law on Bidding;
- b) The online EOI request (hereinafter referred to as "E-HSMQT") and E-TBMQT are issued on VNEPS at the same time. The EOI requester shall provide free of charges all files of E-HSMQT on VNEPS;
- c) Modification or cancellation of E-TBMQT shall only be made before the deadline for submission of online applications for project execution (hereinafter referred to as "E-HSDKTHDA"), except cases where no E-HSDKTHDA is submitted.

2. Modification and clarification of E-HSMQT; extension of the deadline for submission of E-HSDKTHDAs:

- a) In case modifications are made to E-HSMQT after it is issued, the EOI requester shall publish the modification decision, the addenda to E-HSMQT and the modified E-HSMQT on VNEPS.

- b) Clarification of E-HSMQT:

An investor requiring clarification of E-HSMQT shall send its request for clarification to E-HSMQT to the EOI requester on VNEPS at least 05 working days before the deadline for submission of E-HSDKTHDAs for consideration and processing.

The record of clarification of E-HSMQT shall be published on VNEPS at least 02 working days before the deadline for submission of E-HSDKTHDAs. Clarifications to E-HSMQT must not be contrary to the contents of E-HSMQT previously published on VNEPS.

Should the clarifications to E-HSMQT result in changes to E-HSMQT, the modification of E-HSMQT shall be subject to provisions of point a of this clause.

- c) If the deadline for submission of E-HSDKTHDAs needs to be extended on VNEPS, the EOI requester shall publish the notice of extension and decision on approval of such extension on VNEPS. Reasons for extension and the new deadline must be clearly indicated in the notice of extension.

3. Submission, modification, substitution and withdrawal of E-HSDKTHDAs:

- a) Submission of E-HSDKTHDAs:

Investors prepare and submit their E-HSDKTHDAs on VNEPS. In case of a consortium, the lead member shall submit E-HSDKTHDA which must be enclosed with the consortium agreement on VNEPS.

A notice of E-HSDKTHDA submission status (successful or unsuccessful) shall be sent by VNEPS to the investor's registered email address. Information recorded on VNEPS as the basis for resolving petitions and disputes (if any) includes: information about sender and recipient, time and status of sending, number of attached files on VNEPS when the investor submits its E-HSDKTHDA.

- b) Clarification of E-HSDKTHDAs:

Investors shall have the burden of clarifying their E-HSDKTHDAs at the request of the EOI requester or shall, at their discretion, send clarifications and/or submit additional documents proving their eligibility, capacity and experience in case they find that existing documents about their capacity and experience have yet to be submitted together with their E-HSDKTHDAs. Clarifications to E-HSDKTHDA shall be made on VNEPS.

- c) Modification, substitution and withdrawal of E-HSDKTHDAs:

Investors may modify, substitute or withdraw their submitted E-HSDKTHDAs. Investors are not allowed to withdraw their submitted E-HSDKTHDAs after the deadline for submission of E-

HSDKTHDAs.

4. Bid opening:

E-HSDKTHDAs shall be opened and evaluated. The E-HSDKTHDA opening record shall be published on VNEPS within 02 hours after the bid closing time.

5. Evaluation of E-HSDKTHDAs:

After the deadline for submission of E-HSDKTHDAs expires, the EOI requester shall access VNEPS and carry out evaluation of E-HSDKTHDAs submitted by investors.

6. Upon completion of E-HSDKTHDA evaluation, the approved invitation for EOI result, including the list of investors meeting the requirements of E-HSMQT, shall be published on VNEPS.

7. In case of online investor selection, the investor that wishes to petition against the investor selection result shall submit its petition on VNEPS according to the roadmap prescribed in Article 62 of this Decree. Before online investor selection procedures are applied, the investor shall submit its petition to the administrative section of the person in charge of settling the petition.

Article 64. Online investor selection process

1. Online invitation for bid, issuance of online bidding documents:

a) The online invitation for bid (hereinafter referred to as "E-TBMT") is published on VNEPS as prescribed in clause 2 Article 8 of the Law on Bidding.

b) The online bidding documents (hereinafter referred to as "E-HSMT") and E-TBMT are issued on VNEPS at the same time. The procuring entity shall provide free of charges all files of E-HSMT on VNEPS.

c) Modification or cancellation of E-TBMQT shall only be made before the deadline for submission of bids, except cases where no E-HSDT is submitted.

2. Modification and clarification of E-HSMT:

a) In case modifications are made to E-HSMT after it is issued, the procuring entity shall publish the modification decision, the addenda to E-HSMT and the modified E-HSMT on VNEPS.

b) Clarification of E-HSMT:

An investor requiring clarification of E-HSMT shall send its request for clarification to E-HSMT to the procuring entity on VNEPS within the prescribed time limit for consideration and processing.

The record of clarification of E-HSMT shall be published on VNEPS at least 02 working days before the deadline for submission of bids. Clarifications to E-HSMT must not be contrary to the contents of E-HSMT previously published on VNEPS.

Should the clarifications to E-HSMT result in changes to E-HSMT, the modification of E-HSMT shall be subject to provisions of point a of this clause.

c) If the deadline for submission of E-HSDTs needs to be extended on VNEPS, the procuring entity shall publish the notice of extension on VNEPS. Reasons for extension and the new deadline must be clearly indicated in the notice of extension.

3. Submission, modification, substitution and withdrawal of E-HSDTs:

a) Submission of E-HSDTs:

Investors prepare and submit their E-HSDT and electronic bid security (if any) on VNEPS.

In case of a consortium, the lead member shall submit E-HSDT which must be enclosed with the consortium agreement on VNEPS.

A notice of E-HSDT submission status (successful or unsuccessful) shall be sent by VNEPS to the investor's registered email address. Information recorded on VNEPS as the basis for resolving petitions and disputes (if any) includes: information about sender and recipient, time and status of sending, number of attached files on VNEPS when the investor submits its E-HSDT.

b) Clarification of E-HSDTs:

Investors shall have the burden of clarifying their E-HSDTs at the request of the procuring entity or shall, at their discretion, send clarifications and/or submit additional documents proving their legal status, capacity and experience in case they find that existing documents about their capacity and experience have yet to be submitted together with their E-HSDTs. Clarifications to E-HSDT shall be made on VNEPS.

c) Modification, substitution and withdrawal of E-HSDTs:

Investors may modify, substitute or withdraw their submitted E-HSDTs. Investors are not allowed to withdraw their submitted E-HSDTs after the deadline for submission of bids.

4. Bid opening:

The procuring entity opens and decompresses E-HSDTs for evaluation. The E-HSDT opening record shall be published on VNEPS within 02 hours after the bid closing time.

5. Evaluation of E-HSDTs:

After the deadline for submission of E-HSDTs expires, the procuring entity shall access VNEPS and carry out evaluation of E-HSDTs submitted by investors.

6. Upon completion of E-HSDT evaluation, the investor selection result shall be approved and published on VNEPS within the time limit prescribed in clause 4 Article 8 of the Law on Bidding.

Article 65. National investor database

1. The national investor database on VNEPS consists of:

- a) Information on the investor's legal status;
- b) Information on the investor's capacity and experience;
- c) Information on actions against violations of the bidding law committed by the investor;
- d) Other information about the investor.

2. Investors are responsible for completing registration procedures on VNEPS as prescribed in point d clause 1 Article 5 of the Law on Bidding before the investor selection result is approved and shall frequently update and assume responsibility for the accuracy of the information prescribed in points a and b clause 1 of this Article. Procedures for registration and updating of information of investors on VNEPS shall comply with corresponding provisions of the Government's Decree No. 24/2024/ND-CP dated February 27, 2024.

3. The information in point c clause 1 of this Article shall be published on VNEPS by the competent authority as prescribed in point a clause 2 and clause 4 Article 8 of the Law on Bidding.

Chapter X

IMPLEMENTATION

Article 66. Amendments to and abrogation of some Articles of Government's Decree No. 23/2024/ND-CP dated February 27, 2024 elaborating and providing guidelines for implementation of Law on Bidding regarding selection of investors for projects which require bidding as prescribed by specialized sector or industry laws

1. Clause 4 and Clause 5 Article 1 are amended as follows:

a) Clause 4 is amended as follows:

"4. Projects that require bidding as prescribed in clause 1 of this Article and do not involve land use and land expropriation as prescribed in the Land Law include:

- a) Projects on international football betting business as prescribed in regulations of law on betting on horse and dog racing and international football;
- b) Projects on dredging and recovery of products from maritime/inland waterway infrastructure facilities in seaport waters and inland waterways as prescribed in law on maritime and inland waterway transport;
- c) Projects that require bidding in case there are at least 02 investors registering for project execution, including: projects in the fields of education, health, culture, sports and environment as prescribed in regulations of law on promotion of private sector involvement.";

b) Clause 5 is amended as follows:

"5. Projects that do not involve land use and require bidding as prescribed in specialized sector or industry laws must not be subject to auction of public property as prescribed in law on management and use of public property.".

2. Clause 5 Article 3 is amended as follows:

"5. Total investment includes the sum of preliminarily estimated project execution costs and other costs as prescribed in specialized sector or industry law (if any)."

3. Point b Clause 1 and Clause 2 Article 5 are amended as follows:

a) Point b Clause 1 is amended as follows:

"b) An investor that commits to carry out technology transfer and/or perform high technology activities in respect of high technologies and high-tech products included in the List of high technologies given priority for investment and development and the List of recommended high technologies promulgated by the Prime Minister in accordance with regulations of law on high technologies or in the List of

technologies recommended for transfer in accordance with regulations of law on technology transfer shall be entitled to 2% incentive when having its bid evaluated.”;

b) Clause 2 is amended as follows:

“2. In order to enjoy the incentives prescribed in clause 1 of this Article, the investor shall include documentary evidences of its solutions for applying advanced technologies, high technologies, eco-friendly technologies and/or best available techniques or legitimate rights to use technologies as prescribed in regulations of law on high technologies, technology transfer, environmental protection, and other relevant laws in its submitted bid.”.

4. Points d and dd Clause 3, Clause 4 and Clause 5 Article 6 are amended as follows:

a) Point d Clause 3 is amended as follows:

“d) Costs of publishing of information on the investor selection on VNEPS;”;

b) Point dd Clause 3 is amended as follows:

“dd) Other costs of preparation of EOI request; preparation and appraisal of bidding documents; evaluation of applications for project execution/bids, appraisal of investor selection result; bid opening and settlement of petitions.”;

c) Clause 4 is amended as follows:

“4. Costs associated with the investor selection on VNEPS shall be determined according to corresponding provisions in point a clause 11 Article 12 of the Government’s Decree No. 24/2024/ND-CP dated February 27, 2024. Bid submission fees, fees payable by the successful investor and fees for connecting to the bid security function on VNEPS shall be paid according to the roadmap for application of online investor selection specified in Article 60 of this Decree.”;

d) Clause 5 is amended as follows:

“5. The costs specified in clauses 1, 2 and 3 of this Article shall be covered using funding for covering recurrent expenditures of the competent authority, EOI requester, procuring entity, or appraisal team.”.

5. The first paragraph of clause 3 Article 8 is amended as follows:

“3. For a project requiring determination of the number of interested investors as prescribed in clause 2 Article 46 of the Law on Bidding and point c clause 4 Article 1 of this Decree.”.

6. Article 9 is amended as follows:

“Article 9. Disclosure of investment project whose investment guidelines require approval

The competent authority creates a task-specific account and delegate the account use right to its affiliated agency or unit or specialized agency to post the decision on approval of investment guidelines on VNEPS as prescribed in point a clause 2 Article 47 of the Law on Bidding within 05 working days from day on which the decision on approval of the project’s investment guidelines is issued.”.

7. Article 10 is amended as follows:

“Article 10. Disclosure of investment project whose investment guidelines do not require approval

1. For a project of which the execution is organized by a competent authority:

a) The competent person shall assign an agency or unit affiliated to a Ministry or ministerial agency, specialized agency, agency affiliated to a provincial People's Committee or an economic zone management board or another agency as prescribed by specialized sector or industry law, or district-level People's Committee to organize the preparation of the project proposal which must include the contents in points b, c, d, dd and e clause 2 Article 47 of the Law on Bidding, and meet the conditions set out in Article 1 of this Decree;

b) The assigned agency/unit as prescribed in point a of this clause shall submit the project information to the competent person for approval. The written approval of the project information shall include the contents in points b, c, d, dd and e clause 2 Article 47 of the Law on Bidding;

c) The competent authority creates a task-specific account and delegates the account use right to its affiliated agency or unit or specialized agency to post the project information on VNEPS within 05 working days from day on which the approval of the project information is given.

2. Investors may propose investment projects other than those approved and disclosed as prescribed in clause 1 of this Article, unless they are not allowed to propose projects as prescribed in specialized sector and industry laws. Required contents, procedures for preparing a project proposal, and approval of project information are subject to the following provisions:

a) The investor shall prepare a project proposal which includes the contents in points b, c, d and e

clause 2 Article 47 of the Law on Bidding and corresponding contents prescribed in points a, b and c clause 1 Article 33 of the Law on Investment. The investor shall incur all costs associated with the preparation of the project proposal;

b) For an investment project in which the provincial People's Committee acts as the competent authority, the investor shall, either directly or by post, submit 04 packages of the project proposal documents to the Provincial Department of Planning and Investment. Within 03 working days from its receipt of the project proposal, the Provincial Department of Planning and Investment shall request the Chairperson of the provincial People's Committee to assign a specialized agency to consider the project proposal submitted by the investor.

For an investment project in which a Ministry, ministerial agency, economic zone management board or another agency as prescribed by specialized sector or industry law acts as the competent authority, the investor shall, either directly or by post, submit 04 packages of the project proposal documents to the agency or unit assigned by the Minister or the head of ministerial agency, economic zone management board or another agency to receive and consider the investor's project proposal.

Where a Ministry, ministerial agency, economic zone management board or another agency has issued a decision to assign an agency or unit in charge of receiving project proposals, the investor's project proposal shall be submitted to this agency or unit.

c) Within 25 days from the day on which it is assigned, the assigned agency or unit prescribed in point b of this clause shall cooperate with relevant agencies in considering the compliance of the received project proposal with the provisions of Article 4 and clause 5 Article 1 of this Decree and relevant plannings/plans as prescribed in law on planning and specialized sector or industry law, and requesting the competent person to give approval of the project information. The written approval of the project information shall include the contents in points b, c, d, dd and e clause 2 Article 47 of the Law on Bidding;

d) The competent authority shall organize the publishing of the project information as prescribed in point c clause 1 of this Article.”.

8. Clause 5 Article 11 is amended as follows:

“5. The competent authority creates a task-specific account and delegates the account use right to its affiliated agency or unit or specialized agency to post the approved investor selection progress schedule on VNEPS within 05 working days from day on which the written approval is given.”.

9. Clause 1 Article 13 is amended as follows:

“1. The procuring entity assigns an expert team to prepare bidding documents which include the contents prescribed in Article 48 of the Law on Bidding and shall be provided for investors to prepare their bids.

Bidding documents may be prepared before the documents in Article 12 of this Decree are approved by competent authorities but the approval of bidding documents must be given on the grounds specified in Article 12 of this Decree.”.

10. Clause 1 and Clause 2 Article 12 are amended as follows:

a) Heading of Article 12 is changed from “Căn cứ lập hồ sơ mời thầu” (“Grounds for preparing bidding documents”) to “Căn cứ phê duyệt hồ sơ mời thầu” (“Grounds for approving bidding documents”);

b) Clause 1 is amended as follows:

“1. Plannings and plans, including:

a) Relevant plannings and plans as prescribed in law on planning, specialized sector and industry laws and relevant laws in case there are any changes in relevant plannings and plans after approval of investment guidelines or project information is given;

b) The construction planning which must be conformable with the scale and nature of the project as prescribed in the Law on Construction and specialized sector or industry law approved by the competent authority, for a project comprising construction items. In case of a multi-functional investment project, the project shall be determined based on its main work item or the main work item of the highest grade in case a project consists of multiple main work items as prescribed in the Law on Construction.”;

c) Clause 2 is amended as follows:

“2. The decision to appropriate public property ratified by a competent authority as prescribed in law on management and use of public property (for a project involving use of public property subject to appropriation);”.

11. Clause 2 and Clause 4 Article 16 are amended as follows:

a) Clause 2 is amended as follows:

"2. Issuance of bidding documents:

- a) In case of international competitive bidding, bidding documents are issued free of charge on VNEPS. The procuring entity shall post all files of the bidding documents on VNEPS;
- b) In case of domestic limited bidding, bidding documents are issued free of charge to shortlisted investors;
- c) In case of international bidding, the investor is required to pay an amount equaling the selling price of 01 set of electronic bidding documents when submitting its bid.";
- b) Clause 4 is amended as follows:

"4. Clarification of bidding documents:

- a) In case of domestic bidding, the investor shall send its request for clarification to the procuring entity via VNEPS at least 07 days before the deadline for submission of bids;
- b) In case of international bidding, the investor shall directly send its request for clarification to the procuring entity at least 15 days before the deadline for submission of bids;
- c) The procuring entity shall publish its response to the investor's request for clarification on VNEPS or, where necessary, convene a pre-bid meeting to clarify the contents of the bidding documents as requested by investors.

If a pre-bid meeting is convened, the procuring entity shall make a record of clarification of bidding documents, indicating all contents discussed at the meeting, and publish it on VNEPS.

- d) Clarifications to the bidding documents must be published on VNEPS at least 02 before the deadline for submission of bids and must not be contrary to the contents of the bidding documents previously published on VNEPS. Should the clarifications to the bidding documents result in changes to the bidding documents, the modification of the bidding documents shall be subject to provisions of clause 3 of this Article."

12. Point c Clause 2 Article 18 is amended as follows:

"c) The value regarding investment efficiency in sector/industry/local development proposed by the investor in the bid, including one of the following information pieces: the monetary value of contributions made to state budget; percentage of revenues to be paid by the investor to state budget; prices of goods/services; number of not-for-profit public work items; value of social assistance services or other social welfare services provided for social protection beneficiaries which is determined in cash or expressed as the number of beneficiaries based on the list of social protection beneficiaries or social assistance services of the local area where the subject project will be executed; types, toxicity and total amount of pollutants released to the environment;"

13. Points b and c Clause 2 are amended, Clauses 2a and 2b are added to Article 27 as follows:

a) Point b Clause 2 is amended as follows:

"b) Name of the successful investor; name of the economic organization to be established by the successful investor (if any);";

b) Point c Clause 2 is amended as follows:

"c) One of the pieces of information prescribed in point c clause 2 Article 18 of this Decree;"

c) Clause 2a is added as follows:

"2a. If the successful investor establishes an economic organization after the investor selection result is approved, the investor shall send information on the name of that economic organization to the competent authority for being added to the decision on approval of the investor selection result.";

d) Clause 2b is added as follows:

"2b. If the name of the successful investor or the name of the economic organization established by the successful investor is changed as a result of transfer of the investment project or transfer of shares/stakes of the economic organization established by the successful investor according to clause 2 Article 76 of the Law on Bidding, clause 3 and 4 Article 50 of this Decree, the competent authority shall consider approving such transfer and revising the decision on approval of the investor selection result."

14. Point e and Point h Clause 3 Article 30 are amended as follows:

a) Point e is amended as follows:

"e) Project location;"

b) Point h is amended as follows:

"h) One of the pieces of information prescribed in point c clause 2 Article 18 of this Decree;"

15. Point a Clause 3 Article 31 is amended as follows:

“a) General information on the project, including: the project’s name; objectives; investment scale; total investment; project location; approved planning targets; project execution duration/schedule;”.

16. Point a Clause 4 Article 33 is amended as follows:

“a) The procuring entity invites the investors that have submitted first-stage bids to receive the second-stage bidding documents. Modification and clarification of the second-stage bidding documents shall comply with provisions of clauses 3 and 4 Article 16 of this Decree;”.

17. Clause 1 Article 36 is amended as follows:

“1. Procedures for invitation for EOI are employed to projects requiring determination of number of interested investors as prescribed in specialized sector or industry laws in point c clause 4 Article 1 of this Decree.”.

18. Clause 1 Article 38 is amended as follows:

“1. The EOI requester shall assign an expert team to prepare the EOI request which shall include the information in clause 2 of this Article to serve the investors’ preparation of their applications for project execution. The EOI request is prepared on the grounds specified in clauses 1, 2, 3 and 5 Article 12 of this Decree.

The EOI request may be prepared before the documents in clauses 1, 2, 3 and 5 Article 12 of this Decree are approved by competent authorities but the approval of EOI request must be given on these grounds.”.

19. Clause 2 Article 44 is amended as follows:

“2. Bids shall be evaluated on the scale of 100 or 1.000 points. A combined score is the sum of capacity and experience score, investment and business plan score, and score of investment efficiency in sector/industry/local development. The proportion of each score shall be as follows:

- a) Capacity and experience score accounts for 30% - 40% of total score;
- b) Investment and business plan score accounts for 30% - 50% of total score;
- c) Score of investment efficiency in sector/industry/local development accounts for 10% - 40% of total score.”.

20. Article 45 is amended as follows:

“Article 45. Capacity and experience evaluation criteria

1. Criteria for evaluation of an investor's financial and funding arrangement capacity consist of:

- a) Equity which is determined on the basis of total investment of the project;

The minimum required equity shall be determined in accordance with regulations of specialized sector or industry law. If provisions on minimum required equity in the specialized sector or industry law are not available, the minimum required equity shall not be lower than 15% of total investment.

The equity of a consortium investor is the sum of equity amounts of all members of the consortium and each member shall meet the requirements corresponding to its contribution to the consortium's equity under the consortium agreement. The lead member of the consortium must hold at least 30% of the equity. Each member of the consortium must hold at least 15% of the equity.

- b) Investor’s capacity to raise borrowed capital. The borrowed capital of a consortium investor is the sum of borrowed capital amounts of all members of the consortium;

- c) Financial indicators (if any).

2. Criteria for evaluation of an investor’s experience in executing similar projects are established on the basis of investment area and scale, time and level of finishing of work items/projects, and consist of:

- a) Experience in investment in and construction of similar projects/work items (for a project comprising construction item); experience in investment in similar projects (for a project that does not comprise construction items);
- b) Experience in operating and running business of similar projects/ work items (applicable to a project with specific operation and business requirements to provide products/services, in conformity with the objectives, nature and management requirements of each project);
- c) Experience of key personnel and equipment as required by specialized sector or industry law;
- f) History of disputes and lawsuits against finished and in-progress projects;
- dd) History of the investor's suspended or terminated investments in the province or central-affiliated city where the project will be executed (if any).

3. In case of a consortium, the consortium investor's experience in executing similar projects as prescribed in clause 2 of this Article is determined taking into account total projects executed by all members of the consortium.

4. The investor is allowed to use experience of its partners to prove its experience in executing similar projects as prescribed in clause 2 of this Article. Partners are organizations entering into contracts with the investor or the investor's subsidiaries that are recommended in the investor's bid to engage in the execution of the investment project. In this case, the partner's experience and capacity to fulfill tasks must be evaluated according to the requirements laid down in the bidding documents.

5. In case of domestic bidding for a project to which the application of advanced technologies and/or international management experience is encouraged, the bidding documents may include a provision that the investor is allowed to choose a partner that is a foreign contractor.

6. Regarding an investment project for which procedures for invitation for EOI have been completed and there are at least two investors meeting the requirements of the EOI request as prescribed in point a clause 1 Article 42 of this Decree, capacity and experience evaluation criteria set out in the bidding documents must be updated and modified on the basis of the approved EOI request, clauses 1 through 5 of this Article and the documents specified in Article 12 of this Decree.”.

21. Article 46 is amended as follows:

“Article 46. Criteria for evaluation of investor's investment and business plan

1. Technical evaluation criteria:

a) The conformity of the investor's investment and business plan (in terms of scope, scale, preliminarily estimated total costs, project's duration, execution schedule, investment phasing) with the planning approved by a competent authority in accordance with regulations of law on planning, law on construction, specialized sector or industry law, and relevant laws;

b) Feasibility of solutions for applying technologies proposed by the investor (if any); technology transfer requirements (if any);

c) Satisfaction of business conditions as prescribed in the Law on Investment and specialized sector or industry law (if any); requirements concerning the plan to put the project into operation;

d) For a project on international football betting business, technical evaluation criteria include those specified in points a, b, c of this clause and the requirements concerning the compliance of the plan for investment in betting systems and the plan for provision of betting services with regulations of law on betting on horse and dog racing and international football;

dd) For a project on dredging and recovery of products from maritime/inland waterway infrastructure facilities in seaport waters and inland waterways, technical evaluation criteria include those specified in points a, b, c of this clause and the requirements concerning specialized techniques, scope and scale of dredging, and amount of recovered products;

e) For a project in fields in which private sector involvement is encouraged, technical evaluation criteria include those specified in points a, b, c of this clause and the requirements concerning quality of goods/services provided by the investor, compliance of the investment plan proposed by the investor with regulations on types, criteria, scale and standards of establishments in which private sector involvement is encouraged, solutions for use of advanced and modern equipment and high technologies in medical examination and treatment (for a project in health sector).

2. Social evaluation criteria:

a) Requirements concerning provision of social welfare for local workers by means of use of local workers, human resource training, average income and average income growth rate; provision of social assistance services for social protection beneficiaries or other social welfare services provided by the investor for local area to meet demands of local area where the project will be to executed;

b) For a project in health or education sector in which private sector involvement is encouraged, social evaluation criteria include those specified in points a and b of this clause and the requirements concerning satisfaction of demands and provision of healthcare, education and training benefits for people.

3. Environmental evaluation criteria:

The procuring entity/expert team shall establish environmental evaluation criteria in the bidding documents in conformity with the project execution requirements, including one, some or all of the following:

a) Requirements concerning the conformity of goods/services supplied with regulations of law on environment, reduction of waste discharged, and promotion of eco-friendly products/services;

b) Requirements concerning environmental protection, clean production and energy saving;

c) Requirements concerning use of natural resources as prescribed by law, biodiversity conservation, or improvement of natural resources and natural ecosystems at the region where the project is executed as prescribed in the Law on environmental protection;

d) For a project on dredging and recovery of products from maritime/inland waterway infrastructure facilities in seaport waters and inland waterways, environmental evaluation criteria include those specified in points a, b, c of this clause and the requirements concerning the conformity of goods/services provided with regulations of law on environment; solutions for dredging seaport waters and inland waterways to limit recovery of products affecting seaport waters and inland waterways;

dd) Requirements concerning solutions for minimizing adverse impacts on the environment, transfer and application of advanced technologies, high technologies, eco-friendly technologies and/or best available techniques (for a project which poses high risk of adverse environmental impacts as prescribed in the Law on environmental protection).”.

22. Article 47 is amended as follows:

“Article 47. Criteria for evaluation of investment efficiency in sector/industry/local development

1. Based on the sector/industry/local development requirements, except the projects specified in clause 2 of this Article, the criteria for evaluation of investment efficiency in sector/industry/local development shall be established on the basis of one of the following:

a) Minimum cash payment to state budget;

b) Minimum rate of revenues paid to state budget;

c) Price bracket and maximum price as prescribed in the Pricing Law and/or specialized sector or industry law;

d) Minimum number of not-for-profit public works which is determined based on the list of projects and works needing investments in the local area where the subject project will be executed;

dd) Minimum value of social assistance services or other social welfare services provided for social protection beneficiaries which is determined in cash or expressed as the number of beneficiaries based on the list of social protection beneficiaries or social assistance services of the local area where the subject project will be executed;

e) Maximum limits on types, toxicity and total amount of pollutants released to the environment as prescribed in the Law on Environmental Protection.

2. For a project on dredging and recovery of products from maritime/inland waterway infrastructure facilities in seaport waters and inland waterways, the evaluation criterion shall be the cash payment to state budget which is determined as follows:

a) The minimum difference between dredging cost and value of recovered products in case the project’s dredging cost is smaller than or equal to the value of recovered products;

b) The maximum difference between dredging cost and value of recovered products in case the project’s dredging cost is greater than the value of recovered products.

3. Values and rates specified in points a, b clause 1 and clause 2 of this Article are separated from the investor’s obligations to state budget as prescribed by law.

4. Payment of the values specified in points a, b clause 1 and clause 2 of this Article to state budget is subject to the following provisions:

a) The payment to state budget is determined according to the value proposed by the investor in its bid;

b) The method, schedule and deadline for payment of the value prescribed in point a of this clause are specified in the contract.

5. The value of the investment efficiency in sector/industry/local development proposed by the investor in its bid shall be neither lower than the minimum value nor higher than the maximum value according to the evaluation criteria specified in the bidding documents.”.

23. Clause 1, Clause 2, Clause 3 are amended, and Clause 3a is added to Article 49 as follows:

a) Clause 1 is amended as follows:

“1. The successful investor shall directly execute the investment project or establish an economic organization in charge of executing the project.

Establishment, management, operation and dissolution of the economic organization established by the successful investor for executing the investment project shall comply with regulations of law applicable to the business type of such economic organization, the Law on Investment, the Law on Enterprises and specialized sector or industry law.”;

b) Clause 2 is amended as follows:

“2. If an economic organization is established to execute the investment project as prescribed in clause 1 of this Article, the investor must include information on such establishment in its bid.”;

c) Clause 3 is amended as follows:

“3. The economic organization established by the successful investor as prescribed in clause 1 of this Article shall be wholly owned by the investor, and be required to meet conditions for establishment, management, operation and dissolution set out in regulations of law applicable to the business type of such economic organization, the Law on Investment, the Law on Enterprises, and specialized sector or industry law.”;

d) Clause 3a is added as follows:

“3a. The economic organization established by the successful investor shall inherit rights and obligations of the successful investor according to the commitments in its bid, and terms and conditions of the project contract.”.

24. Clause 2 is amended; clauses 3, 4, 5, 6, 7, 8 and 9 are added to Article 50 as follows:

a) Clause 2 is amended as follows:

“2. The successful investor or the economic organization established by the successful investor shall organize the execution of the investment project in accordance with terms and conditions of the project contract, and provisions of the Law on Enterprises, the Law on Investment, the Law on Construction, and relevant laws.”;

b) Clause 3 is added as follows:

“3. During the execution of the investment project, the successful investor or the economic organization established by the successful investor shall be allowed to transfer partial or entire project if it satisfies:

a) the conditions set out in the Law on Investment, specialized sector or industry law and relevant laws;

b) the conditions set out in clause 2 Article 76 of the Law on Bidding.”;

c) Clause 4 is added as follows:

“4. Transfer of shares/stakes by shareholders/members of the economic organization established by the successful investor before the project is put into official operation may be carried out if the following conditions are met:

a) The transfer is approved by the competent person;

b) The transferee must have legal status and meet relevant operational conditions set out in regulations of law applicable to the business type of the economic organization, the Law on Investment, the Law on Enterprises, and specialized sector or industry law; have capacity and experience in proportion to the number of shares/stakes to be received (if a part of the project is transferred) or have capacity and experience equivalent to or higher than those of the transferor (if the entire project is transferred); inherit rights and obligations to execute the project as undertaken by the transferor in its bid and the project contract;

c) In addition to the conditions in points a and b of this clause, an investor that receives shares/stakes transferred by a consortium member must also meet the minimum equity requirement for each consortium member laid down in point a clause 1 Article 45 of this Decree.

From the day on which the project is put into official operation, the transfer of shares/stakes shall comply with regulations of the Law on Enterprises, regulations of law applicable to the business type of the economic organization without requiring satisfaction of the conditions set out in this clause.”;

d) Clause 5 is added as follows:

“5. Transfer of the investment project and transfer of shares/stakes of the economic organization as prescribed in clauses 3 and 4 of this Article must be specified in the contract.

Based on terms and conditions of the contract and opinions given by the procuring entity about the investor that wishes to receive the transfer, the competent person consider approving the application for transfer of the investment project or transfer of shares/stakes of the economic organization.

If an application for transfer is approved, the competent person shall assign the procuring entity to review and modify the contract.”;

dd) Clause 6 is added as follows:

“6. In case the transfer of the project or shares/stakes prescribed in clauses 3 and 4 of this Article results in modification of the investment project, after obtaining an approval from a competent person

as prescribed in clause 5 of this Article, the transferor (i.e. the investor or the economic organization established by the investor) shall follow procedures for modification of the investment project in accordance with regulations of the Law on Investment and relevant laws before making modifications to the project contract.”;

e) Clause 7 is added as follows:

“7. The successful investor or the economic organization established by the successful investor shall be required to fulfill all financial obligations to the State that arise from the transfer of the project or shares/stakes in accordance with regulations of law.”;

g) Clause 8 is added as follows:

“8. The successful investor or the economic organization established by the successful investor is entitled to make capital contribution or increase their charter capital for executing other investment projects (if any) provided that there is no change in rights and obligations undertaken by the investor in its bid and the project contract.”;

h) Clause 9 is added as follows:

“9. During the execution of the investment project, if the investment project whose investment guidelines require approval must be modified as prescribed in point a clause 1 Article 76 of the Law on Bidding (except the cases prescribed in clauses 3 and 4 of this Article) or any modifications to the investment project whose investment guidelines do not require approval result in changes in the project contract, the competent person shall assign the procuring entity to consider and evaluate technical and financial capacity of the investor.

In this case, the investor must meet technical and financial requirements for executing the modified investment project. If the investor meets technical and financial requirements, the competent person shall assign the procuring entity to instruct the investor or the economic organization established by the investor to follow procedures for modification of the investment project in accordance with regulations of the Law on Investment, and assign the procuring entity to review the project contract for making modifications thereto after the project has been modified.”.

25. Article 51 is amended as follows:

“Article 51. Execution of investment projects by investors approved as prescribed in Law on Investment

1. An investor shall be approved to execute an investment project according to the investor approval decision and regulations of the Law on Enterprises, the Law on Investment, the Law on Construction, specialized sector or industry law and relevant laws.

2. The approved investor shall directly execute the investment project or establish an economic organization in charge of executing the project. Establishment, management, operation and dissolution of the economic organization established by the approved investor for executing the investment project shall comply with regulations of law applicable to the business type of such economic organization, the Law on Investment, the Law on Enterprises, and specialized sector or industry law.”.

26. Clause 2 and Clause 10 are amended; clauses 9a, 9b, 9c, 9d, 9dd are added to Article 57 as follows:

a) The first paragraph of clause 2 is amended as follows:

“2. At the bid closing time, if there are less than 03 investors submitting applications for project execution or bids, the EOI requester or the procuring entity shall request the competent person to consider handling the case within 24 hours from the bid closing time adopting any of the following methods:

a) Allow extension of the deadline for submission of bids, review and modify the EOI request or bidding documents (where necessary) for the purpose of increasing the number of investors applying for project execution or submitting bids. In this case, investors must be provided with the new deadline for submission of bids and corresponding time limits for making modifications or adding additional information to their submitted applications for project execution or bids. If the EOI request or bidding documents are modified, investors that have submitted applications for project execution or bids are entitled to modify, replace or withdraw their submitted applications or bids;

b) Allow immediate opening of bids to carry out bid evaluation.”;

b) Clause 9a is added as follows:

“9a. In case its branch, factory or representative office is split from the juridical person as prescribed in the Civil Code, the receiving investor or the investor that is established from the branch, factory or representative office shall inherit capacity and experience in bidding of such a branch, factory or representative office.”;

c) Clause 9b is added as follows:

“9b. If a partner proposed by the investor in its bid is unable to engage in the contract performance as a result of force majeure event, the investor may replace another partner whose capacity and experience must be substantially equal to or better than the partner originally proposed in its bid, provided that such replacement shall not affect any of the proposals in its bid. In this case, the procuring entity shall consider evaluating the partner’s capacity and experience according to the requirements of the bidding documents, and submit a report to the competent person for consideration and decision.”;

d) Clause 9c is added as follows:

“9c. For a project for which projects with similar total investment are unavailable, based on data on projects for which investors have been successfully selected available on VNEPS, the EOI requester/procuring entity shall request the competent person to consider including in the EOI request/bidding documents the requirements regarding experience in executing similar projects which shall not be less than 90% of those included in the EOI request/bidding documents of the project in the same sector or industry whose total investment is most comparable to that of the subject project. In this case, the competent person may stipulate the value of the performance security which is 3% of total investment of the project.”;

dd) Clause 9d is added as follows:

“9d. For a project to which the application of advanced technologies, high technologies, eco-friendly technologies and/or best available techniques is required for reducing environmental pollution, the investor is entitled to use projects/works which it has directly executed and of which it makes capital contribution to equity and technologies have been successfully applied to prove its experience in executing similar projects/works. Similar projects must be supported with documents proving that technologies/techniques have been recognized as prescribed in the specialized sector or industry law and other relevant laws. In this case, the competent person may stipulate the value of the performance security which is 3% of total investment of the project.”.

e) Clause 9dd is added as follows:

“9dd. In case the phasing of the project execution duration is included in the decision on approval of the project’s investment guidelines, the procuring entity shall request the competent person to consider including in the bidding documents the provision that the performance security shall be returned in each stage of the project as agreed upon in the project contract, unless the performance security is forfeited.”;

g) Clause 10 is amended as follows:

“10. Apart from the situations in clauses 1 through 9dd of this Article, the EOI requester/procuring entity shall report any other situation that arises during the investor selection to the competent person to consider making decision on the basis of ensuring the achievement of all objectives in bidding, including competitiveness, fairness, transparency, economic efficiency and accountability.”.

27. Article 60 is amended as follows:

“Article 60. Roadmap for application of online investor selection

1. From September 01, 2025: Initiate online procedures for domestic invitation for EOI as prescribed in Article 61 of this Decree on VNEPS.”

2. From January 01, 2026: Carry out online investor selection for investment projects that apply domestic competitive bidding or limited bidding under single-stage one-envelope procedure or single-stage two-envelope procedure as prescribed in Article 62 of this Decree on VNEPS.

3. For investment projects that require international bidding, online investor selection procedures shall not be applied but information on investor selection must be published on VNEPS as prescribed in clause 2 Article 7 of the Law on Bidding.”.

28. Clause 3 and Clause 4 are amended and Clause 7 is added to Article 61 as follows:

a) Point a Clause 3 is amended as follows:

“a) Submission of E-HSĐKTHDAs:

Investors prepare and submit their E-HSĐKTHDAs on VNEPS. In case of a consortium, the lead member shall submit E-HSĐKTHDA which must be enclosed with the consortium agreement on VNEPS.

A notice of E-HSĐKTHDA submission status (successful or unsuccessful) shall be sent by VNEPS to the investor’s registered email address. Information recorded on VNEPS as the basis for resolving petitions and disputes (if any) includes: information about sender and recipient, time and status of sending, number of attached files on VNEPS when the investor submits its E-HSĐKTHDA.”;

b) Clause 4 is amended as follows:

“4. E-HSDKTHDAs shall be opened and evaluated. The E-HSDKTHDA opening record shall be published on VNEPS within 02 hours after the bid closing time.”;

c) Clause 7 is added as follows:

“7. In case of online investor selection, the investor that wishes to petition against the investor selection result shall submit its petition on VNEPS according to the roadmap prescribed in Article 60 of this Decree. Before online investor selection procedures are applied, the investor shall submit its petition to the administrative section of the person in charge of settling the petition.”;

29. Point a Clause 3 Article 62 is amended as follows:

“a) Submission of E-HSDTs:

Investors prepare and submit their E-HSDTs and furnish electronic bid security (if any) on VNEPS.

In case of a consortium, the lead member or the in-charge member as assigned under the consortium agreement shall submit E-HSDT which must be enclosed with the consortium agreement on VNEPS.

A notice of E-HSDT submission status (successful or unsuccessful) shall be sent by VNEPS to the investor's registered email address. Information recorded on VNEPS as the basis for resolving petitions and disputes (if any) includes: information about sender and recipient, time and status of sending, number of attached files on VNEPS when the investor submits its E-HSDT.”.

30. Clause 3 Article 66 is amended as follows:

“3. In case a legislative document which comes into force after the effective date of this Decree provides additional regulations or nullifies regulations on projects requiring bidding for investor selection and sector/industry management requirements corresponding to the criteria set out in Articles 46 and 47 of this Decree, the following shall apply:

a) Where a sector/industry legislative document stipulates additional projects requiring bidding for investor selection as prescribed in clause 4 Article 1 of this Decree, selection of investor in charge of executing the investment project shall comply with procedures and process prescribed in the Law on Bidding and this Decree; methods and criteria for evaluation of applications for project execution/bids and other contents (if any) shall comply with the specialized sector or industry law and ensure the achievement of competitiveness, fairness, transparency, economic efficiency and accountability objectives;

b) Where a sector/industry legislative document nullifies regulations on bidding for selection of investors in charge of executing the projects in clause 4 Article 1 of this Decree, provisions of such a legislative document shall prevail;

c) Supervisory Ministries shall be required to provide the Ministry of Planning and Investment of Vietnam with the information on the legislative documents which provide additional regulations or nullify regulations on projects requiring bidding for investor selection as prescribed in points a and b of this clause and other requirements within 05 working days from the day on which such a legislative document is promulgated for publishing on VNEPS.”.

31. Point b Clause 2 Article 67 is amended as follows:

“b) Provide instructions for application of one, some or all of criteria for evaluation of investment efficiency in sector/industry/local development prescribed in clause 1 Article 47 of this Decree, and methods for determination of such criteria in conformity with specific conditions of the sectors/industries under their jurisdiction, where necessary.”.

32. Clause 2a is added to Article 67 as follows:

“2a. Each year, Ministries, ministerial agencies, Governmental agencies, other central-government agencies, provincial People's Committees and other agencies/organizations subject to provisions of clause 3 Article 2 of the Law on Bidding No. 22/2023/QH15 shall submit reports on performance of bidding tasks for investor selection to the Ministry of Planning and Investment of Vietnam for preparation and submission of consolidated reports thereon to the Prime Minister.”.

33. Appendix II enclosed with the Decree is amended as follow:

a) Clause 3 Section II is amended as follows:

“3. Project location:

This Article stipulates the location of project, including specific information on the place-name, location, and relevant works (if any).”;

b) Point d Clause 4 Section II is amended as follows:

“d) The project execution schedule shall comprise the following stages: the stage of construction of works/infrastructure systems (if any); the stage of operation, management and trading of

works/infrastructure systems.”;

c) Clause 5 Section II is amended as follows:

“5. Conditions for use of water surface, other resources and relevant facilities:

a) Conditions for use of water surface, other resources or relevant facilities according to regulations of law;

b) Provisions on excavation and disposal of fossilized objects, antiques, architectural structures or other items found in the project site, rights and obligations of the parties to these items;

c) Responsibilities of each party in case of any breach of abovementioned obligations.”;

d) Clause 5a is added to Section II as follows:

“5a. Implementation of the plan on investment efficiency in sector/industry/local development proposed by the investor in its bid:

a) The investor’s proposal includes the following content(s): the monetary value of contributions made to state budget; percentage of revenues to be paid by the investor to state budget; prices of goods/services; number of not-for-profit public work items; value of social assistance services or other social welfare services provided for social protection beneficiaries which is determined in cash or expressed as the number of beneficiaries based on the list of social protection beneficiaries or social assistance services of the local area where the subject project will be executed; types, toxicity and total amount of pollutants released to the environment;

b) The value proposed by the investor: information on the monetary value or percentage of revenues or number of beneficiaries corresponding to the plan proposed by the investor;

c) Method and progress of payment made to state budget (in case of payment made to state budget);

d) Specific plan, implementation method, schedule of investment in and construction of works, rules to be obeyed to ensure compliance with relevant laws (in case the investor proposes construction of public works); rights and obligations of each party in this case;

dd) Specific plan, implementation method, schedule of assistance, conditions and rules to be obeyed to ensure compliance with relevant laws (in case the investor proposes provision of social assistance services or other social welfare services); rights and obligations of each party in this case.”;

dd) Clause 6 Section II is amended as follows:

“6. The economic organization established by the investor to take charge of managing the investment project:

a) In case the economic organization has been established: Business type and operations of the economic organization; charter capital of the economic organization; commitments that the economic organization established by the investor shall inherit all rights and obligations to execute the investment projects as promised by the investor in clause 7 of this Section.

b) In case the economic organization is not yet established: requirements that the economic organization established by the investor shall inherit all rights and obligations to execute the investment projects as promised by the investor in clause 7 of this Section; procedures for modification of the contract in order to add name, rights, obligations and responsibilities of the economic organization established by the investor.”;

e) Point c clause 7 Section II is amended as follows:

“c) Implement the investor’s proposed plan on investment efficiency in sector/industry/local development according to the contents in clause 5a of this Section;”;

g) Point dd clause 7 Section II is amended as follows:

“dd) Implement the project according to the planning approved by a competent authority, comply with the promised schedule, ensure safety and environmental protection, and adhere to regulations of relevant laws on investment, construction, environment, taxation and specialized sector or industry law;”;

h) Point e clause 7 Section II is amended as follows:

“e) Implement commitments on solutions for applying technologies and/or best available techniques for reducing environmental pollution, and commitments on technology transfer, perform high technology activities proposed in the bid for enjoying incentives in bidding;”;

i) Point b clause 9 Section II is amended as follows:

“b) Cases in which the project contract may be modified as prescribed in Article 76 of the Law on Bidding; cases of transfer of investment project as prescribed in law on investment, specialized sector or industry law and relevant laws; cases of transfer of shares/stakes as prescribed in law on

investment, specialized sector or industry law and relevant laws; documentation requirements and procedures for transfer of project or shares/stakes; addition of name, rights, obligations and responsibilities of the economic organization established by the investor in the case prescribed in point b clause 6 of this Section; cases in which modification of the investment project does not result in modification of investment guidelines as prescribed in the Law on Investment;”;

k) The following provisions are abrogated: point b clause 7, point b clause 8 Part II.

34. The following provisions are abrogated: clause 6 Article 1, Clauses 4, 5 Article 49, Clause 1 Article 50.

Article 67. Amendments to Government’s Decree No. 24/2024/ND-CP dated February 27, 2024 elaborating and providing guidelines for implementation of Law on Bidding regarding contractor selection

1. Point dd is added to Clause 2 Article 91 as follows:

“dd) For procurement of goods/services other than those in points a, b and d of this clause where the value of the contract package or purchased goods/services exceeds VND 200 million, the head of the central-government agency or Provincial-level People’s Council shall directly make decision or stipulate the authority in charge of making decision on procurement of goods/services by agencies/units under their jurisdiction.”.

2. Point c is added to Clause 4 Article 131 as follows:

“c) Handling of situations in the case prescribed in this clause that arise from selection of consultant for determination of land prices shall comply with the Government’s regulations on land prices.”.

Article 68. Amendments to and abrogation of some articles of Government’s Decree No. 31/2021/ND-CP dated March 26, 2021 elaborating and providing guidelines for implementation of Law on Investment

1. Point b Clause 2 Article 29 is amended as follows:

“b) Organize bidding for selection of investors for the investment projects which require bidding for investor selection as prescribed in the Land Law and specialized sector or industry law. The authority approving investment guidelines shall assign a competent authority as prescribed in the Law on Bidding to organize bidding for selection of investors qualified to execute the project;”.

2. Points a, b Clause 3 and Clause 7 Article 29 are amended as follows:

a) Points a and b Clause 3 are amended as follows:

“3. Approval of investor as prescribed in clause 3 Article 29 of the Law on Investment (as amended in Article 250 of the Land Law No. 31/2024/QH15) shall be given in the following cases:

a) There is only one investor registering for participation in the auction after 02 LURs auction sessions have been conducted or there is an investor applying for execution of the project after 02 auction sessions have been held but unsuccessful as prescribed in the Land Law;

b) Procedures for invitation for EOI have been completed but there is only one investor submitting application and meeting the requirements of the EOI request or there is more than one investor submitting application but only one investor meeting the requirements of the EOI request as prescribed in the Law on Bidding.”;

b) Point c Clause 7 is amended as follows:

“c) Based on the request of the Ministry of Planning and Investment of Vietnam or the investment registration authority, the authority in charge of approving investment guidelines shall consider giving approval of investment guidelines and assign a competent authority to apply the Law on Bidding to selection of a qualified investor among the investors that have submitted valid applications. In this case, the bidding documents shall be issued to investors that have submitted valid applications without following procedures for invitation for EOI. The successful investor shall execute the project according to the decision on approval of investment guidelines, terms and conditions of the signed contract, and provisions of the Law on Investment, the Land Law and other relevant laws;”;

c) Point d Clause 7 is amended as follows:

“d) Where there is only one investor submitting a valid application during the conduct of procedures for approval of investment guidelines as prescribed in point b of this clause, the authority in charge of approving investment guidelines shall consider giving approval of investment guidelines and assign a competent authority to follow procedures for investor approval according to corresponding provisions of points a, b, c, d and dd clause 2 or points a, b, c and d clause 4 Article 30 of this Decree without following the procedures in point c of this clause and preparing report on invitation for EOI result;”;

d) Point dd is added to Clause 7 as follows:

“dd) Where there is only one investor submitting a valid application after an approval of the project’s

investment guidelines is given as prescribed in point b of this clause, the competent authority shall follow procedures for investor approval according to corresponding provisions of points a, b, c, d and dd clause 2 or points a, b, c and d clause 4 Article 30 of this Decree without following the procedures in point c of this clause and preparing report on invitation for EOI result.”;

dd) Point e is added to Clause 7 as follows:

“e) An investor that is approved as prescribed in points d and dd of this clause shall execute the project according to the decision on approval of investment guidelines, the decision on investor approval, and provisions of the Law on Investment, the Land Law and other relevant laws.”;

3. Clause 1, Point b Clause 2 and clause 3 Article 30 are amended as follows:

a) The first paragraph of clause 1 is amended as follows:

“1. The investor prescribed in point a clause 3 Article 29 of this Decree shall be considered and granted approval according to the following procedures:

b) Point b Clause 1 is amended as follows:

“b) Within 03 working days from its receipt of a valid application, the investment registration authority shall send the application to relevant authorities for their opinions about the applicant’s satisfaction of the requirements laid down in points b, c and d clause 4 Article 33 of the Law on Investment.”;

c) Point b Clause 2 is amended as follows:

“b) Within 03 working days from its receipt of a valid application, the investment registration authority shall send the report on invitation for EOI result and the application prescribed in point a of this clause to relevant authorities for their opinions about the applicant’s satisfaction of the requirements laid down in points b, c and d clause 4 Article 33 of the Law on Investment.”;

d) Clause 3 is amended as follows:

“3. A Ministry, ministerial agency or Governmental agency that conducts bidding shall be required to prepare a report on invitation for EOI result and give approval of investor if the investor meets the requirements laid down in points b, c and d clause 4 Article 33 of the Law on Investment. The decision on investor approval shall be sent to the Ministry of Planning and Investment (for a project whose investment guidelines are approved by the National Assembly or the Prime Minister), the investment registration authority and the relevant investor.”.

4. Points a, b and dd Clause 2 Article 31 are amended as follows:

a) Point a is amended as follows:

“a) A copy of the list of projects/work items requiring land expropriation approved by the provincial People’s Council (if any); documents proving that land has been cleared (if any), other explanatory documents (if any) in the case of proposal for investor selection through LURs auction in accordance with regulations of law on land;”;

b) Point b is amended as follows:

“A copy of the list of projects/work items requiring land expropriation approved by the provincial People’s Council (if any); documents proving that land has not been cleared (if any), other explanatory documents (if any) in the case of proposal for investor selection through bidding for a project involving land use. In this case, the investment proposal shall specify preliminarily estimated project execution costs determined on the basis of total investment of the project in accordance with regulations of law on construction, exclusive of the costs of compensation, support and relocation”;

c) The phrase “Bản sao hợp lệ văn bản của Ủy ban nhân dân cấp có thẩm quyền chấp thuận việc nhận chuyển nhượng, nhận góp vốn, thuê quyền sử dụng đất để thực hiện dự án đầu tư” (“A valid copy of the competent People’s Committee’s written approval for receipt of the LURs transfer, receipt of LURs as contributed capital or lease of LURs for project execution” in point d clause 2 Article 31 is changed into “ Bản sao hợp lệ văn bản của Ủy ban nhân dân cấp tỉnh chấp thuận việc thỏa thuận về nhận quyền sử dụng đất để thực hiện dự án đầu tư” (“A valid copy of the provincial People’s Committee’s written approval for agreement on receipt of LURs for project execution”).

5. Point c Clause 7 Article 31 is amended as follows:

“c) For the urban planning, the appraisal shall cover the assessment of conformity of the investment project with the zoning planning; if the proposed project is to be executed at the area for which the zoning planning is not required as prescribed in regulations of law on urban planning or the zoning planning has to be modified and has yet to be approved by the competent authority, the assessment of conformity of the investment project with the general planning is required;”.

6. Point b Clause 3 Article 32 is amended as follows:

“b) For the project that has the proposal for forest repurposing, the Ministry of Planning and Investment shall seek appraisal opinions of the Ministry of Agriculture and Rural Development,

Ministry of Natural Resources and Environment, concerned ministries and authorities, and the People's Committee of the province where the project is expected to be executed about the proposal for forest repurposing in accordance with regulations of law on forestry;”.

7. Clause 8 Article 32 is amended as follows:

“8. The decision on approval of investment guidelines shall be sent to the Ministry of Planning and Investment, the investor or competent authority that has submitted the application as prescribed in Clause 2 of this Article and People's Committee of the province where the project is executed to hold an auction (in case of investor selection through LURs auction), the competent authority as prescribed in the Law on Bidding for publishing the project information (in case of investor selection through bidding), investment registration authority, other Ministries and agencies involved in execution of the project.”.

8. Clause 6 Article 33 is amended as follows:

“6. The decision on approval of investment guidelines shall be sent to investor or competent authority that has submitted the application as prescribed in point a Clause 4 of this Article and the agency assigned to hold an auction (in case of investor selection through LURs auction), the competent authority as prescribed in the Law on Bidding for publishing the project information (in case of investor selection through bidding), investment registration authority, other provincial departments and agencies involved in execution of the project.”.

9. Article 108 is abrogated.

Article 69. Additions to Government's Decree No. 60/2024/ND-CP dated June 05, 2024 prescribing market development and management

Clause 8 is added to Article 6 as follows:

“8. Selection of investors for market construction investment projects funded by off-budget capital shall comply with the following provisions:

a) Follow procedures for approval of investment guidelines and approval of investor at the same time for a project which requires these approving procedures and meet relevant conditions set out in the Law on Investment;

b) Organize bidding for investor selection as prescribed in the Law on Bidding for a project to be executed on the land bank on which market infrastructure facilities invested in and managed by the State as prescribed in Chapter IV of this Decree are yet to be established and which falls in the case prescribed in clause 2 Article 126 of the Land Law;

c) Hold LURs auction for a project involving land bank managed by a State agency or organization in accordance with regulations of the Land Law, except the cases in points a and b of this clause.”.

Article 70. Amendments to Government's Decree No. 137/2013/ND-CP dated October 21, 2013 providing guidelines for implementation of Law on Electricity and Law on amendments to Law on Electricity

1. Clause 6 is added to Article 3 as follows:

“6. Organize bidding for investor selection as prescribed in the Law on Bidding for projects on construction of energy works funded by off-budget capital for developing sources of renewable energy and electricity generated from natural gas/LNG, whether or not the project comprises synchronously connected power grids, in case there are at least 02 investors applying for project execution, except the following:

a) Projects in which the State holds monopoly as prescribed in the Law on Electricity;

b) Projects in which investment is made in the form of public-private partnerships and public investment;

c) Projects included in 05-year investment and business plans of enterprises established under the Prime Minister's decision;

d) Hydropower plant expansion projects, offshore wind projects and projects on self-consumption of electricity;

dd) Emergency electricity projects as prescribed in the Law on Electricity.”;

2. Clause 7 is added to Article 3 as follows:

“7. Bidding documents are prepared in accordance with regulations of the Law on Bidding and the decision on approval of investment guidelines, prefeasibility study reports or feasibility study reports (if any), and the draft power purchase agreement made with the power buyer. Costs associated with the selection of investors for the projects in clause 6 of this Article shall comply with provisions of the Law on Bidding.

The competent authority or authority making decision to conduct bidding as prescribed in the Law on Bidding shall determine the buyer that will enter into the power purchase agreement with the investor. The signed power purchase agreement shall be used as the basis for conclusion of the project contract.”;

3. Clause 8 is added to Article 3 as follows:

“8. The power buyer shall:

- a) cooperate in preparing the bidding documents and consider giving its consent to the power purchase agreement at the request of the competent authority or authority making decision to conduct bidding as prescribed in the Law on Bidding;
- b) complete and sign the power purchase agreement based on the investor selection result;
- c) advance funding for covering costs in the case prescribed in point c clause 9 of this Article.”;

4. Clause 9 is added to Article 3 as follows:

“9. Responsibility to pay costs of preparation of prefeasibility study report/feasibility study report:

- a) Such costs shall be covered by the investor that proposes the project;
- b) Such costs shall be covered using funding for recurrent expenses of the competent authority or authority making decision to conduct bidding as prescribed in the Law on Bidding, except the case prescribed in point a of this clause;
- c) The power buyer shall advance funding for covering such costs in case the competent authority or authority making decision to conduct bidding is unable to allocate funding for covering such costs as prescribed in point b of this clause;
- d) The successful investor shall reimburse the costs prescribed in points a, b and c of this clause;
- dd) If the project’s investment guidelines are not approved or the investor selection is unsuccessful after the costs have been paid as prescribed in point a of this clause, the burden of all costs and risks shall be imposed on the investor that proposes the project;
- e) If the investor selection is unsuccessful or the project execution is suspended at the request of a competent authority after the costs have been paid as prescribed in point b or c of this clause, the amounts paid may be recorded as reasonable expenses of the competent authority, the authority making decision to conduct bidding or the power buyer.”.

Article 71. Amendments to Government’s Decree No. 05/2021/ND-CP dated January 25, 2021 on management and operation of airports and aerodromes

Clause 4 Article 48 is amended as follows:

“4. The Ministry of Transport shall organize investor selection in accordance with regulations of the Law on Bidding for the following aviation service facilities:

- a) Service facilities at passenger terminals; service facilities at cargo terminals/cargo warehouses in which the airport enterprise is unable to make investment under the airport development plan approved by a competent authority;
- b) Facilities for provision of ground-based commercial services;
- c) Aviation equipment repair and maintenance service facilities;
- d) Aviation technical service facilities, including aircraft, airscrew and equipment maintenance services;
- dd) Airline catering service facilities;
- e) Aviation fuel supply service facilities.

In case any of the facilities in this clause is eligible for land rent exemption for the entire lease term as prescribed in the Land Law, procedures for bidding for investor selection as prescribed in the Law on Bidding shall be followed when there are at least 02 investors applying for project execution”.

Article 72. Effect

1. This Decree comes into force from the date on which it is signed.
2. The following Decrees cease to have effect from the effective date of this Decree, including:
 - a) The Government’s Decree No. 25/2020/ND-CP dated February 28, 2020 elaborating and providing guidelines for implementation of some Articles of the Law on Bidding regarding investor selection;
 - b) Article 89 of the Government’s Decree No. 35/2021/ND-CP dated March 29, 2021 elaborating and providing guidelines for implementation of the Law on public-private partnership investment.
3. In case a legislative document which comes into force after the effective date of this Decree

provides additional regulations or nullifies regulations on projects requiring bidding for investor selection and sector/industry management requirements corresponding to the criteria set out in Articles 45 through 49 of this Decree, the following shall apply:

- a) Where a sector/industry legislative document stipulates additional projects requiring bidding for investor selection as prescribed in point k clause 2 Article 4 of this Decree, selection of investor in charge of executing the investment project involving land use shall comply with procedures and process prescribed in the Law on Bidding and this Decree; methods and criteria for evaluation of applications for project execution/bids and other contents (if any) shall comply with the specialized sector or industry law and ensure the achievement of competitiveness, fairness, transparency, economic efficiency and accountability objectives;
- b) Where a sector/industry legislative document nullifies regulations on bidding for selection of investors in charge of executing the projects in clause 2 Article 4 of this Decree, provisions of such a legislative document shall prevail;
- c) Supervisory Ministries shall be required to provide the Ministry of Planning and Investment of Vietnam with the information on the legislative documents which provide additional regulations or nullify regulations on projects requiring bidding for investor selection as prescribed in points a and b of this clause within 05 working days from the day on which such a legislative document is promulgated for publishing on VNEPS.

Article 73. Transition

1. Transition provisions on the investment projects involving land use under the scope of the Government's Decree No. 30/2015/ND-CP dated March 17, 2015 elaborating some Articles of the Law on Bidding regarding investor selection (hereinafter referred to as "Decree No. 30/2015/ND-CP"):

- a) If the result of the prequalification of a project conducted under provisions of the Decree No. 30/2015/ND-CP is available but the bidding documents or request for proposal is not yet issued by the effective date of this Decree, the prequalification result shall be invalidated and the investor selection process shall be terminated;
- b) If the bidding documents or request for proposal for a project has been issued under provisions of the Decree No. 30/2015/ND-CP but, until August 01, 2024, no bid or proposal is received, the investor selection process shall be terminated;
- c) If the bidding documents or request for proposal for a project has been issued under provisions of the Decree No. 30/2015/ND-CP and there are bids or proposals received before August 01, 2024, they shall be evaluated according to the issued bidding documents or request for proposal.

In case the investor selection result is approved before January 01, 2025, the competent authority shall organize negotiation, signing and management of the performance of the contract based on the investor selection result, the submitted bid/proposal, and the issued bidding documents/request for proposal in accordance with the Law on Bidding No. 43/2013/QH13 and legislative documents elaborating and providing guidelines for implementation of this Law.

If the investor selection result is still not available on January 01, 2025, the investor selection process shall be terminated.

d) In case the approved investor selection result of a project is available but the contract negotiation and signing are not yet completed by the effective date of this Decree, the competent authority shall organize negotiation, signing and management of the performance of the contract based on the investor selection result, the submitted bid/proposal, and the issued bidding documents/request for proposal in accordance with the Law on Bidding No. 43/2013/QH13 and legislative documents elaborating and providing guidelines for implementation of this Law.

2. Transition provisions on the investment projects involving land use which fall under the scope of the Government's Decree No. 25/2020/ND-CP dated February 28, 2020 elaborating and providing guidelines for implementation of some Articles of the Law on Bidding regarding investor selection (hereinafter referred to as "Decree No. 25/2020/ND-CP") and, when this Decree comes into force, fall in the cases prescribed in Article 4 of this Decree:

- a) If preliminary capacity and experience requirements of a project whose investment guidelines have been approved by a competent authority or which is included in the approved list of projects are not yet issued by the effective date of this Decree, the investor selection shall comply with provisions of the Law on Bidding No. 22/2023/QH15 and this Decree;
- b) If there is no application for execution of the project for which the invitation for EOI has been issued on VNEPS received by August 01, 2024, the invitation for EOI shall be invalidated and the investor selection shall also be terminated.
- c) If there are applications for execution of the project for which the invitation for EOI has been issued on VNEPS received by August 01, 2024 but the result of evaluation of applications for project execution is yet to be approved when this Decree comes into force, such applications for project

execution shall be evaluated according to the issued preliminary capacity and experience requirements.

Where only one investor meets the preliminary capacity and experience requirements, procedures for investor approval shall be followed in accordance with regulations of law on investment in force at the time of submission of the application for project execution. If procedures for investor approval are not yet completed before January 01, 2025, the investor selection process shall be terminated.

Where there are at least two investors meeting the preliminary capacity and experience requirements, the investor selection shall comply with provisions of the Law on Bidding No. 22/2023/QH15 and this Decree;

d) If the result of evaluation of investors' satisfaction of preliminary capacity and experience requirements has been approved before the effective date of this Decree but there is only one investor meeting the preliminary capacity and experience requirements, procedures for investor approval shall be followed in accordance with regulations of law on investment in force at the time of submission of the application for project execution. If procedures for investor approval are not yet completed before January 01, 2025, the investor selection process shall be terminated;

dd) If the result of evaluation of investors' satisfaction of preliminary capacity and experience requirements has been approved before the effective date of this Decree but there are at least two investors meeting the preliminary capacity and experience requirements, the following provisions shall apply:

In case the bidding documents are not yet issued, the investor selection shall comply with provisions of the Law on Bidding No. 22/2023/QH15 and this Decree.

In case the bidding documents have been issued but no bid is received by August 01, 2024, the invitation for bid shall be invalidated and the investor selection shall be terminated.

In case the bidding documents have been issued and there are bids received by August 01, 2024 but the investor selection result is not yet approved when this Decree comes into force, bids shall continue to be evaluated according to the issued bidding documents. In case the investor selection result is approved before January 01, 2025, the competent authority shall organize negotiation, signing and management of the performance of the contract based on the investor selection result, the submitted bid/proposal, and the issued bidding documents/request for proposal in accordance with the Law on Bidding No. 43/2013/QH13 and legislative documents elaborating and providing guidelines for implementation of this Law. If the investor selection result is still not available on January 01, 2025, the investor selection process shall be terminated;

e) In case the approved investor selection result of a project is available but the contract negotiation and signing are not yet completed by the effective date of this Decree, the competent authority shall organize negotiation, signing and management of the performance of the contract based on the investor selection result, the submitted bid/proposal, and the issued bidding documents/request for proposal in accordance with the Law on Bidding No. 43/2013/QH13 and legislative documents elaborating and providing guidelines for implementation of this Law;

g) In case the decision on approval of investment guidelines (for a project whose investment guidelines require approval) or written approval of the list of projects (for a project whose investment guidelines do not require approval) or issued bidding documents or approval of the investor selection result of a project stipulates that the successful investor shall reimburse the costs associated with the investor selection as prescribed in the Law on Bidding No. 43/2013/QH13, such reimbursement shall comply with the said document.

3. If the bidding documents for an investment project involving land use which falls under the scope of the Government's Decree No. 25/2020/ND-CP and, when this Decree comes into force, is determined to fall in neither of the cases prescribed in Article 4 of this Decree are not yet issued, the investor selection process shall be terminated.

If the bidding documents have been issued or the investor selection result is available, the project shall be treated following corresponding procedures in point dd or e clause 2 of this Article.

4. Transition provisions on the investment projects which fall under the scope of the Government's Decree No. 23/2024/ND-CP dated February 27, 2024 elaborating and providing guidelines for implementation of some Articles of the Law on Bidding regarding selection of investors for executing projects requiring bidding as prescribed in specialized sector or industry laws (hereinafter referred to as "Decree No. 23/2024/ND-CP") and, when this Decree comes into force, fall in the cases prescribed in clause 2 Article 4 of this Decree:

a) If the EOI request or bidding documents of a project whose investment guidelines or information has been approved by a competent authority are not yet issued by the effective date of this Decree, the investor selection shall comply with provisions of the Law on Bidding No. 22/2023/QH15 and this Decree;

- b) If there is no application for execution of the project for which the EOI request has been issued on VNEPS received by August 01, 2024, the provisions of point b clause 2 of this Article shall apply;
- c) If there are applications for execution of the project for which the EOI request has been issued on VNEPS received by August 01, 2024 but the result of evaluation of applications for project execution is yet to be approved when this Decree comes into force, the provisions of point c clause 2 of this Article shall apply;
- d) If the EOI request result has been approved before the effective date of this Decree and there is only one investor meeting the requirements of the EOI request, the provisions of point d clause 2 of this Article shall apply;
- dd) If the EOI request result has been approved before the effective date of this Decree and there are at least two investors meeting the requirements of the EOI request, the provisions of point dd clause 2 of this Article shall apply;
- e) In case the bidding documents have been issued but no bid is received by August 01, 2024, the invitation for bid shall be invalidated and the investor selection shall be terminated;
- g) If the bidding documents have been issued and there are bids received before August 01, 2024, they shall be evaluated according to the issued bidding documents.

In case the investor selection result is approved before January 01, 2025, the competent authority shall organize negotiation, signing and management of the performance of the contract based on the investor selection result, the submitted bid, and the issued bidding documents in accordance with the Law on Bidding No. 22/2023/QH15 and the Decree No. 23/2024/ND-CP. If the investor selection result is still not available on January 01, 2025, the investor selection process shall be terminated.

h) If the information on the investment project on construction of a roadside station has been published and the preparation of bidding documents has been organized in accordance with the Law on Bidding No. 22/2023/QH15, the Decree No. 23/2024/ND-CP and the specialized sector or industry legislative document but the bidding documents are not yet issued by the effective date of this Decree, preparation, appraisal, approval and issuance of the bidding documents shall comply with the Law on Bidding No. 22/2023/QH15 and this Decree without taking into account the annual land use plan;

i) If the information on the investment project on construction of aviation service facilities has been published and the preparation of bidding documents has been organized in accordance with the Law on Bidding No. 22/2023/QH15 and the Decree No. 23/2024/ND-CP but the bidding documents are not yet issued by the effective date of this Decree, preparation, appraisal, approval and issuance of the bidding documents shall comply with the Law on Bidding No. 22/2023/QH15 and this Decree without following procedures for invitation of EOI.

5. For projects for which the investor selection has to be terminated as prescribed in clauses 1, 2, 3 and 4 of this Article, based on the actual progress of the project, the competent authority shall consider applying procedures for subsequent steps in conformity with regulations of the Law on Investment, the Land Law, the Law on Bidding and relevant laws.

6. The selection of investors for the projects subject to transition provisions in clauses 1, 2, 3 and 4 of this Article for which a decision on approval of investment guidelines has been issued or an approval of the list of projects or project information has been given in accordance with regulations of law in force at the time this decision or approval is issued or given and which do not fall in the case prescribed in clause 5 of this Decree shall comply with provisions of the Law on Bidding No. 22/2023/QH15 and this Decree without taking into account the list of land zones subject to bidding for execution of investment projects involving land use.

7. For projects which are not subject to the scope of the law on bidding but for which the investor selection is organized in accordance with the law on bidding, they shall be treated according to corresponding transition provisions of clauses 1, 2, 3 and 4 of this Article.

If the selection of investor for an energy project has to be terminated as prescribed in clause 1, 2, 3, 4, 5 or 6 of this Article or the bidding documents for this project are not yet issued by the effective date of this Decree, subsequent steps shall be carried out in conformity with regulations of the Law on Investment, the Land Law, the Law on Bidding, the Law on Electricity and relevant laws. In this case, the competent authority shall organize preparation of prefeasibility study report/feasibility study report (if any), and the draft power purchase agreement according to guidelines given by the Ministry of Industry and Trade of Vietnam. These documents shall be used as the basis for preparation of the bidding documents without taking into account the decision on approval of investment guidelines (if unavailable). The bidding documents shall be issued to the investors that have submitted valid applications (in case provisions of the Law on Investment apply) or that meet the requirements of the invitation for EOI (in case provisions of the Law on Bidding apply).

8. Terms and conditions of the contracts signed before the effective date of this Decree shall remain valid. Any issues arising from the contract which are not governed in regulations of law in force at the time of signing of the contract shall be settled in accordance with provisions of the Law on Bidding No.

22/2023/QH15 and this Decree.

9. From August 01, 2024 to the effective date of this Decree, the investor selection shall comply with the Law on Bidding No. 22/2023/QH15, the Land Law No. 31/2024/QH15, the Law No. 43/2024/QH15 providing amendments to the Land Law No. 31/2024/QH15, the Housing Law No. 27/2023/QH15, the Law on Real Estate Business No. 29/2023/QH15, the Law on Credit Institutions No. 32/2024/QH15 and provisions of the Decree No. 30/2015/ND-CP, the Decree No. 25/2020/ND-CP, the Decree No. 23/2024/ND-CP, and relevant guidelines which are still conformable with the provisions of the Law on Bidding No. 22/2023/QH15, Land Law No. 31/2024/QH15, and the Law No. 43/2024/QH15.

Article 74. Responsibility for implementation

1. The Minister of Planning and Investment of Vietnam shall promulgate application and document forms used in investor selection.

2. Ministers shall:

a) review legislative documents containing provisions on bidding for investor selection under their management, and make timely amendments, additions and/or replacement in order to ensure that such provisions are conformable with provisions of the Law on Bidding No. 22/2023/QH15 and this Decree;

b) provide instructions for application of criteria for evaluation of investment efficiency in sector/industry/local development prescribed in Article 49 of this Decree, and methods for determination of such criteria in conformity with specific conditions of the sectors/industries under their jurisdiction, where necessary;

c) In addition to the responsibilities in points a and b of this clause, the Minister of Industry and Trade of Vietnam shall promulgate guidelines for implementation of point m clause 1 Article 47 of this Decree, where necessary, and issue document forms used in bidding in a manner that ensures satisfaction of conditions for execution of the projects under the national sector planning approved by a competent authority.

3. Each year, Ministries, ministerial agencies, Governmental agencies, other central-government agencies, provincial People's Committees and other agencies/organizations subject to provisions of clause 3 Article 2 of the Law on Bidding No. 22/2023/QH15 shall submit reports on performance of bidding tasks for investor selection to the Ministry of Planning and Investment of Vietnam for preparation and submission of consolidated reports thereon to the Prime Minister."

4. Ministers, heads of ministerial agencies, heads of Governmental agencies, and Chairpersons of provincial People's Committees shall, within the ambit of their functions and powers, assume responsibility for implementation of this Decree.

**ON BEHALF OF THE GOVERNMENT
PP. PRIME MINISTER
DEPUTY PRIME MINISTER**

Tran Hong Ha