

LAW ON BIDDING

Pursuant to the Constitution of the Socialist Republic of Vietnam;

The National Assembly of Vietnam herein passes the Law on Bidding.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Law provides for state management of bidding activities; powers and responsibilities of authorities, organizations and individuals in bidding activities; selection of contractors executing contract packages and selection of investors executing investment projects.

Article 2. Regulated entities

This Law applies to authorities, organizations and individuals participating or involved in bidding activities, including:

1. The selection of contractors which is funded by state budget as prescribed by the Law on state budget or lawful revenues of regulatory authorities and public sector entities for:
 - a) Executing investment projects or procurement cost estimates of regulatory authorities, political organizations, socio-political organizations, socio-political-professional organizations, socio-professional organizations, social organizations, affiliated units of people's armed forces, public sector entities and other organizations and individuals;
 - b) Supplying public goods/services; supplying drugs, chemicals, test equipment and medical devices; supplying national reserve goods or providing storage services for national reserve goods, except direct purchase of goods/services from all sellers/suppliers as prescribed by the Law on national reserve;
 - c) Performing other tasks which require bidding as prescribed by relevant laws;
2. The selection of contractors for executing:

- a) The packages of investment projects of state-owned enterprises as prescribed in the Law on enterprises and wholly state-owned enterprises;
 - b) The packages for supply of material - technical facilities, machines and equipment for science and technology development funded by science and technology development funds of state-owned enterprises;
3. The selection of investors for the following investment projects, including:
- a) Investment projects involving land use which require bidding as prescribed by the Law on land;
 - b) Investment projects which require bidding as prescribed by specialized laws;
4. Organizations and individuals involved in bidding activities other than those specified in Clauses 1, 2 and 3 of this Article may apply all provisions or some specific Articles, Clauses and/or Points of this Law of their own free will.

Article 3. Application of the Law on Bidding, relevant laws and international conventions, agreements on official development assistance (ODA) and concessional loans of foreign donors

1. Bidding activities within the scope of this Law must comply with the provisions of this Law and other relevant laws. If any provisions of this Law are different from those of any law promulgated before the effective date of this Law, the former shall prevail, except the cases prescribed in Clauses 2 through 7 of this Article.
2. The selection of contractors for petroleum contracts shall comply with the Law on petroleum.
3. The selection of investors for executing investment projects in the form of public-private partnerships (PPP projects) and the selection of contractors for executing packages of PPP projects shall comply with the Law on PPP investment.
4. The selection of foreign contractors for executing overseas packages of Vietnamese missions abroad shall comply with the Law on representative missions of the Socialist Republic of Vietnam in foreign countries.
5. The selection of contractors for projects which are funded by the official development assistance (ODA) or concessional loans of foreign donors under international conventions to which the Socialist Republic of Vietnam is a signatory (hereinafter referred to as "international conventions") or foreign loan agreements shall comply with such international conventions or foreign loan agreements. If the international convention or foreign loan agreement does not provide for the contractor selection or states that the contractor selection is subject to the law of Vietnam, this Law shall apply.

The Government is required to obtain an approval from the Standing Committee of National Assembly before negotiating or deciding to enter into any loan agreement which is not an international agreement and whose provisions on bidding are different from those of this Law or are not included in this Law.

6. In case a package covers both the procurement governed by this Law and that governed by an international convention, the competent person may decide to apply that international convention to the selection of contractor for executing the procurement governed by this Law.

7. Authorities, organizations and enterprises may decide the contractor selection of their own free will but must ensure openness, transparency, economic efficiency and accountability in the following cases:

a) Selection of contractors for the packages funded by domestic sponsors on the condition that this Law shall not be applied to contractor selection; the packages of public sector entities funded by borrowed capital, except funding from State investment credit, on-lent from ODA or concessional loans of foreign donors;

b) Selection of contractors in foreign countries by regulatory authorities, public sector entities, state-owned enterprises, or wholly state-owned enterprises, except the cases in Clause 4 of this Article;

c) Leasing, purchase or lease purchase of housing, working offices or property attached to land;

d) Selection of suppliers of goods, consulting and non-consulting services for ensuring business continuity and procurement for maintaining regular activities funded by business budget of state-owned enterprises or wholly state-owned enterprises; selection of contractors for executing the packages of investment projects specified in Clause 3 Article 2 of this Law; selection of suppliers of consulting services, raw materials, supplies, fuels and/or non-consulting services which are directly used for executing the packages in which a public sector entity is the successful bidder;

dd) Determination of mediators, members of dispute settlement panels, arbitration councils by contracting parties to consider disputes that arise during the execution of their signed contracts;

e) Procurement of goods/services whose prices are set by the State in accordance with regulations of the Law on pricing;

g) Selection of suppliers of petroleum services and goods used for performing petroleum activities under petroleum contracts approved by competent authorities in accordance with the Law on petroleum.

Article 4. Definitions

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

1. “*procuring entity*” means an authority or organization carrying out bidding activities, including:

a) The employer or the organization established according to the employer's decision or selected by the employer;

b) Competent authorities that approve investment guidelines or decide to conduct bidding for investor selection; units assigned by such competent authorities to organize the investor selection.

2. “*employer*” means an authority or organization that has their own funds or borrowed funds or to whom funds are allocated to execute the project; a state budget-funded unit; a budget estimate unit that directly uses funding included in off-budget procurement cost estimate; or a centralized procurement unit.

3. “*shortlist*” means a list of pre-qualified bidders in case of competitive bidding with prequalification; a list of bidders/investors that are invited to bid in case of limited bidding; or a list of bidders whose expressions of interest (EOIs) meet the requirements laid down in the EOI request.

4. “*consulting service*” means any one or some of the following: preparation and assessment of architecture and development master plans or planning reports; survey and preparation of pre-feasibility study reports, proposals of investment guidelines, applications for approval of investment guidelines, feasibility study reports, technical - economic reports, environmental impact assessment reports; survey and preparation of designs and cost estimates; bidding consulting services; verification and appraisal consulting services; supervision consulting service; project management consulting service; financial arrangement consulting service; auditing and other consulting services.

5. “*non-consulting service*” means any one or some of the following: logistics, insurance, advertising, acceptance testing and commissioning, satellite imagery; printing; sanitation and cleaning; communications; repair, maintenance and other services which are not defined as consulting services in Clause 4 of this Article.

6. “*investment project*” (hereinafter referred to as “project”) means a new construction project or program; asset procurement project; renovation, upgrading and expansion project; planning project, task or scheme; technical assistance project; or another program or project as prescribed by laws.

7. “*procurement cost estimate*” means an estimate of procurement costs to be covered by funding allocated according to the state budget estimate approved by a competent authority to a regulatory authority, political organization, socio-political organization, socio-political-professional organization, socio-professional organization, social organization, affiliated unit of people’s armed forces, public sector entity or another

organization or individual; or an estimate of procurement costs to be covered by lawful funds of a regulatory authority or public sector entity.

8. “*bidding*” means the process by which a qualified bidder will be selected to sign and execute a consulting service contract, non-consulting service contract, contract for supply of goods or construction contract or by which a qualified investor will be selected to sign and execute a project contract in a manner that ensures competitiveness, fairness, transparency, economic efficiency and accountability.

9. “*online bidding*” means the bidding process in which all bidding activities are carried out on Vietnam E-Procurement System (VNEPS).

10. “*international bidding*” means the bidding process with the participation of both domestic and foreign bidders or investors.

11. “*domestic bidding*” means the bidding process with the participation of only domestic bidders or investors.

12. “*bid price*” means the price stated in the bidder's letter of bid, including all costs associated with the execution of the package and fulfillment of all requirements laid down in the bidding documents or the request for proposals (RFP).

13. “*proposed successful bid price*” means the bid price of the proposed successful bidder after completing error correction and/or deviation adjustment, as prescribed in the bidding documents or RFP, and deducting discounts (if any).

14. “*contract price*” means the price specified in the contract signed by and between the employer and the contractor.

15. “*package*” means a part of or the entire project or procurement cost estimate. The package may cover the same procurement of different projects or one-off purchase quantity or purchase quantity for a given period of the procurement cost estimate, or centralized procurement.

16. “*mixed package*” means one of the following packages: engineering and procurement (EP); engineering and construction (EC); procurement and construction (PC); engineering, procurement and construction (EPC); project preparation, engineering, procurement and construction (turnkey project).

17. “*Goods*” include machinery, equipment, raw materials, fuels, supplies and spare parts; products; facilities; consumable goods drugs, chemicals, test equipment and medical devices; commercial software.

18. “*Vietnam E-Procurement System (VNEPS)*” means an information technology system which is developed and managed by regulatory authorities in charge of bidding activities

(hereinafter referred to as “bidding authorities”) for consistently managing bidding information and carrying out online bidding activities.

19. “*EOI request or prequalification document*” means a set of documents which are used in the competitive bidding with invitation for EOIs or prequalification applications, indicating capacity and experience requirements to be satisfied by bidders, as the basis for the procuring entity to compile the list of pre-qualified bidders or the list of bidders whose EOIs are assessed responsive to the EOI request. In case of investor selection, the EOI request includes all documents used in the project requiring determination of the number of interested investors in accordance with regulations of the Law on land and/or specialized laws, indicating preliminary capacity and experience requirements to be satisfied by investors.

20. “*expression of interest (EOI) or prequalification application*” means a set of documents prepared and submitted by a bidder to the procuring entity in accordance with requirements laid down in the EOI request or prequalification document. In case of investor selection, the application for project execution includes all documents prepared and submitted by an investor in accordance with requirements laid down in the EOI request.

21. “*bidding documents*” means all documents used in competitive bidding, limited bidding or shopping, indicating requirements for a project, package or investment project, as the basis for bidders/investors to prepare their bids and for the procuring entity to organize the bid evaluation.

22. “*request for proposals (RFP)*” means a set of documents used in direct contracting, direct procurement or price negotiation, indicating requirements for a package, as the basis for bidders to prepare their proposals and for the procuring entity to organize the evaluation of received proposals.

23. “*bid or proposal*” means a set of documents prepared and submitted by a bidder or investor to the procuring entity in accordance with requirements laid down in the bidding documents or RFP.

24. “*competent person*” means the person who issues the investment decision or the procurement decision as prescribed by laws. In case of investor selection, the competent person is the head of the competent authority that approves the investment guidelines in accordance with regulations of the Law on investment or that makes a decision to conduct bidding for investor selection.

25. “*investor*” means an organization or individual that acts as a bidder, has their name specified in the letter of bid, and will directly sign and execute the contract, if winning the bid. An investor may participate in the bidding as an independent investor or a consortium member. During the bidding process, investors are referred to as “bidders”.

26. “*contractor*” means an organization or individual or a group of organizations or individuals coming together under a consortium agreement that acts as a bidder, has their name specified in the letter of bid, and will directly sign and execute the contract, if winning the bid. In case of a consortium, the consortium agreement must clearly state responsibilities of the lead member, joint responsibilities and specific responsibilities of each member of the consortium for the entire scope of the package. During the bidding process, contractors are referred to as “bidders”

27. “*subcontractor*” means an organization or individual that is subcontracted by the contractor to perform construction tasks; provide consulting or non-consulting service; provide any part of the related services of the supply of goods package; or perform tasks of a mixed package.

28. “*specialist subcontractor*” means a subcontractor that will perform important tasks of the package as proposed by the bidder in their bid or proposal in accordance with capacity and experience requirements laid down in the bidding documents or RFP.

29. “*foreign contractor or foreign investor*” means an organization duly established under the law of a foreign country or an individual holding a foreign nationality when submitting their bid.

30. “*domestic contractor or domestic investor*” means an organization duly established under the law of Vietnam or an individual holding Vietnamese nationality when submitting their bid.

31. “*deadline for submission of bids*” means the last date and time for receipt of EOIs, prequalification applications, bids or proposals.

32. “*validity period of a bid or proposal*” means the number of days specified in the bidding documents or RFP, commencing on the deadline for submission of bids till the last day of validity specified in the bidding documents or RFP. The length of time starting from the deadline for submission of bids to the end of 24 hours of the day in which this deadline is set shall be counted as 01 day.

33. “*construction*” means a range of tasks carried out in connection with the construction and installation of a construction work or work item.

Article 5. Eligibility of bidders or investors

1. A bidder or investor that is an organization shall be deemed to be eligible if meeting the following requirements:

a) A domestic bidder or investor must be an enterprise, cooperative, cooperative union, artel, public sector entity or foreign-invested business organization that is duly established and operating under the law of Vietnam. A foreign bidder or investor must be duly established and operating under the law of a foreign country;

- b) It must keep independent accounting records;
- c) It is not undergoing dissolution process or subject to revocation of enterprise registration certificate, cooperative/cooperative union/ artel registration certificate; is not facing insolvency as prescribed by the law on bankruptcy;
- c) Its name is registered on VNEPS before the grant of approval for contractor or investor selection result;
- dd) It must ensure competitiveness in bidding as prescribed in Article 6 of this Law;
- e) It is not being prohibited from participating in bidding according to a decision issued by a competent person, Minister, head of ministerial agency, Governmental agency or another central-government agency, or Chairperson of the provincial-level People's Committee as prescribed in Clause 3 Article 87 of this Law;
- g) It is not liable to criminal prosecution;
- h) Its name is included in the shortlist in case the shortlist has been made available;
- i) A foreign bidder is requested to enter into a consortium with a domestic bidder or will subcontract domestic bidders, unless domestic bidders are incapable of performing any tasks of the package.

2. A bidder that is a household business shall be deemed to be eligible if meeting the following requirements:

- a) It has a valid certificate of household business registration issued in accordance with regulations of law;
- b) It is not undergoing the process of operation termination or subject to revocation of certificate of household business registration; the owner of the household business is not liable to criminal prosecution;
- c) It meets the requirements laid down in Points d, dd, e and h Clause 1 of this Article.

3. A bidder or investor that is an individual shall be deemed to be eligible if meeting the following requirements:

- a) He/she has full capacity for civil acts in accordance with regulations of the law of the country whose citizenship he/she is holding;
- b) He/she possesses appropriate professional certificate(s) if required by laws;
- c) He/she meets the requirements laid down in Points e and g Clause 1 of this Article.

4. A bidder or investor that meets the eligibility requirements laid down in Clause 1, 2 or 3 of this Article may participate in the bidding as an independent bidder or consortium bidder.

Article 6. Ensuring competitiveness in bidding

1. When submitting their EOI or prequalification application, a bidder is required to display their legal and financial independence from the following:

a) Consultants on preparation of EOI request or prequalification document, project management consultants, supervision consultants; consultants on preparation, verification and appraisal of design and cost estimation documents; consultants on preparation and appraisal of survey and design tasks;

b) Consultants on evaluation of EOIs or prequalification applications;

c) Consultants on appraisal of EOI selection results or prequalification results;

d) Employer, procuring entity, unless the bidder is a public sector entity that is affiliated to a regulatory authority and has functions and tasks assigned in conformity with the nature of the package of that regulatory authority or is an associate or subsidiary company of a state-owned group or corporation whose main business lines are conformable with the nature of the package of its parent company.

2. When submitting their bid, a bidder is required to display their legal and financial independence from the entities specified in Point d Clause 1 of this Article and from the following:

a) Project management consultants, supervision consultants; consultants on preparation, verification and appraisal of design and cost estimation documents; consultants on preparation and appraisal of survey and design tasks; consultants on preparation and appraisal of bidding documents, RFP; consultants on evaluation of bids, proposals; consultants on appraisal of contractor selection result for the same package;

b) Other bidders of the same package in case of limited bidding.

3. The consultant on supervision of contract execution, the bidder for the contract and the consultant on inspection of the same package must be legally and financially from each other.

4. The bidders in Clauses 1, 2 and 3 of this Article are considered to have legal and financial independence when meeting the following requirements:

a) The bidder is not affiliated to the same governing authority or organization with the public sector entity;

b) Neither the bidder nor the employer/procuring entity holds more than 30% of shares or stakes of each other;

c) In case of limited bidding, none of the bidders for the same package holds more than 20% of shares or stakes of each other;

d) None of the bidder and consultants for the same package holds shares or stakes of each other; the bidder and any of these consultants do not jointly hold more than 20% of shares or stakes of another entity.

5. When participating in the bidding, an investor is required to display their legal and financial independence from the following:

a) The competent authority, the procuring entity;

b) Consultants on preparation and appraisal of bidding documents; consultants on evaluation of bids; and consultants on appraisal of investor selection result until the day on which the investment project contract is signed.

6. The Government shall elaborate this Article.

Article 7. Bidding information

1. Information on contractor selection includes:

a) Information on the contractor selection plan or project;

b) Invitation for EOIs or invitation for prequalification applications;

c) Invitation for bid;

d) Shortlist;

dd) EOI request, prequalification document, bidding documents, and any addenda or responses to requests for clarification thereof;

e) Bid opening results in case of online bidding;

g) Contractor selection result;

h) Main contents of the contract;

i) Actions against violations of the bidding law;

k) Information on the contractor's performance;

- 1) Other relevant information.
2. Information on investor selection includes:
 - a) Information on the investment project as prescribed in Clause 2 Article 47 of this Law;
 - b) Invitation for EOIs, EOI request; EOI selection results;
 - c) Invitation for bid, bidding documents and any addenda or responses to requests for clarification thereof;
 - d) Investor selection results;
 - dd) Main contents of the contract;
 - e) Actions against violations of the bidding law;
 - g) Other relevant information.
3. The information in Clauses 1 and 2 of this Article must be published on the VNEPS, except the information on projects, investment projects or packages classified as state secrets.

Article 8. Provision and publishing of bidding information

1. Responsibility to publish information on contractor selection:
 - a) The employer shall publish the information specified in Points a, g, h, i and k Clause 1 Article 7 of this Law;
 - b) The procuring entity shall publish the information specified in Points b, c, d and dd Clause 1 Article 7 of this Law; In case of international bidding, the procuring entity shall publish the information specified in Points b, c and d Clause 1 Article 7 of this Law in both Vietnamese and English; the information specified in Point dd Clause 1 Article 7 of this Law may be published in either English or both Vietnamese and English;
 - c) The contractor shall update and publish information on their capacity and experience on the contractor database, including the information specified in Point k Clause 1 Article 7 of this Law.
2. Responsibility to publish information on investor selection:
 - a) The competent authority shall publish the information specified in Points a, b and e Clause 2 Article 7 of this Law;

b) The procuring entity shall publish the information specified in Points c, d and dd Clause 2 Article 7 of this Law. In case of international bidding, the procuring entity shall publish such information in both Vietnamese and English.

3. The organizations and individuals that provide and publish the information specified in Clauses 1 and 2 of this Article shall assume legal responsibility for the accuracy and truthfulness of the information registered and published on VNEPS as well as the consistency of documents published with those approved.

4. The information specified in Points a, d, g, h, I Clause 1 and Points a, d, dd, e Clause 2 Article 7 of this Law must be published on VNEPS within 05 working days from the day on which the relevant document is issued or the contract becomes effective.

Article 9. Processing and retention of documents during contractor/investor selection

1. The financial proposal of a bidder that failed the evaluation of technical proposals shall be returned unopened to that bidder within the following time limits:

a) Regarding a package for consulting services: within 10 days from the day on which the contract is signed with the successful bidder;

b) Regarding a package for non-consulting services, procurement of goods, or construction, or a mixed package for which the contractor is selected adopting the single-stage two-envelope bidding procedure: when the bid security is returned or released to the unsuccessful bidders or when the contractor selection result is published.

2. The financial proposal of investors that failed the evaluation of technical proposals shall be returned unopened to them when bid security is returned or released to unsuccessful investors or when the investor selection result is published.

3. Upon the expiry of the time limit specified in Clause 1 and Clause 2 of this Article, if the bidder or investor fails to receive their technical proposals, the procuring entity shall consider deciding to destroy such proposals in a manner that ensures the confidentiality of information therein.

4. In case of bid cancellation, all relevant documents shall be retained for at least 05 years from the issue date of the bid cancellation decision.

5. Settlement documents, as-built dossiers and other documents concerning the successful bidder of the package shall be retained in accordance with regulations of the Law on archives.

6. All documents concerning the contractor/investor selection shall be retained for at least 05 years from the date of contract settlement or the date of termination of the investment project contract, except the documents specified in Clauses 1, 2, 4 and 5 of this Article.

Article 10. Incentives in contractor and investor selection

1. Subjects eligible for incentives in contractor selection:

- a) Originating goods of Vietnam;
- b) Eco-friendly products and services as prescribed by the Law on environmental protection;
- c) Domestic bidders that produce originating goods of Vietnam meeting the requirements laid down in bidding documents;
- d) Foreign bidders and domestic bidders coming together under a consortium agreement in which the domestic bidders take charge of at least 25% of total value of tasks of the package;
- dd) A domestic bidder that submits a bid as an independent bidder or forms a consortium with other domestic bidders to participate in an international bidding;
- e) Bidders that are microenterprises or small enterprises as prescribed in the Law on assistance for small and medium-sized enterprises;
- g) Bidders that are startups as prescribed by laws;
- h) A bidder that employs the number of female workers, wounded soldiers and people with disabilities, or ethnics, each accounting for at least 25% of their total employees.

2. Incentives in contractor selection:

- a) In case where bidders are equally evaluated, the bidder eligible for incentives (eligible bidder) shall be ranked higher than those ineligible for incentives (ineligible bidder);
- b) Extra points shall be given to the eligible bidder in case bidders are evaluated and ranked adopting the fixed-price method, technical-based evaluation method, or combined technical and price method;
- c) An amount of money shall be added to the bid price or evaluated price of the ineligible bidder in case bidders are evaluated and ranked adopting the lowest-price method or lowest-evaluated price method;
- d) Evaluation of capacity, experience and other criteria of eligible bidders shall be given priority during the evaluation of bids;
- dd) Bidders that are microenterprises or small enterprises shall be given priority in bidding for construction packages whose price does not exceed VND 05 billion. Upon completion of the bidding process, if none of microenterprises and small enterprises

meets the requirements of the package, a new bidding process shall be organized with the participation of other enterprises.

3. Application of incentives in contractor selection:

a) The entities specified in Points a, b, c and g Clause 1 of this Article shall be given incentives as prescribed in Point b or Point c Clause 2 of this Article when they participate in packages for procurement of goods or mixed packages;

b) The entities specified in Points d and dd Clause 1 of this Article shall be given incentives as prescribed in Point b or Point c Clause 2 of this Article when they participate in international bidding for packages for consulting services, non-consulting services, construction or mixed packages;

c) The entities specified in Point h Clause 1 of this Article shall be given incentives as prescribed in Point a Clause 2 of this Article when they participate in domestic bidding for packages for consulting services, non-consulting services, construction or mixed packages;

d) The entities specified in Point e Clause 1 of this Article shall be given incentives as prescribed in Points a and dd Clause 2 of this Article when they participate in domestic bidding for construction packages;

dd) In addition to the incentives in Points b and c Clause 2 of this Article, the bidders specified in Points c and g Clause 1 of this Article shall also be entitled to the incentives prescribed in Point b Clause 2 of this Article when they participate in domestic bidding for packages for consulting services, non-consulting services, procurement of goods, construction or mixed packages;

e) In case of domestic bidding for a procurement package, the employer may decide whether to require inclusion of a domestic good in bids if such good can be manufactured by at least 03 domestic manufacturers satisfying technical, quality and price requirements.

4. Investors eligible for incentives in investor selection:

a) Investors that apply technological solutions for reducing environmental pollution to their projects which pose high risk of adverse environmental impacts as prescribed by the Law on environmental protection;

b) Investors that commit to make transfer of technologies included in the List of priority high technologies as prescribed by the Law on high technologies or the List of technologies of which the transfer is encouraged as prescribed by the Law on technology transfer.

5. Incentives in investor selection:

a) In case where investors are equally evaluated, the investor eligible for incentives shall be ranked higher than those ineligible for incentives;

b) Extra points shall be given to eligible investors during evaluation and ranking of their bids.

6. The Government shall elaborate this Article.

Article 11. International bidding

1. International bidding may be organized if one of the following conditions is satisfied:

a) The international bidding is requested by the donor that finances the project or package under an international convention or loan agreement;

b) In case of a package for consulting services, non-consulting services, construction or mixed package, none of the domestic bidders meets the requirements of the package, or the domestic prequalification or EOI procedure or competitive bidding for the package has been held but none of prequalification applications, EOIs or bids is received;

c) In case of a consulting service package in which the competent person believes that the participation of foreign bidders is necessary for improving the quality of the package or project, the competent person decides to organize international bidding and assumes responsibility for his/her decision;

d) In case of a procurement package, the good to be procured cannot be domestically manufactured or none of domestic manufacturers of such a good satisfies all technical, quality and price requirements. If the good to be procured is a common good which has been imported and sold in Vietnam, the organization of international bidding is not allowed.

2. International bidding shall be organized for selecting qualified investors for the investment projects specified in Clause 3 Article 2 of this Law, except the following cases:

a) Projects involving business lines from which foreign investors are prohibited as prescribed by the Law on investment;

b) Projects for which the domestic bidding is compulsory for the purposes of national defense and security, social order and security;

c) Projects located in land areas or sea areas the use of which is restricted to foreign investors and foreign-invested business organizations as prescribed by the Law on land and relevant laws;

d) Projects with a total investment of less than VND 800 billion;

dd) Projects other than those specified in Points a, b, c and d of this Clause for which the invitation for EOI under international bidding has been sent but no EOIs are received from foreign bidders.

Article 12. Language used in bidding

1. Language used in bidding shall be Vietnamese.
2. The language used in international bidding shall be English or both Vietnamese and English. In case the EOI request, prequalification document, bidding documents or RFP is made in Vietnamese and English, bidders or investors may submit their bids either in Vietnamese or English.

Article 13. Currencies of bid

1. In case of domestic bidding, bidders or investors shall be allowed to quote their bids in VND only.
2. In case of international bidding:
 - a) The bidding documents or RFP shall indicate the specific currencies to be used in the bids or proposals but no more than 03 currencies shall be allowed;
 - b) If bidders or investors are allowed to quote their bids in 02 or 03 various currencies as prescribed in bidding documents, conversion into a single currency shall be required when conducting the bid evaluation. If such currencies include VND, conversion into VND is required. The currency of conversion, time and basis for determining the exchange rate must be included in the bidding documents;
 - c) Costs incurred in Vietnam in association with the execution of a package, project or investment project shall be quoted in VND;
 - d) Costs incurred in a foreign country in association with the execution of a package, project or investment project shall be quoted in the local currency of that country, VND.

Article 14. Bid security

1. Bidders or investors shall furnish bid securities in one of the following forms in order to ensure their fulfillment of responsibilities for a period specified in the bidding documents:
 - a) Pay a deposit;
 - b) Submit a letter of guarantee issued by a domestic credit institution or foreign bank branch lawfully established under the law of Vietnam; or

c) Submit a certificate of surety bond insurance issued by a domestic non-life insurer or branch of a foreign non-life insurer duly established under the law of Vietnam.

2. The submission of bid security is required in the following cases:

a) Competitive bidding, limited bidding or shopping for a consulting service, procurement, construction or mixed package;

b) Competitive bidding or limited bidding for investor selection.

3. Bid securities must be furnished prior to the deadline for submission of bids specified in the bidding documents. In case of two-stage bidding procedure, bidders or investors shall furnish bid securities in the second stage.

4. Depending on the scale and nature of each project, investment project or package, the amount of bid security specified in the bidding documents shall be:

a) 1% - 1,5% of the price of a construction or mixed package whose price does not exceed VND 20 billion or of a procurement or non-consulting service package whose price does not exceed VND 10 billion;

b) 1,5% - 3% of the price of a package other than that specified in Point a of this Clause;
or

c) 0,5% - 1,5% of total investment of the investment project for which the bidding is conducted for investor selection.

5. The validity period of bid security is specified in the bidding documents and equals the bid validity period plus 30 days.

6. In case the validity period of a bid is extended after the deadline for submission of bids, the procuring entity shall request the bidder or investor whose bid is extended to extend the validity period of their bid security for a corresponding additional period. In this case, the bidder or investor shall follow procedures for extending the validity period of their bid security for a corresponding additional period and shall not be permitted to modify their bid. If the bidder or investor refuses to extend the validity period of their bid security, their bid shall be considered invalid and rejected. The procuring entity shall return or release the bid security to the bidder or investor within 14 days from the day on which the procuring entity receives the bidder or investor's written refusal.

7. In case of a consortium, each consortium member may furnish a separate bid security or reach an agreement to appoint a member to provide bid securities for that member and all other members of the consortium. Total value of bid securities shall not be lower than the amount of bid security specified in the bidding documents. If any member of the consortium commits violations as prescribed in Clause 9 of this Article, the bid securities of all consortium members shall not be returned.

8. The procuring entity shall return or release bid securities to unsuccessful bidders or investors within the time limit specified in the bidding documents which shall not exceed 14 days from the date of approval of the contractor or investor selection result. The bid security shall be returned or released to the successful bidder or investor after the contract becomes effective.

9. The bid security may be forfeited in the following cases:

a) After the deadline for submission of bids and during the validity period of the bid, the bidder or investor withdraws their bid or gives a written refusal to perform one or some tasks proposed in their bid in accordance with the requirements laid down in the bidding documents;

b) The bidder or investor performs any of the prohibited acts specified in Article 16 of this Law or commits violations of the bidding law resulting in bid cancellation as prescribed in Points d, dd Clause 1, Points d, dd Clause 2 Article 17 of this Law;

c) The successful bidder or investor fails to furnish the required performance security as prescribed in Article 68 and Article 75 of this Law;

d) The successful bidder fails or refuses to negotiate the contract (if any) within 05 working days in case of domestic bidding, or within 10 working days in case of international bidding, from the receipt of the invitation for contract negotiation, or, after the contract negotiation has been carried out, refuses to complete the contract and sign the contract negotiation record, except force majeure events;

dd) The successful bidder fails or refuses to carry out the completion of contract or framework agreement within 10 days, in case of domestic bidding, or within 20 days in case of international bidding, from the receipt of the notice of acceptance from the procuring entity, except force majeure events;

e) The successful bidder fails or refuses to sign the contract or framework agreement within 10 days, in case of domestic bidding, or within 20 days in case of international bidding, from the date of completion of that contract or framework agreement, except force majeure events;

g) The successful investor fails or refuses to carry out the completion of contract within 15 days, in case of domestic bidding, or within 30 days in case of international bidding, from the receipt of the notice of acceptance from the procuring entity, except force majeure events;

h) The successful investor fails or refuses to sign the contract within 15 days, in case of domestic bidding, or within 30 days in case of international bidding, from the date of completion of that contract, except force majeure events.

10. In case bidders or investors commit violations of the bidding law resulting in forfeiture of their bid securities and/or performance securities as prescribed in Clause 9 of this Article, Clause 6 Article 68 and Clause 4 Article 75 of this Law, amounts of bid securities and/or performance securities forfeited shall be used according to the following provisions:

a) Regarding projects or packages funded by state budget, these amounts shall be paid to state budget in accordance with regulations of the Law on state budget;

b) Regarding projects or packages not funded by state budget, or investment projects, these amounts shall be used according to financial regulations adopted by employers or competent authorities;

c) If the procuring entity is a bidding consultant selected by the employer, these amounts shall be paid to the employer. The employer shall manage and use these amounts in accordance with Points a and b of this Clause.

Article 15. Costs associated with contractor/investor selection

1. Costs associated with the contractor selection:

a) RFP, bidding documents used in domestic bidding, EOI request and prequalification document are issued free of charge on VNEPS;

b) Bidding documents used in international bidding shall be issued on VNEPS; bidders shall make payment for purchase of electronic forms of the bidding documents when submitting their bids;

c) Employers/procuring entities shall incur costs of publishing bidding information and other costs associated with the contractor selection;

d) Bidders shall incur costs of preparing their EOIs, prequalification applications, bids, proposals, and participating in bidding, and settling bidding-related petitions (if any).

2. Costs associated with the investor selection:

a) EOI request and bidding documents used in domestic bidding are issued free of charge on VNEPS;

b) Bidding documents used in international bidding shall be issued on VNEPS; investors shall make payment for purchase of electronic forms of the bidding documents when submitting their bids;

c) Procuring entities shall incur costs of publishing information on investor selection and other costs associated with the investor selection;

d) Investors shall incur costs of preparing their applications for project execution and bids, and participating in bidding, and settling bidding-related petitions (if any).

3. The Government shall elaborate this Article.

Article 16. Prohibited acts in bidding

1. Offering, giving, receiving or taking a bribe.

2. Abusing positions or entrusted power to influence or illegally intervene in bidding process in any form.

3. Collusive practice, including:

a) Reaching, with or without undue influence, an arrangement or agreement which is designed to let one or more parties to prepare bids for all bidders or to withdraw submitted bids so that one of them will win the bid;

b) Reaching an arrangement or agreement on refusal to supply goods or services, or subcontract, or reaching other agreements to limit competition so that one party will win the bid;

c) A bidder or investor with appropriate qualifications and experience has submitted a bid and meets the requirements laid down in the bidding documents but deliberately refuses to provide additional documents proving their capacity and experience at the procuring entity's request for clarification of the bid or verification of their submitted documents with the aim of facilitating one party's winning of the bid.

4. Fraudulent practice, including:

a) Forging or falsifying information and/or documents used in bidding;

b) Deliberately providing information and documents which are not accurate or objective in EOIs, prequalification applications, applications for project execution, bids or proposals with the aim of falsifying the contractor/investor selection result.

5. Obstructive practice, including:

a) Destroying, deceiving, altering or concealing of evidence or making false statements; threatening, harassing or intimidating any party to prevent the verification or investigation into a corrupt, fraudulent or collusive practice made with a supervision, inspection or audit authority;

b) Obstructing the competent person, employer, procuring entity, bidders (or investors) in the course of contractor (or investor) selection;

c) Impeding competent authorities' rights of supervision, inspection or audit of bidding activities;

d) Deliberately making false complaints, denunciations or petitions with the aim of impeding bidding process;

dd) Acts of violation against laws and regulations on cybersecurity and safety intended to intervene or impede the online bidding process.

6. Inequality and non-transparency, including:

a) A bidder or investor of a package or investment project is also the procuring entity or employer or takes charge of performing tasks of the procuring entity or employer of that package or investment project;

b) A person or entity concurrently engages in the preparation and appraisal of EOI request, prequalification document, bidding documents, or RFP of the same package or investment project;

c) A person or entity concurrently engages in the evaluation of bids or proposals and the appraisal of the contractor or investor selection result of the same package or investment project;

d) A person who is working for the procuring entity/employer directly engages in the contractor/investor selection, or acts as a member of the expert team or appraising team in charge of appraising the contractor/investor selection result, or is a competent person or head of the procuring entity/employer, for a package or investment project for which his/her family relative, as defined in the Law on enterprises, directly submits a bid or acts as the legal representative of a bidder or investor;

dd) A bidder submits a bid for a procurement, construction or non-consulting service package for which the bidder is also acting as a consultant on preparation, verification and appraisal of cost estimate, technical design, building drawings and designs, front-end engineering design (FEED); preparation and appraisal of prequalification document or bidding documents; evaluation of prequalification applications or bids; inspection of goods; appraisal of contractor selection result; supervision of contract execution;

e) A person acts as a bidder for a package of a project or investment project of the procuring entity or employer for which he/she worked and held the executive or managerial position within 12 months from the date of his/her resignation therefrom;

g) A supervision consultant also acts as the inspection consultant of the same package;

h) Failure to meet relevant requirements laid down in this Law when adopting a method other than the competitive bidding to the contractor/investor selection;

i) Inclusion of specific brand and/or origin requirements in the bidding documents for a procurement or construction or mixed package under the competitive bidding, limited bidding or shopping method, except the provisions of Point e Clause 3 Article 10, Clause 2 Article 44 and Clause 1 Article 56 of this Law;

k) Bidding documents impose conditions that limit the participation of bidder(s) or investor(s) or give advantage for one or some bidders or investors resulting in unfair competition or violation of the Clause 3 Article 44 and Clause 2 Article 48 of this Law;

l) Slitting a project or procurement cost estimate into a series of packages for the purpose of direct contracting or with the aim of limiting the participation of bidders.

7. Unauthorized disclosure of the following information and documents on the contractor/investor selection, except the cases specified in Point b Clause 8 and Point g Clause 9 Article 77, Clause 11 Article 78, Point h Clause 1 Article 79, Clause 4 Article 80, Clause 4 Article 81, Clause 2 Article 82, Point b Clause 4 Article 93 of this Law, including:

a) Contents of EOI request, prequalification document, bidding documents or RFP before they are issued as prescribed;

b) Contents of EOIs, prequalification applications, applications for project execution, bids or proposals; the procuring entity's clarification requests and responses from bidders or investors during the evaluation of EOIs, prequalification applications, applications for project execution, bids or proposals; reports of the procuring entity or expert team, appraisal reports, reports of consultants and other relevant specialized agencies during the contractor/investor selection; records or minutes of bid evaluation meetings, opinions or comments on each EOI, prequalification application, application for project execution, bid or proposal before they are disclosed as prescribed;

c) The contractor/investor selection result before it is disclosed as prescribed;

d) Other documents issued or obtained during the contractor/investor selection and certified to contain state secrets as prescribed by law.

8. Illegal transfer of awarded contract, including the following cases:

a) The contractor transfers a volume of tasks of the package worth more than the maximum value of tasks to be subcontracted and those tasks to be undertaken by specialist subcontractor(s) under the signed contract;

b) The contractor transfers a volume of tasks of the package whose value does not exceed the maximum value of tasks to be subcontracted under the signed contract but beyond the scope of tasks to be subcontracted specified in the bid or proposal without obtaining a prior consent from the employer or supervision consultant;

c) The employer/supervision consultant gives consent to the contractor's transfer of tasks as prescribed in Point a of this Clause;

d) The employer/supervision consultant gives consent to the contractor's transfer a volume of tasks as prescribed in Point b of this Clause which is worth more than the maximum value of tasks to be subcontracted under the signed contract.

9. The contractor selection is conducted before determining funding sources as prescribed in Clause 3 Article 39 of this Law.

Article 17. Bid cancellation

1. In case of contractor selection, bid cancellation shall occur when:

a) all EOIs, prequalification applications, bids or proposals are considered substantially nonresponsive to the EOI request, prequalification document, bidding documents or RFP;

b) there are changes in the objectives and scope of investment specified in the investment decision resulting in changes in volume of tasks and evaluation criteria specified in the EOI request, prequalification document, bidding documents or RFP;

c) the EOI request, prequalification document, bidding documents or RFP does not comply with regulations laid down in this Law or other relevant laws to the extent that the selected bidder fails to meet the requirements of the package;

d) the successful bidder commits any of the prohibited acts in Article 16 of this Law; or

dd) another organization or individual that is not the successful bidder commits any of the prohibited acts in Article 16 of this Law resulting in inaccurate contractor selection result.

2. In case of investor selection, bid cancellation shall occur when:

a) all bids are considered substantially nonresponsive to the bidding documents;

b) there are changes in the objectives, scale, location, investment capital or duration of investment project execution due to force majeure events resulting in changes in evaluation criteria specified in the issued bidding documents;

c) one or some contents of the bidding documents does not comply with regulations laid down in this Law or other relevant laws resulting in inaccurate investor selection result or to the extent that the selected investor fails to meet the requirements of the investment project;

d) the successful investor commits any of the prohibited acts in Article 16 of this Law; or

dd) another organization or individual that is not the successful investor commits any of the prohibited acts in Article 16 of this Law resulting in inaccurate investor selection result.

3. Bid cancellation may occur within the period from the issuance of the EOI request, prequalification document, bidding documents or RFP to the signing date of the contract or framework agreement in case of centralized procurement.

4. Organizations and individuals that commit violations to the extent of bid cancellation as prescribed in Points c, d, dd Clause 1 and Points c, d, dd Clause 2 of this Article shall pay compensation to related parties.

Article 18. Bid suspension, refutation of contractor/investor selection result

1. If there is evidence that an organization or individual participating in the bidding commits any of the prohibited acts in Article 16 of this Law or violations against relevant laws which adversely affect the achievement of competitiveness, fairness, transparency, and economic efficiency or falsify the contractor/investor selection result, the competent person shall adopt one or some of the following measures:

a) Suspend the bidding process in order to suspend all contractor/investor selection activities and take remedial actions against violations immediately. Bid suspension shall be made during the contractor/investor selection and before the contractor/investor selection result is approved;

b) Refuse to recognize the contractor/investor selection result during the contractor/investor selection and the contract execution;

c) Impose penalties for violations as prescribed in Article 87 of this Law.

2. The decision on bid suspension or refutation of contractor/investor selection result must clearly indicate the causes thereof, remedial measures and time limit for completing remedial measures against violations.

Article 19. Expert team, appraising team

1. An expert team consists of capable and experienced individuals who are selected or assigned by the employer or bidding consultant (in case of contractor selection) or the procuring entity (in case of investor selection) to perform one or some of the following tasks: preparation of EOI request, prequalification document, bidding documents or RFP; evaluation of EOIs, prequalification applications, bids, proposals or applications for execution of investment project; other tasks during the contractor/investor selection process.

2. An appraising team consists of capable and experienced individuals who are selected or assigned by the competent person, employer or bidding consultant to inspect and

consider the compliance with laws and regulations by one or all of the following contents: contractor selection master plan, contractor selection plan; EOI request, prequalification document, bidding documents or RFP and EOI selection result, prequalification result, and contractor/investor selection result.

3. In order to become a member of the expert team or appraising team, an individual shall have at least 03 years' experience in any field relevant to legal, technical or financial contents of the package or investment project.

4. The Government shall elaborate capacity and experience requirements to be satisfied by members of the expert team and appraising team.

Chapter II

METHODS AND PROCEDURES FOR CONTRACTOR AND INVESTOR SELECTION

Section 1. CONTRACTOR SELECTION METHODS

Article 20. Contractor selection methods

1. Contractor selection methods include:

- a) Competitive bidding;
- b) Limited bidding;
- c) Direct contracting;
- d) Shopping;
- d) Direct procurement;
- e) Self-execution;
- g) Community participation;
- h) Price negotiation;
- i) Contractor selection in special circumstances.

2. The Government shall adopt specific regulations on contractor selection methods other than those specified in Clause 1 of this Article which are preeminent and use advanced and modern electronic equipment and facilities, procedures and subjects of such methods in conformity with new features of VNEPS and in a manner that ensures competitiveness, fairness, transparency and economic efficiency in bidding.

Article 21. Competitive bidding

1. Competitive bidding is a contractor selection method whereby there is no limit on the number of bidders.
2. The competitive bidding method may apply to all packages, except the cases specified in Articles 22 through 29 of this Law. In case a contractor selection method other than competitive bidding is adopted, the written application for approval of the contractor selection plan must indicate the reasons for failure to adopt the competitive bidding; the competent person shall decide the adoption of a contractor selection method other than competitive bidding and assume responsibility for his/her decision.

Article 22. Limited bidding

Limited bidding is a contractor selection method whereby only bidders meeting the requirements of the package are invited to submit bids, and is adopted in the following cases:

1. Packages have high technical requirements or involve special techniques that can only be satisfied by some bidders;
2. The limited bidding method is adopted at the request of the donor that finances the project or package under an international convention or loan agreement.

Article 23. Direct contracting

1. Direct contracting applies to:
 - a) Emergency packages which need to be executed to defend national sovereignty and national security; packages which need to be executed to immediately remedy or promptly handle consequences of natural disasters, conflagration, accidents, incidents, calamities or other force majeure events;
 - b) Packages for consulting services, non-consulting services, supply of goods or construction which need to be executed immediately to prevent direct harm to the life and property of local communities or serious impacts on adjacent works;
 - c) Packages for supply of consulting services, non-consulting services, drugs, chemicals, test equipment, medical devices, spare parts, accessories, facilities, or construction, which need to be executed immediately to serve epidemic and disease prevention and combat or maintain operation of health facilities in urgent cases so as to avoid causing harm to the life and health of people; packages for procurement of drugs, chemicals, test equipment, medical devices, spare parts, accessories used in giving emergency aid to patients as prescribed in the Law on Medical Examination and Treatment in case health facilities lack such drugs, chemicals, test equipment, medical devices, spare parts, accessories;

packages for procurement of drugs or medical devices which can be manufactured by the only one manufacturer in the market;

d) Packages which need to be executed to protect state secrets;

dd) Packages for consulting services which must be purchased from contractors that have previously executed packages in order to ensure technological compatibility and copyright which cannot be purchased from other contractors; packages for procurement of goods or non-consulting services which must be purchased from contractors that have previously executed packages or from manufacturers or their agents in order to ensure their technological compatibility and copyright with existing equipment, machinery, software and services or to meet warranty requirements laid down by contractors or manufacturers which cannot be purchased or acquired from other contractors or manufacturers;

e) Packages for research or testing purposes or purchase of intellectual property rights or copyrighted broadcast programs; packages for transport of national reserves for relief and aid purposes, which must be delivered immediately;

g) Consulting service packages for preparation of feasibility study reports or construction engineering which are designated to the authors of work architecture designs that win the bid or are selected when they satisfy the prescribed capacity requirements laid down in the Law on construction; packages for construction or restoration of monuments, relief, grant murals and artistic works subject to copyright from the stage of creation to the stage of construction; consulting service packages for preparation of construction plans which are designated to the authors of construction planning schemes or initiatives that has been successful in the construction planning competition;

h) Packages for consulting services, relocation of technical infrastructure facilities to serve the land clearance; packages for consulting services, sweeping and removal of bombs and other explosive objects, demining to prepare for construction sites;

i) Packages for which there is only one bidder capable of performing the contract in the market due to specific technological solution requirements;

k) Packages of nationally important projects eligible for direct contracting according to the National Assembly's resolutions issued when deciding investment guidelines;

l) Packages for leasing of warehouse facilities for impounded goods; packages for hiring of transport and handling services for impounded goods at seaports and concentrated inspection places in case there is only one entity providing such services in the port; packages for import of sporting weapons to serve training activities and annual sports competitions of sports training centers, schools and clubs;

m) Packages of procurement cost estimates whose price ranges from VND 50 million to VND 100 million; packages of investment projects of state-owned enterprises or wholly

state-owned enterprises and investment projects defined in the Law on public investment, including: consulting service packages whose price does not exceed VND 500 million, and packages for non-consulting services, procurement of goods, construction, or mixed packages whose price does not exceed VND 01 billion.

In case the limits on package prices specified in this Point need to be adjusted to be suitable to socio-economic conditions and state management requirements, the Government shall submit such adjustments to the Standing Committee of National Assembly for consideration and decision making.

2. Regarding the packages specified in Points a, b and c Clause 1 of this Article, employers shall decide to award contracts under simplified procedures directly to capable and experienced bidders that shall then execute these contracts immediately, and shall assume responsibility for their decision. Within 15 days from the date of the start of the package execution, relevant parties must complete the following direct contracting procedures, including: preparation and delivery of the draft contract to the selected contractor; contract completion; submission for approval and disclosure of contractor selection result; contract signing and management of contract execution.

3. Direct contracting shall apply to one of the packages specified in Points d, dd, e, g, h, i, k, l and m Clause 1 of this Article if all of the following requirements are satisfied:

- a) The project has been granted an investment decision, except consulting service packages for project preparation;
- b) The contractor selection plan has been approved;
- c) Funding is available for the package;
- d) The cost estimate has been approved as prescribed, except EP, EC, EPC, turnkey packages.

4. Regarding packages or procurements whose price does not exceed VND 50 million, heads of relevant authorities/units shall decide the procurement in an economic and efficient manner, and assume responsibility for their decision; preparation, appraisal and approval for the contractor selection plan, the package cost estimate, and the signing of contracts with suppliers shall not be required but invoices, vouchers and receipts must be sufficiently provided in accordance with regulations of law.

5. Direct contracting process starting from the date of approval for the RFP to the signing date of the contract shall not exceed 45 days. This period may be extended up to 90 days in case of a large-scale and complicated package.

6. In case a package specified in Clause 1 of this Article meets the direct contracting requirements laid down in Clause 3 of this Article and is also eligible for the contractor

selection method specified in Article 21, 22, 24 or 25 of this Law, the latter should be adopted.

7. The Government shall elaborate Point c Clause 1 of this Article.

Article 24. Shopping

The shopping method applies to the following packages whose price does not exceed VND 05 billion:

1. Common and uncomplicated non-consulting service packages;
2. Packages for procurement of normal goods which are available on the market, have standardized technical properties and equivalent quality;
3. Simple construction packages for which approved building drawing designs are available;
4. PC packages of which construction tasks meet the requirements laid down in Clause 3 of this Article.

Article 25. Direct procurement

1. Direct procurement applies to packages for purchase of similar goods of projects or procurement cost estimates of the same employer or another employer provided that the requirements laid down in Clause 2 of this Article must be satisfied.
2. The direct procurement shall apply if all of the following requirements are satisfied:
 - a) The contractor has won the bid through competitive bidding or limited bidding and has signed a contract for executing a previous package;
 - b) The employer may only make one direct procurement of goods for the current package of which the quantity of each procurement item must be smaller than 130% of that of the corresponding procurement item of the previous package, excluding quantities of additional purchase (if any);
 - c) Unit prices of component tasks of the package applying the direct procurement do not exceed those of corresponding tasks of the previous package and must be also conformable with the market price at the time of contract completion;
 - d) The previous contract has been signed no more than 12 months before the date of approval of the direct procurement result.
3. If the previous contractor is no longer capable of executing the direct procurement contract, another contractor who satisfies all capacity, experience, technology and price

requirements laid down in the bidding documents and according to the previous contractor selection result may be awarded the contract.

Article 26. Self-execution

1. An employer that directly manages and uses goods/services of a package of a project or procurement cost estimate may themselves execute that package if meeting all of the following requirements:

- a) Functions, tasks, operating fields or business lines of the employer are conformable with requirements of the package;
- b) The employer meets technical and financial capacity and experience requirements of the package;
- c) The employer has adopted a feasible plan to mobilize personnel, machinery and equipment to meet the package execution schedule.

2. The employer may directly execute the package or assigns its financially dependent entity, department or division to do so.

3. The entity mentioned in Clause 2 of this Article is not allowed to transfer a volume of tasks worth either at least 10% or more than VND 50 billion of the value of tasks specified in the written assignment of tasks.

Article 27. Community participation

Residential communities, teams or groups of adequate skilled workers in the local area where a package of a national target program or public investment program that is executed by both the State and the people is to be executed shall be assigned to take charge of the entire or part of that package provided its price does not exceed VND 05 billion.

Article 28. Price negotiation

1. Price negotiation applies to the following packages:

- a) Purchase of original brand-name drugs or reference biologicals;
- b) Purchase of drugs, medical devices or test equipment of a type which can only be manufactured by 01 or 02 manufacturers.

2. The price negotiation method shall be adopted according to a decision issued by the Minister of Health of Vietnam who shall also issue the list of drugs, medical devices and test equipment to be procured through price negotiation and specific contractor selection procedures and process for packages executed adopting price negotiation method.

Article 29. Contractor selection in special circumstances

1. Contractor selection in special circumstances shall apply to the following packages which cannot be executed adopting any of the contractor selection methods prescribed in Articles 21 through 28 of this Law, including:

a) Packages for procurement of drugs or vaccines under trials that can only be purchased under their manufacturers' specific purchase, payment, guarantee, security requirements and other conditions imposed during the contract execution;

b) Packages for procurement of drugs, vaccines and medical devices through international organizations;

c) Packages with strict national defense and security, external affairs, border and territorial security requirements;

d) Selection of lawyers or solicitors providing legal services for protection of legitimate rights and interests of the State of Vietnam and regulatory authorities at foreign or international jurisdictional bodies;

dd) Packages for direct provision of intensive training for regulatory authorities and public sector entities by foreign training institutions in foreign countries; purchase of plane tickets for domestic and international delegations; packages for provision of professional training courses in specific areas for officials which need the participation of authorities or units that are competent or in charge of performing professional training tasks assigned by competent authorities;

e) Packages for performance of political tasks assigned by the Communist Party or the State of Vietnam, including: dissemination of information on printed newspapers, online newspapers, radio and television stations, and other means of mass media in case such information dissemination activities are performed under contracts signed directly by the authorities or units that are granted information dissemination funding with these organizations; organization of special art programs; cooperation in film production;

g) Packages for design, construction and installation of stages used in production of broadcasting programs; leasing of spaces for production or recording of highly artistic programs;

h) Packages for provision of printing services, stamps, receipts and seals in accordance with regulations of laws on tax administration and customs; packages for purchase of police dogs, police dog training, purchase of drugs, explosives, drug or explosive scent pads used in police dog training;

i) In case of a project or package requiring specific requirements regarding contractor selection criteria and procedures, and contract signing and execution other than those specified in Points a, b, c, d, dd, e, g and h of this Clause, the Government shall request

the Standing Committee of National Assembly to decide the selection of contractor for this project or package as a special circumstance.

2. Power to decide the contractor selection in special circumstances:

a) The Prime Minister of Vietnam shall decide the selection of contractors for the packages in Point c Clause 1 of this Article;

b) The Minister of Health of Vietnam shall issue and assume responsibility for his/her decisions on selection of contractors for the packages in Points a and b Clause 1 of this Article;

c) Ministers, heads of ministerial agencies, Governmental agencies, and other central-government agencies, Chairperson of provincial People's Committees shall issue and assume responsibility for their decisions on selection of contractors for the packages in Points d, dd, e, g and h Clause 1 of this Article.

3. Applications for approval of plans for contractor selection in special circumstances must provide reasons for failure to adopt the contractor selection methods specified in Articles 21 through 28 of this Law.

4. The Government shall elaborate documentation requirement and procedures for contractor selection in special circumstances.

Section 2. CONTRACTOR SELECTION PROCEDURES

Article 30. Single-stage one-envelope procedure

1. Single-stage one-envelope procedure shall be adopted in the following cases:

a) Competitive bidding or limited bidding for non-consulting service, procurement, construction or mixed packages, except the cases specified in Point b Clause 1 Article 31 of this Law;

b) Shopping for non-consulting service, procurement, construction or PC packages;

c) Direct contracting for consulting service, non-consulting service, procurement, construction, or mixed packages;

d) Direct procurement for procurement packages.

2. Bidders submit bids or proposals in one envelope containing both the technical proposal and the financial proposal in accordance with the requirements laid down in the bidding documents or RFP.

3. All bids or proposals shall be opened at the same bid opening.

Article 31. Single-stage two-envelope procedure

1. Single-stage two-envelope procedure shall be adopted in the following cases:
 - a) Competitive bidding or limited bidding for consulting service packages;
 - b) Competitive bidding or limited bidding for non-consulting service, procurement, construction, or mixed packages with high technical requirements as prescribed by the law on science and technology.
2. A bidder shall simultaneously submit the technical proposal and the financial proposal in two separate envelopes in accordance with the requirements laid down in the bidding documents.
3. There are two bid opening sessions to be conducted. Technical proposals shall be opened immediately after the deadline for submission of bids. Only financial proposals of bidders whose technical proposals were considered responsive shall be opened for further evaluation.

Article 32. Two-stage one-envelope procedure

1. Two-stage one-envelope procedure shall be adopted in the competitive bidding or limited bidding for procurement, construction, or mixed packages of which specific and adequate technical requirements are not yet imposed when the bidding is conducted.
2. At the first stage, bidders shall submit their technical proposals, without bid prices, which are prepared in accordance with the requirements laid down in the bidding documents and on the basis of fundamental designs or specifications of the package. Bidders are allowed to offer alternatives to the requirements as described in the bidding documents provided that they must be separately offered in addition to the primary technical plan required in the bidding documents. Technical proposals shall be opened immediately after the deadline for submission of bids. Bidders whose technical proposals are considered to have met the requirements of the bidding documents at the first stage shall be invited to the second stage.
3. At the second stage, the contractor selection process shall be conducted as follows:
 - a) Bidders on the list of responsive bidders made at the first stage shall be invited to clarify their technical proposals. A request for clarification may include the employer or procuring entity's request for bidder's modification of their technical solutions proposed at the first stage. The bidder may also comment on the contents of the bidding documents;
 - b) On the basis of the request for clarification of technical proposal and response from each bidder, the bidding documents at the first stage shall be modified in terms of instructions to bidders, evaluation criteria, technical requirements, conditions of contract,

and other contents deemed necessary to constitute the bidding documents for the second stage, including bidders' technical deviations and proposed alternatives which have been accepted;

c) Bidders shall submit bids, including both the technical proposal and the financial proposal, which are prepared in accordance with the requirements laid down in the bidding documents at the second stage and in which the bid price and bid security are determined on the basis of technical solutions proposed at the first stage which have been modified as prescribed in Point a of this Clause. All bids shall be opened at the same bid opening.

Article 33. Two-stage two-envelope procedure

1. Two-stage two-envelope procedure shall be adopted in the competitive bidding or limited bidding for procurement, construction, or mixed packages which employ new, complicated and/or special techniques or technologies but of which specific and adequate technical requirements are not yet imposed when the bidding is conducted.

2. At the first stage, bidders shall submit their technical proposals, without bid prices, which are prepared in accordance with the requirements laid down in the bidding documents and on the basis of fundamental designs or specifications of the package. Bidders are allowed to offer alternatives to the requirements as described in the bidding documents provided that they must be separately offered in addition to the primary technical plan required in the bidding documents. Technical proposals shall be opened immediately after the deadline for submission of bids. Bidders whose technical proposals are considered to have met the requirements of the bidding documents at the first stage shall be invited to the second stage.

3. At the second stage, the contractor selection process shall be conducted as follows:

a) Bidders on the list of responsive bidders made at the first stage shall be invited to clarify their technical proposals. A request for clarification may include the employer or procuring entity's request for bidder's modification of their technical solutions proposed at the first stage. The bidder may also comment on the contents of the bidding documents;

b) On the basis of the request for clarification of technical proposal and response from each bidder, the bidding documents at the first stage shall be modified in terms of instructions to bidders, evaluation criteria, technical requirements, conditions of contract, and other contents deemed necessary to constitute the bidding documents for the second stage, including bidders' technical deviations and proposed alternatives which have been accepted;

c) A bidder shall submit their bid, including the technical proposal and the financial proposal contained in two separate envelopes, in accordance with the requirements laid down in the bidding documents for the second stage, which also include the bid price and

bid security. Prices quoted in the financial proposal must correspond to items included in the primary technical plan proposed by the bidder. If an alternative technical plan is proposed, the financial proposal must also include prices quoted according to this plan. There are two bid opening sessions to be conducted. Technical proposals shall be opened immediately after the deadline for submission of bids. Only financial proposals of bidders whose technical proposals were considered responsive shall be opened for further evaluation.

Section 3. INVESTOR SELECTION METHODS AND PROCEDURES

Article 34. Investor selection methods

1. Competitive bidding:

Competitive bidding applies to investment projects that have no limit on the number of participating investors.

2. Limited bidding:

Limited bidding applies to investment projects that have high technical or technological requirements or involve special techniques or technologies, as prescribed by specialized laws, which can only be satisfied by some investors.

Article 35. Investor selection procedures

1. Single-stage one-envelope procedure:

- a) Single-stage one-envelope procedure shall be adopted in the case of competitive bidding or limited bidding;
- b) An investor shall submit their bid, including both the technical proposal and the financial proposal contained in one envelope, in accordance with the requirements laid down in the bidding documents;
- c) All bids shall be opened at the same bid opening.

2. Single-stage two-envelope procedure:

- a) Single-stage two-envelope procedure shall be adopted in the case of competitive bidding for investment projects involving valuable architectural structures as prescribed by the Law on architecture;
- b) An investor shall simultaneously submit the technical proposal and the financial proposal in two separate envelopes in accordance with the requirements laid down in the bidding documents;

c) There are two bid opening sessions to be conducted. Technical proposals shall be opened immediately after the deadline for submission of bids. Only financial proposals of investors whose technical proposals were considered responsive shall be opened for further evaluation.

3. Two-stage one-envelope procedure:

Two-stage one-envelope procedure shall be adopted in the case of competitive bidding for investment projects which have specific sectoral, regional or local socio-economic development requirements but of which specific technical, social, economic and environmental standards are not yet determined.

4. The Government shall elaborate this Article.

Chapter III

CONTRACTOR SELECTION PLAN

Article 36. Contractor selection master plan for projects

1. Depending on the scale and nature of bidding activities of the project, the employer or the body that prepares the project shall request the competent person to consider and decide the preparation and approval of the contractor selection master plan.

2. The contractor selection master plan may be prepared at the same time as or independently of the feasibility study report but shall only be approved after the feasibility study report has been approved.

3. A contractor selection master plan shall, inter alia, include the following information:

a) Consideration of the context of the project with bidding activities;

b) Assessment of conformity of the employer's capacity, resources and experience with bidding activities of the project;

c) Market analysis and determination of risks in bidding;

d) Specific objectives of the bidding;

dd) Proposals included in the contractor selection master plan, including: division of the project into multiple packages; contractor selection method and procedure; type of contract; risk management rules; schedule for executing the main tasks and the package; other contents to be put into consideration during the drafting of the bidding documents, management of contract execution.

4. The Government shall elaborate this Article.

Article 37. Rules for preparing contractor selection plan

1. A contractor selection plan shall cover the entire project or procurement cost estimate. In case of a procurement cost estimate, the contractor selection plan may be prepared on the basis of the procurement cost estimate of the current budget year and expected procurement cost estimates of the following budget years. If there are not sufficient grounds for preparing a contractor selection plan for the entire project or procurement cost estimate, the contractor selection plan shall be prepared for one or some packages.
2. If a package is to be executed within duration of exceeding 01 year, the contractor selection plan must clearly indicate the package execution duration and the package's price determined for the entire execution duration.
3. The number of packages and contents of each package must be specified in the contractor selection plan.
4. Approval of the contractor selection plan shall be given on the basis of technical properties and execution process, and in a manner that ensures the uniformity of the project or procurement cost estimate, and must be conformable with the approved contractor selection master plan (if any).
5. The contractor selection plan may be prepared after the procurement cost estimate or the project has been approved, or as the same time as the project or the procurement cost estimate, or before the project approval decision has been issued in case the package needs to be executed before the project is approved.

Article 38. Preparing contractor selection plan

1. Basis for preparation of the contractor selection plan for a project:
 - a) The project approval decision and relevant documents, except packages which need to be executed before the project is approved. In case a package needs to be executed before the project is approved, the decision issued by the head of the entity acting as the project employer or the head of the unit tasked with preparing the project, if the project employer is not yet identified, shall be used;
 - b) The contractor selection master plan (if any);
 - c) The project included in the assigned medium-term public investment plan, except urgent public investment projects defined in the Law on public investment;
 - d) The fund disbursement plan or sources of funding for the project other than the one specified in Point c of this Clause;

dd) The international convention or loan agreement, if the project is funded by ODA or concessional loans, except the cases of bidding in advance prescribed in Article 42 of this Law;

e) Other relevant legislative documents.

2. Basis for preparation of the contractor selection plan for a procurement cost estimate:

a) Standards and norms for use of public property of regulatory authorities, organizations, units and officials, public employees and workers (if any);

b) The procurement cost estimate;

c) Other relevant legislative documents.

Article 39. Contents of contractor selection plan

1. Name of the package:

Name of the package must reflect the nature, contents and scope of tasks of the package. If a package is divided into smaller parts, each of them must have a suitable name.

2. Package price:

a) The package price is the value of the package defined in the contractor selection plan to be approved. The package price includes all costs for execution of the package, including contingencies, fees, charges and taxes. The package price may be updated at least 28 days before the bid opening date if deemed necessary;

b) If a package is divided into smaller parts, the package price and the estimated price of each part shall be specified;

c) Regarding a package with additional purchase option as prescribed in Clause 8 of this Article, the package price excludes the additional purchase value.

The Government shall elaborate contents of the package price defined in the contractor selection plan.

3. Funding sources:

Determined or approved sources of funding for each package must be specified. If a package is funded by ODA or concessional loan of a foreign donor, name of the donor and capital structure, including funding allocated by the donor and reciprocal capital from Vietnamese party, shall be specified. In case a package is to be executed within duration of exceeding 01 year under a procurement cost estimate, the funding sources may be

determined on the basis of the procurement cost estimate of the current budget year and expected procurement cost estimates of the following budget years.

4. Contractor selection method and procedure:

a) Specific contractor selection method and procedure must be determined for each package: domestic or international contractor selection; whether or not online contractor selection is employed;

b) If a project is to be executed under a contractor selection master plan, contractor selection method and procedure must be specified in conformity with the contractor selection master plan.

5. Contractor selection duration:

The contractor selection plan must clearly indicate the duration and the time of initiating contractor selection. The contractor selection process shall begin from the month or quarter in which bidding documents or RFP is issued. In case of competitive bidding that employs the shortlisting procedure, contractor selection process shall begin when the EOI request or prequalification document is issued.

6. Type of contract:

a) The specific type of contract must be determined as prescribed in Article 64 of this Law and used as the basis for preparation of the EOI request, prequalification document, bidding documents and RFP, and signing of the contract;

b) If a project is to be executed under a contractor selection master plan, the type of contract must be specified in conformity with the contractor selection master plan.

7. Package execution duration:

The package execution duration starts on the effective date of the contract till the date of acceptance of completed works, goods (including related services, if any), consulting or non-consulting service. The package execution duration is expressed as a number of days, weeks, months or years, excluding the warranty period and designer's supervision period in respect of a consulting service package (if any).

8. Additional purchase option (if any):

a) Additional purchase option allows the employer to purchase an amount of goods, consulting or non-consulting services of the package in addition to the original amount specified in the contract;

b) The contractor selection plan for a package with additional purchase option must clearly indicate the volume, quantity and estimated value of additional purchase;

c) The additional purchase option may be applied if: the bidding has won the bid through competitive bidding or price negotiation; the volume of additional purchase does not exceed 30% of that of the corresponding item specified in the contract; there is an approved cost estimate for the additional purchase; the unit price of goods or services additionally purchased shall not be higher than that of corresponding goods or services specified in the contract; the additional purchase option is exercised during the validity period of the contract.

9. Supervision of bidding activities (if any).

Article 40. Approving contractor selection plan for a project

1. An application for approval of the contractor selection plan includes the following contents:

a) Completed tasks, including tasks related to project preparation and packages to be executed in advance with corresponding value and legal grounds thereof;

b) Tasks to which neither of the prescribed contractor selection methods can apply;

c) Tasks included in the contractor selection plan, including tasks and corresponding values constituting the packages to which one of the contractor selection methods specified in Articles 21 through 29 of this Law is applied;

d) Tasks which cannot be included in the contractor selection plan (if any), specific tasks and their values must be specified;

dd) Total value of the tasks stated in Points a, b, c and d of this Clause. This total value must not exceed the total investment of the project;

e) Other related contents.

2. Power to approve the contractor selection plan:

a) The employer shall organize preparation and approval of the contractor selection plan in case the contractor selection master plan has been approved;

b) The competent person shall consider approving the contractor selection plan for a project which is not covered by the contractor selection master plan or authorize the employer or his/her subordinate to do so, except the case specified in Point c of this Clause;

c) The employer or the head of the unit tasked with preparing the project, if the project employer is not yet identified, shall consider approving the contractor selection plan for the package for which the bidding is conducted in advance as prescribed in Article 42 of this Law or which needs to be executed before the project is approved.

3. Before approving a contractor selection plan, the person that has the power to give approval as prescribed in Clause 2 of this Article shall organize the appraisal of the contents in Article 39 of this Law.

Article 41. Approving contractor selection plan for a procurement cost estimate

1. An application for approval of the contractor selection plan includes the following contents:

- a) Completed tasks, including tasks of packages to be executed in advance with corresponding value and legal grounds thereof;
- b) Tasks to which neither of the prescribed contractor selection methods can apply;
- c) Tasks included in the contractor selection plan, including tasks and corresponding values constituting the packages to which one of the contractor selection methods specified in Articles 21 through 29 of this Law is applied;
- d) Tasks which cannot be included in the contractor selection plan (if any), specific tasks and their values must be specified;
- dd) Total value of the tasks stated in Points a, b, c and d of this Clause. This total value shall not exceed total funding in the procurement cost estimate;
- e) Other related contents.

2. The competent person shall consider approving the contractor selection plan or authorize the employer or his/her subordinate to do so.

3. Before approving a contractor selection plan, the person that has the power to give approval as prescribed in Clause 2 of this Article shall organize the appraisal of the contents in Article 39 of this Law.

Article 42. Bidding in advance

1. Bidding in advance for selecting contractors for projects funded by ODA or concessional loans of foreign donors shall comply with the provisions of a concluded international convention or agreement on ODA or concessional loans.

Before concluding an international convention or agreement on ODA or concessional loan, the following tasks may be performed, including: preparation, submission for approval, appraisal and approval of contractor selection plan, EOI request, prequalification document, bidding documents, RFP, and drawing up of the shortlist.

2. The tasks mentioned in Clause 1 of this Article shall be performed in accordance with the provisions of Point a Clause 1 Article 43 of this Law.

Chapter IV

CONTRACTOR AND INVESTOR SELECTION PROCESS

Section 1. CONTRACTOR SELECTION PROCESS

Article 43. Contractor selection process

1. The contractor selection process in case of competitive bidding or limited bidding includes the following steps:

- a) Preparation for contractor selection;
- b) Organization of contractor selection;
- c) Bid evaluation;
- d) Contract negotiation for a consulting service package.

With regard to procurement, construction or non-consulting service package to be executed adopting the international bidding method, a mixed package or a package with high technical requirements, the procuring entity may conduct contract negotiation with the first-ranked bidder if it is deemed necessary;

- dd) Submission, appraisal, approval and disclosure of contractor selection result and provision of explanations for bidders as to why they were not successful (if any);
- e) Completion, signing and management of execution of contract.

2. The contractor selection process in case of direct contracting includes the following steps:

- a) Preparation for contractor selection;
- b) Organization of contractor selection;
- c) Evaluation of proposals and negotiation on one or some proposals (if any);
- d) Submission, appraisal, approval and disclosure of contract selection result;
- dd) Completion, signing and management of execution of contract;

In the case specified in Point m Clause 1 Article 23 of this Law, the competent person may decide to adopt the simplified process, consisting of the following steps: preparing and sending the draft contract to the successful bidder; completing the contract;

submitting for approval, approving and disclosing the contractor selection result; signing the contract and managing the contract execution.

3. The contractor selection process in case of shopping includes the following steps:

- a) Preparation for contractor selection;
- b) Organization of contractor selection;
- c) Bid evaluation;
- d) Submission, appraisal, approval and disclosure of contractor selection result and provision of explanations for bidders as to why they were not successful (if any);
- dd) Completion, signing and management of execution of contract.

4. The contractor selection process in case of direct procurement includes the following steps:

- a) Preparation for contractor selection;
- b) Organization of contractor selection;
- c) Evaluation of proposals and negotiation on the proposal of the selected bidder;
- d) Submission, appraisal, approval and disclosure of contract selection result;
- dd) Completion, signing and management of execution of contract.

5. The contractor selection process in case of self-execution includes the following steps:

- a) Preparation of the self-execution plan, including drafting of the written assignment of tasks;
- b) Completion of the self-execution plan;
- c) Approval and disclosure of contractor selection result;
- d) Signing of the written assignment of tasks; management of the package execution.

6. Individual consultants may be employed in case the tasks of a package can be performed by one or some capable and experienced experts without the participation of any organizations and without imposing execution conditions as those imposed on institutional contractors. Process of individual consultant selection includes the following steps:

- a) Preparation for contractor selection;
- b) Organization of contractor selection;
- c) Evaluation of scientific CVs of bidders that are individual consultants;
- d) Contract negotiation;
- dd) Submission, approval and disclosure of contract selection result;
- e) Signing and management of execution of contract.

7. The contractor selection process in case of community participation includes the following steps:

- a) Preparation of the plan for selection of residential community, group or team of local skilled workers to execute the package;
- b) Organization of selection process;
- c) Approval and disclosure of selection result;
- d) Completion, signing and management of execution of contract.

8. The Government shall elaborate this Article.

Article 44. Bidding documents used for contractor selection

1. Bidding documents include:

- a) Instructions to bidders, additional purchase option (if any);
- b) Bidding Data Sheet (BDS);
- c) Criteria for evaluation of validity of bids; capacity and experience of bidders; technical proposals; financial - commercial proposals; bidders' reputation acquired from participation in bidding and execution of previous similar contracts, and quality of used similar goods.

If specialist contractors are employed, bidding documents must also indicate the scope of tasks and capacity and experience requirements to be satisfied by specialist contractors;

- d) Invitation for bid and bidding forms;
- dd) Scope of supply, technical requirements, terms of reference;

e) Conditions of contract and contract forms;

g) Documents, drawings and other contents (if any).

2. Bidding documents may impose requirements regarding countries or territories of origin. In the case of a package prescribed in Point dd Clause 1 Article 23 where all direct contracting requirements laid down in Clause 3 Article 23 of this Law are satisfied but the competent person decides to apply the competitive bidding, limited bidding or shopping method to the contractor selection, bidding documents may impose requirements regarding origin and brands of goods.

3. Bidding documents shall not impose any conditions that limit the participation of a bidder or give advantage for one or some bidders resulting in unfair competition.

4. In case the bidding documents contain any contents in breach of the provisions of Clause 3 of this Article, these contents shall be considered invalid and shall not be used as the basis for bid evaluation.

Article 45. Contractor selection duration

1. The contractor selection duration shall be subject to the following provisions:

a) The minimum period between the first date on which the EOI request or prequalification document is issued and the deadline for submission of bids which is given for bidders to prepare their EOIs or prequalification applications shall be 09 days for domestic bidding or 18 days for international bidding;

b) In case of competitive bidding or limited bidding, the minimum period between the first date on which the bidding documents are issued and the deadline for submission of bids which is given for bidders to prepare their bids shall be 18 days for domestic bidding or 35 days for international bidding. In case of a construction or mixed package whose price does not exceed VND 20 billion or a procurement or non-consulting service package whose price does not exceed VND 10 billion, this period shall be 09 days for domestic bidding or 18 days for international bidding;

c) In case of shopping, the minimum period between the first date on which the bidding documents are issued and the deadline for submission of bids which is given for bidders to prepare their bids shall be 05 days;

d) Where a competent person decides to apply the competitive bidding method to the selection of contractor for a package which satisfies the direct contracting requirements laid down in Points a, b and c Clause 1 Article 23 of this Law, the minimum period between the first date on which the bidding documents are issued and the deadline for submission of bids which is given for bidders to prepare their bids shall be 09 days;

dd) The amendment of bidding documents must be made at least 10 days before the deadline for submission of bids. In case of a construction or mixed package whose price does not exceed VND 20 billion or a procurement or non-consulting service package whose price does not exceed VND 10 billion, bidding documents may be amended at least 03 days before the deadline for submission of bids. The amendment of EOI request or prequalification document must be made at least 03 days before the deadline for submission of bids.

2. EOI request, prequalification document and bidding documents shall be issued at the same time as the invitation for EOIs, invitation for prequalification applications and invitation for bid respectively.

3. The period for performing the tasks other than those specified in Clause 1 and Clause 2 of this Article shall be decided by the competent person or employer in a manner that ensures the project or package execution schedule.

Section 2. INVESTOR SELECTION PROCESS

Article 46. Investor selection process

1. Investor selection process includes the following steps:

a) Public disclosure of the investment project;

b) Preparation for bidding, including: preparation, appraisal and approval of bidding documents;

c) Organization of bidding activities, including: invitation for bid; issuance, amendment and clarification of bidding documents; preparation, submission, receipt, management, modification, withdrawal and substitution of bids;

d) Bid evaluation, including: bid opening; examination and evaluation of validity of bids; detailed evaluation of bids;

dd) Submission, appraisal, approval and disclosure of investor selection result; provision of explanations for investors as to why they were not successful (if any);

e) Negotiation, completion and signing of contract.

2. In case there are 02 or more investors showing interest in a project and thus the investor selection must be conducted through bidding as prescribed by the Law on land or a specialized law, in addition to the steps specified in Clause 1 of this Article, the competent authority shall prepare the EOI request, send invitation for EOIs, organize evaluation of applications for project execution, and approve EOI selection result before preparing for bidding as prescribed in Point b Clause 1 of this Article.

3. The Government shall elaborate this Article.

Article 47. Public disclosure of investment projects

1. Competent authorities shall make information on investment projects publicly available on VNEPS which shall be used as the basis for organization of investor selection.

2. Project details to be publicly disclosed include:

- a) Decision on approval of investment guidelines (if any);
- b) Project's name; investment objectives and scale; total investment;
- c) Location of the project; current use of land, land area used for executing the project; land use purposes; approved planning indicators;
- d) Project execution duration and schedule; preliminary plan for investment phasing or division of component projects (if any); execution schedule of each stage of the project (if any);
- dd) Name of the procuring entity; investor selection method and procedure;
- e) Other related contents.

Article 48. Bidding documents used for investor selection

1. Bidding documents include:

- a) Instructions to investors;
- b) Bidding Data Sheet (BDS);
- c) Examination and evaluation of validity of bids;
- d) Methods and criteria for evaluation of capacity and experience of investors; investment plan; efficiency in land use or investment efficiency, sectoral development;
- dd) Invitation for bid and bidding forms;
- e) Investment project-related information and execution requirements;
- g) Draft contract and contract form;
- h) Other related contents.

2. Bidding documents shall not impose any conditions that limit the participation of an investor or give advantage for one or some investors resulting in unfair competition.

Article 49. Investor selection duration

1. In case of domestic bidding, the minimum period between the first date on which the bidding documents are issued and the deadline for submission of bids which is given for investors to prepare their bids shall be 45 days;

2. In case of international bidding, the minimum period between the first date on which the bidding documents are issued and the deadline for submission of bids which is given for investors to prepare their bids shall be 60 days;

3. The period for performing the tasks other than those specified in Clause 1 and Clause 2 of this Article shall be decided by the competent person or procuring entity in a manner that ensures the investment project execution schedule.

Section 3. ONLINE BIDDING

Article 50. Online contractor and investor selection

1. Domestic competitive bidding, limited bidding and shopping must be conducted on VNEPS according to the following roadmap:

a) From the effective date of this Law to December 31, 2024 inclusively, the Government shall decide whether to adopt online bidding method or not;

b) From January 01, 2025, the online bidding method shall apply to all packages, except cases where the bidding is not conducted on VNEPS as prescribed in Clause 5 of this Article.

2. Contractor/investor selection contents to be conducted on VNEPS:

a) Publishing of information on contractor/investor selection;

b) Preparation, appraisal and approval of prequalification document, EOI request, bidding documents or RFP;

c) Preparation and submission of prequalification applications, EOIs, applications for project execution, bids or proposals;

d) Bid opening;

dd) Evaluation of prequalification applications, EOIs, bids or proposals, invitation for contract negotiation, appraisal and approval of contractor selection result;

- e) Consortium agreement, electronic bid security, electronic contract performance;
- g) Clarification of bidding-related contents;
- h) Submission and receipt of petitions;
- i) Electronic contract;
- k) Electronic payment.

3. Electronic documents on VNEPS shall be valid in accordance with regulations of the Law on electronic transactions and used as the basis for comparing, verifying and authenticating information serving performance of evaluation, appraisal, inspection, supervision, auditing and disbursement tasks.

4. Costs incurred in online bidding include: costs of registration for participation in VNEPS; costs of publishing of bidding information as prescribed in Point c Clause 1 and Point c Clause 2 Article 15 of this Law, participation in bidding, signing of contract, and other costs associated with the bidding process on VNEPS.

5. The Government shall stipulate the connection and information sharing as prescribed in Clause 6 Article 51 of this Law; online bidding techniques which should be suitable for features and development of VNEPS; online bidding procedures and costs; online investor selection roadmap; cases where the bidding is not conducted on VNEPS.

Article 51. Requirements for VNEPS

1. Information published on VNEPS must be made publicly available and accessed without limitation.
2. Time source of VNEPS shall comply with regulations of law on national standard time source.
3. VNEPS must be operated in a continuous, uniform, stable and safe manner and is capable of user authentication, and data confidentiality and integrity.
4. Information on transactions conducted on VNEPS must be sufficiently recorded and can be easily tracked.
5. VNEPS must be operated in a manner ensuring that bidders/investors cannot send their EOIs, prequalification applications, bids or proposals to procuring entities after deadlines for submission of bids.
6. Information on contractors/investors may be obtained from the national enterprise registration information system, tax administration information system, budget and treasury management information system and other systems. VNEPS shall be connected

with web portals and other information systems for the purposes of sharing data and information used in online bidding and serving state management of bidding activities.

Article 52. Responsibilities of VNEPS operating unit

1. Ensure information security, cybersecurity and data confidentiality of VNEPS.
2. Ensure the integrity of documents on VNEPS, and prevent unauthorized access to and unlawful replacement of documents.
3. Ensure safety, security and confidentiality for users, and manage user profiles; adopt an appropriate mechanism for recording information and tracking source of information in chronological order and by activity on VNEPS.
4. Build VNEPS which should be compatible with other systems; have a user-friendly interface and meet relevant standards in the field of information technology.
5. Manage information security and cybersecurity risks to VNEPS.
6. Do not use information on projects, investment projects, packages, employers, procuring entities, contractors, investors and other information available on VNEPS for any purposes other than performance of its functions and tasks.
7. Ensure that hardware systems are capable of performing bidding activities.
8. Discharge other responsibilities as prescribed by this Law and relevant laws.

Chapter V

CENTRALIZED PROCUREMENT; PROCUREMENT OF DRUGS, CHEMICALS, MEDICAL DEVICES, TEST EQUIPMENT; SUPPLY OF PUBLIC GOODS AND SERVICES

Article 53. Centralized procurement

1. Centralized procurement shall apply if the following requirements are met:
 - a) Goods or services are of similar categories and need to be procured in a large quantity to serve demands of one or some authorities, organizations and units.

In case a rare drug needs to be procured in a small quantity, the centralized procurement method may also be employed to ensure the supply of sufficient drugs for medical examination and treatment activities;

- b) Goods or services to be procured are included in the list of goods and services to be procured through centralized procurement in Clause 2 of this Article.

2. Power to issue lists of goods and services to be procured through centralized procurement:

a) The Minister of Health of Vietnam shall issue the list of drugs to be procured through national centralized procurement; the list of medical devices and test equipment to be procured through national centralized procurement in case of need;

b) The Minister of Finance of Vietnam shall issue the list of goods and services to be procured through national centralized procurement, except those included in lists issued by the Minister of Health of Vietnam as prescribed in Point a of this Clause;

c) Ministers, heads of ministerial agencies, governmental agencies, and other central-government agencies, Chairpersons of provincial People's Committees, heads of state-owned enterprises and wholly state-owned enterprises shall issue lists of goods and services to be procured through centralized procurement (including lists of drugs, medical device and test equipment) within their jurisdiction, except those included in lists of drugs, goods and services to be procured through national centralized procurement issued by the Minister of Health of Vietnam or the Minister of Finance of Vietnam as prescribed in Points a and b of this Clause.

3. Centralized procurement must be conducted through competitive bidding. Direct contracting method may apply to procurement of a good which is included in a list of goods and services to be procured through centralized procurement but needs to be purchased immediately to serve epidemic and disease prevention and combat as prescribed in Point c Clause 1 Article 23 of this Law. The price negotiation method may apply to procurement of a good which is included in a list of goods and services to be procured through centralized procurement may be procured through if the price negotiation requirements laid down in Clause 1 Article 28 of this Law are satisfied.

4. Centralized procurement shall be conducted by the national centralized procurement unit or centralized procurement units of ministries, central-government agencies, local governments or enterprises adopting one of the following methods:

a) The centralized procurement unit shall conduct contractor selection and directly sign contract with the selected supplier;

b) The centralized procurement unit shall conduct contractor selection, and sign a framework agreement with one or some selected suppliers which shall be used as the basis for the entities in need of goods or services to sign contracts directly with such suppliers.

5. If regulatory authorities, organizations and/or units have need for the same good or service which is not included in the list of goods and services to be procured through centralized procurement, they shall aggregate their quantities of good or service in need to form a procurement package and appoint one of them or a qualified centralized procurement unit to execute this procurement package.

6. Centralized procurement units shall conduct contractor selection within the ambit of their assigned tasks or under contracts signed with entities in need of procurement of goods or services.

7. The Government shall elaborate this Article and stipulate the aggregation of procurement demands of private health facilities.

Article 54. Framework agreement

1. Framework agreement on centralized procurement means an agreement made between a centralized procurement unit and one or some selected suppliers for an undivided package or a part of a divided package.

2. Contents and conditions of the framework agreement shall be used as the basis for entering into each specific procurement contract.

3. The validity period of a framework agreement is specified in the contractor selection plan but shall not exceed 36 months. The selected supplier's bid must still remain valid at the time of signing the framework agreement.

4. In case of a consortium bidder, the framework agreement must bear signatures and seals (if any) of all members of the consortium.

Article 55. Selection of suppliers of drugs, chemicals, test equipment and medical devices

1. Health facilities may adopt one of the following methods to selection of suppliers of chemicals, test equipment and medical devices:

a) Selection of chemical or test equipment supplier whereby the selected supplier shall also provide medical devices serving the use of their supplied chemical or test equipment at the request of the employer; the supplier shall only transfer the rights to use medical devices to the health facility but retain ownership thereto;

b) Selection of supplier by quantity of technical services:

The selected supplier shall only supply chemicals, test equipment, medical devices, spare parts, accessories and relevant services serving the operation or use of medical devices in the quantity of technical services specified in the bidding documents or RFP issued by the employer or procuring entity, without providing personnel in charge of operating such medical devices.

The supplier shall only transfer the rights to use medical devices to the employer but retain ownership thereto. The package and bid price shall be determined on the basis of the quantity of technical services to be supplied. Duration of a contract shall not exceed 05 years;

c) Selection of supplier of medical devices, chemicals and test equipment: The selected supplier shall transfer the ownership to medical devices and chemicals, test equipment to the employer after the contract signed by and between the two parties becomes effective;

d) Selection of medical device supplier in accordance with regulations of law on bidding;

dd) Selection of supplier of chemicals and test equipment used for operating existing medical devices;

e) Selection of technical service supplier in accordance with the Law on Medical Examination and Treatment.

2. Regarding the procurement of drugs which are not covered by the health insurance fund or procurement of vaccines used in providing on-demand vaccination services, health facilities shall themselves decide the procurement of such drugs or vaccines in a manner that ensures openness, transparency, economic efficiency and accountability.

3. Where a private health facility fails to apply the provisions of this Law to its procurement of drugs, chemicals, test equipment and medical devices, it shall only be entitled to reimbursement by the health insurance fund of costs of such drugs, chemicals, test equipment and medical devices calculated according to the corresponding successful bid prices of provincial- or central-level public health facilities or a local health facility of same level of technical and operational procedures. If such reference successful bid prices are not available, the Government's regulations shall apply.

4. The Government shall elaborate this Article.

Article 56. Incentives in drug procurement

1. Incentives in drug procurement shall comply with Article 10 of this Law and the following provisions:

a) The employer shall decide whether to require inclusion of a domestic drug in bids if such drug can be manufactured by at least 03 domestic manufacturers satisfying technical requirements imposed by the Ministry of Health of Vietnam, and other quality and price requirements.

b) If a drug can be manufactured by at least 03 domestic manufacturers that fulfill EU-GMP requirements or EU-GMP-equivalent requirements as announced by the Ministry of Health of Vietnam, and also meet technical requirements imposed by the Ministry of Health of Vietnam, and other quality, price and supply capacity requirements, the inclusion of a domestic drug in bids shall be a requirement laid down in bidding documents or RFP.

2. The Ministry of Health of Vietnam shall announce the list of drugs mentioned in Point b Clause 1 of this Article.

Article 57. Selection of contractors for supply of public products and services

1. Public products and services are products and services which are essential for socio-economic development of a country or residential community or for assurance of national defense and security, and thus have to be maintained by the State in the following fields: education and training; vocational education and training; health; culture, sports and tourism; information and communications; science and technology; natural resources and environment; transport; agriculture and rural development; industry and trade; construction; labour, war invalids and social affairs; justice and other fields as prescribed by laws.

Public products and services include public utilities and public services.

2. Selection of contractors for supply of public products and services shall comply with the provision of this Law.

3. In addition to the contractor selection methods prescribed in Chapter II of this Law, the selection of contractors for supply of public products and services may also be conducted in the forms of order placement or task assignment according to the Government's regulations.

Chapter VI

METHODS OF BID EVALUATION AND CONSIDERATION FOR CONTRACT AWARD

Section 1. METHODS OF BID EVALUATION AND CONSIDERATION FOR CONTRACT AWARD IN CONTRACTOR SELECTION

Article 58. Bid evaluation methods applied to non-consulting service, procurement, construction or mixed packages

1. Least-cost method:

a) The least-cost method applies to packages in which technical, financial and commercial proposals are regarded to be on the same level if they meet the requirements of the bidding documents;

b) The bidder that has a bid meeting technical requirements and the lowest bid price after error correction and deviation adjustment (if any), and deducting the value of discounts (if any), shall be ranked first.

2. Evaluated-price method:

a) The evaluated price is the bid price after error correction and deviation adjustment (if any), as required in the bidding documents, deducting the value of discounts (if any) and

adding factors for conversion into the same level for the entire life cycle of goods, works or non-consulting services. Evaluated prices are used for ranking of bids for procurement, construction, non-consulting service or mixed packages that apply competitive bidding, limited bidding or shopping method;

b) The evaluated-price method applies to packages where costs can be converted to the same level in terms of technical, financial and commercial factors for the entire life cycle of goods, works or non-consulting services;

c) One or some factors converted into the same level for determining the evaluated price include: operating and maintenance costs, and other costs associated with loan interests, supply schedule and quality of goods, services or works of the package; capacity or output; statistical and assessment reports on performance of previous contracts, including consideration of origin of goods; sustainable bidding and other factors;

d) The bidder that has the lowest evaluated price shall be ranked first.

3. Combined technique and price-based method:

a) The combined technique and price-based method applies to IT, telecommunications or insurance packages; procurement and/or construction packages with specific or high technical requirements to which the evaluated-price method cannot apply; or packages where technical and price factors should be taken into consideration;

b) The combined score shall be calculated on the basis of the technical score and the price score. The bidder that has the highest combined score shall be ranked first.

4. Responsiveness to the capacity and experience requirements shall be evaluated on pass/fail basis. Responsiveness to the technical requirements shall be evaluated on either scoring or pass/fail basis. Where the combined technique and price-based method prescribed in Clause 3 of this Article applies, technical criteria shall be evaluated on the basis of a scoring system. When the evaluation is based on a scoring system, the minimum technical qualifying score shall be at least 70% of total technical score.

Article 59. Bid evaluation methods applied to consulting service packages

1. Least-cost method:

a) The least-cost method applies to simple consulting service packages or consulting service packages where consulting process has been well defined according to existing standards;

b) The bidder that has a bid meeting technical requirements and the lowest bid price after error correction and deviation adjustment (if any), and deducting the value of discounts (if any), shall be ranked first.

2. Fixed-price method:

- a) The fixed-price method applies to simple consulting service packages where the exact scope of tasks is defined and the rational, specific and fixed costs for executing the package are specified in the bidding documents;
- b) The bidder that has a bid meeting technical requirements, the bid price after error correction and deviation adjustment (if any), and deducting the value of discounts (if any), not exceeding the package price, and the highest technical score shall be ranked first.

3. Combined technique and price-based method:

- a) The combined technique and price-based method applies to consulting service packages where both quality and costs for executing the package are critical;
- b) The combined score shall be calculated on the basis of the technical score and the price score. The scoring system must follow the rule that the technical score accounts for 70% - 80% of total score and the price score accounts for 20% - 30% of total score; the sum of technical score and price score shall be 100%. The bidder that has the highest combined score shall be ranked first.

4. Technique-based method:

- a) The technique-based method applies to consulting service packages with specific or high technical requirements;
- b) The bidder that has a bid meeting technical requirements and the highest technical score shall be ranked first, and invited to the opening of financial proposal as the basis for contract negotiation.

Article 60. Contract award for consulting service packages

1. A consultant that is an organization shall be considered successful and awarded the contract if the consultant:

- a) has a substantially responsive bid or proposal;
- b) has a technical proposal meeting the requirements of the bidding documents or RFP;
- c) has the lowest bid price after error correction and deviation adjustment, and deducting the value of discounts (if any), if the least-cost method applies; or has the lowest bid price after deducting discounts (if any), in case of a lump sum contract; or has the highest technical score, if either the fixed-price method or technique-base method applies; or has the highest combined score, if the combined technique and price-based method applies; and

- d) has a proposed successful bid price not exceeding the approved package price.
2. A consultant that is an individual shall be considered successful and awarded the contract if the consultant:
- a) has a scientific CV and technical proposal (if any) which are considered the most advantageous one conforming to the requirements laid down in terms of reference; and
 - b) has a proposed successful bid price not exceeding the approved package price.
3. The notice of contractor selection result sent to an unsuccessful bidder must provide the reason(s) their bid was unsuccessful.

Article 61. Contract award for non-consulting service, procurement, construction or mixed packages

1. A bidder shall be considered successful and awarded the contract for non-consulting services, procurement of goods, construction or mixed package if the bidder:
- a) has a substantially responsive bid or proposal;
 - b) meets capacity and experience requirements laid down in the bidding documents or RFP;
 - c) has a technical proposal meeting the requirements of the bidding documents or RFP;
 - d) has the negative value of deviations not exceeding 10% of the bid price;
 - dd) has the lowest bid price after error correction and deviation adjustment, and deducting the value of discounts (if any), if the least-cost method applies; or has the lowest evaluated price, if the evaluated-price method applies; or has the highest combined score, if the combined technique and price-based method applies; and
 - e) has a proposed successful bid price not exceeding the approved package price.
2. The notice of contractor selection result sent to an unsuccessful bidder must provide the reason(s) their bid was unsuccessful.

Section 2. METHODS OF BID EVALUATION AND CONSIDERATION FOR CONTRACT AWARD IN INVESTOR SELECTION

Article 62. Bid evaluation methods

1. The investor's capacity and experience, and efficiency of the investment plan proposed by the investor, including efficiency in land use and investments in sectoral or local

development, shall be evaluated adopting the social and state benefits-based evaluation method.

2. Bids submitted by investors shall be evaluated according to the following criteria:

- a) Criteria for evaluation of the investor's capacity, including financial and funding arrangement capacity, and experience in executing similar investment projects;
- b) Criteria for evaluation of the investor's investment plan, including technical, social and environmental criteria;
- c) Criteria for evaluation of efficiency in land use and investments in sectoral or local development.

3. Regarding investment projects with specific business investment, sectoral management and development conditions as prescribed by the Law on investment or specialized laws, the bidding documents must clearly specify bid evaluation criteria which include one or some of the criteria specified in Clause 2 of this Article.

4. Bid evaluation criteria shall be scored on a scale of 100 or 1.000 points. The combined score shall be determined on the basis of capacity and experience score, investment plan score and score of efficiency in land use and investments in sectoral/local development. The investor that has achieved the minimum qualifying score for each of the criteria specified in Clauses 2 and 3 of this Article and the highest combined score shall be ranked first.

5. The Government shall elaborate this Article.

Article 63. Consideration for contract award

1. An investor shall 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 plan;
- d) meets the requirements regarding the efficiency in land use and investments in sectoral or local development; and
- dd) has the highest combined score of capacity and experience, investment plan, and efficiency in land use and investments in sectoral/local development criteria.

2. The notice of investor selection result sent to an unsuccessful investor must provide the reason(s) their bid was unsuccessful.

Chapter VII

CONTRACTS

Section 1. CONTRACTS USED IN CONTRACTOR SELECTION

Article 64. Types of contract

1. Lump sum contract:

- a) Lump sum contracts are used for packages where the scope of tasks, technical requirements and the package execution duration are well defined at the time of contractor selection and changes in quantity or technical requirements or encountering unforeseen conditions is unlikely; or for packages where the quantity and unit price cannot be defined but the contracting parties' ability to manage risks and substantial variations or the physical and qualitative characteristics of output products are well defined, including EPC contracts and turnkey contracts;
- b) In case of a lump sum contract, the package price which is used as the basis for bid evaluation and contract award shall include contingencies determined for risks associated with quantities and price escalation which may occur during the contract execution in proportion to the risk management liability to be undertaken by the contractor. The bid price should include all contingencies determined for risks associated with quantities and price escalation which may occur during the contract execution in proportion to the contractor's liability for the package;
- c) The contract price is unchanged throughout the contract duration in respect of the scope of tasks, technical requirements and terms and conditions specified in the contract, except force majeure events or changes in the scope of tasks resulting in change in the contract price;
- d) The payment shall be made according to the percentage of the contract price or the price of works, work item or quantity of tasks in proportion to the agreed-upon payment schedule specified in the contract. The payment is made without requiring certification of completed quantities.

2. Fixed unit price contract:

- a) Fixed unit price contracts are used for packages where the physical characteristics are well defined at the time of contractor selection but the exact quantity or volume of tasks to be actually completed by the contractor cannot be determined. The contract price shall initially be determined on the basis of quantity or volume of tasks and fixed unit price specified in the contract and contingencies for additional tasks determined in accordance with regulations of law;

b) Unit prices specified in the fixed unit price contract shall remain unchanged throughout the performance of entire tasks specified in the contract. Payment shall be made according to the quantity or volume of tasks completed and accepted, and the fixed unit prices specified in the contract.

3. Adjustable unit price contract:

a) Adjustable unit price contracts are used for packages with long execution duration where input price fluctuations may occur during the contract execution and the application of fixed unit prices may negatively affect the package execution. Unit prices and the contract price of an adjustable unit price contract may be adjusted according to specified agreements specified in the contract in respect of any tasks of the contract. The contract price shall initially be determined on the basis of quantity or volume of primary tasks and base unit price specified in the contract and contingencies for additional tasks and price escalation. Methods for calculation of price escalation and contingencies for price escalation must be specified in the contract;

b) Payment shall be made according to the quantity or volume of tasks completed and accepted, and the unit prices specified in the contract or adjusted unit prices (if any).

4. Time-based contract:

Time-based contracts may be used for emergency situations; repair or maintenance of works, machinery and equipment; or supply of consulting services when it is difficult to define the scope and length of services. The contract price is based on the unit price per amount of time, agreed hourly, daily, weekly or monthly salary rates specified in the contract and reasonable reimbursable expenses.

5. Cost plus fee contract:

Cost plus fee contracts are used for tasks or services when the scope of tasks or input factors or costs necessary for performing estimated tasks of the contract cannot be properly defined at the time of contractor selection. At the time of signing contract, the parties shall reach specific agreements on administrative and overhead expenses, profits, direct costs-based calculation method; method for determining direct costs, and other contents necessary for executing the contract.

6. Performance-based contract:

Performance-based contracts are used for tasks or services for which the payment is based on the contract execution outcomes with accepted quality and quantity, and other factors. The contract must clearly indicate the quantity and quality of outputs, methods for inspecting, evaluating and measuring the achievement of output quality standards, reduction of payments, price adjustment provisions (if any) and other contents necessary for executing the contract.

7. Percentage-based contract:

Percentage-based contracts are used for construction insurance service packages where the contract price is exactly determined on the basis of the value of works actually accepted.

8. Mixed contract:

A mixed contract means a contract whose scope comprises different types of contract specified in Clauses 1 through 7 of this Article. The mixed contract must clearly define the scope of tasks to be performed under each type of contract and relevant modifications made when different types of contract are applied to the same task or service. Provisions on payment for each type of contract shall apply to payment for the scope of tasks of the mixed contract.

Article 65. Contract documents signed with contractor

1. The contract documents signed with a contractor shall include:

- a) Contract agreement;
- b) Contract appendices, including the activity schedule, price schedules, and execution schedule (if any);
- c) Decision on approval of contractor selection result.

2. Depending on the scale and nature of each package, the contract documents may, in addition to the documents specified in Clause 1 of this Article, include one or some of the following documents:

- a) Contract completion record;
- b) Contract negotiation record (if any);
- c) Written agreement made by the parties on conditions of the contract, including general conditions of contract and special conditions of contract;
- d) Bid or proposal of the successful bidder and clarifications thereof;
- dd) Bidding documents or RFP and addenda thereto;
- e) Other relevant documents.

Article 66. Conditions for signing of contract

1. The bid or proposal of the successful bidder must still remain valid at the time of signing the contract. In case of centralized procurement with use of the framework agreement, the framework agreement must still remain valid at the time of signing the contract.
2. At the time of signing the contract, the successful bidder must meet all technical and financial requirements for executing the package in accordance with the requirements laid down in the bidding documents or RFP.
3. The employer is requested to provide funding for making advances and payments, premises and other conditions necessary for ensuring the package execution schedule.

Article 67. Signing of contract with successful bidder

The signing of contract between the employer and the successful bidder shall be subject to the following provisions:

1. Only a single contract will be signed for executing a package. A contract may be prepared applying one or some types of contract prescribed in Article 64 of this Law. A centralized procurement package or a package which is divided into smaller parts may be executed under several contracts. Each contract shall cover one or some parts of the package. If different types of contract are employed, the type of contract for each task must be specified;
2. Contents of the contract signed by and between the parties must be conformable with contents of the bidding documents, RFP, bids or proposals, contract negotiation results (if any), decision on approval of contractor selection result. The contract should clearly indicate the scope of tasks to be undertaken by specialist subcontractors (if any) and maximum value of tasks to be subcontracted. The maximum value of tasks to be subcontracted shall not include the value of tasks to be undertaken by specialist subcontractors;
3. In case of a consortium bidder, the contract agreement must bear signatures and seals (if any) of all members of the consortium. In case of centralized procurement with use of framework agreement, all members of the consortium shall directly append their signatures and seals (if any) to the contract agreement with the entity in need of goods or services or a member of the consortium shall be authorized to do so under terms and conditions of the consortium agreement;
4. The Government shall elaborate this Article.

Article 68. Performance security

1. The successful bidder shall be required to choose one of the following options for ensuring their execution of the contract, including:

- a) Pay a deposit;
 - b) Submit a letter of guarantee issued by a domestic credit institution or foreign bank branch lawfully established under the law of Vietnam; or
 - c) Submit a certificate of surety bond insurance issued by a domestic non-life insurer or branch of a foreign non-life insurer duly established under the law of Vietnam.
2. The performance security must be furnished by the successful bidder, except:
- a) Consulting service supplier;
 - b) The contractor that is selected adopting the self-execution or community participation method;
 - c) The bidder to be contracted for executing a package whose price does not exceed the price limit prescribed in Point m Clause 1 Article 23 of this Law.
3. The successful bidder shall furnish the required performance security before or when the contract becomes effective.
4. Depending on the scale and nature of each package, the value of the performance security equaling 2% - 10% of the contract price shall be specified in the bidding documents or RFP.
5. The validity period of the performance security begins on the effective date of the contract until all contractual obligations are fulfilled by the parties or warranty obligations, if specified in the contract, are taken on. If the duration of the contract needs to be extended for a specified period, the contractor shall be requested to extend the validity of their furnished performance security for a corresponding additional period before the contract is granted extension.
6. The performance security shall be forfeited if the successful bidder:
- a) refuses to perform the contract that is still effective;
 - b) violates terms and conditions of the contract; or
 - c) refuses to extend the validity period of the performance security, in case failure to meet the contract execution schedule is at their fault.

Article 69. Contract execution rules

1. Parties to a contract are responsible to comply with terms and conditions of their signed contract.

2. Honesty, cooperation and lawfulness.

3. No infringement upon the interests of the State and community as well as legitimate interests of other organizations and individuals.

Article 70. Modification of contract

1. A contract may be modified:

a) in cases agreed upon by the parties and specified in the signed contract in conformity with regulations of law;

b) when circumstances for executing the contract fundamentally change as prescribed by the Civil Code; or

c) at the request of a competent authority that affects the execution of contract with no fault of the employer's fault.

2. The following contents of the contract may be modified, including: quantities, execution schedule, prices, additional purchase option, and other contents as agreed upon by the parties in the signed contract, except the case specified in Clause 5 of this Article. Quantities, execution schedule and prices may only be modified during the package execution duration specified in the signed contract, except cases where the additional purchase option is applied.

3. During the contract execution, the parties are allowed to modify the intended completion dates of tasks specified in the contract in the following circumstances:

a) A force majeure event or unexpected situation arises and hinders the contractor from executing the contract without fault or negligence of any party to the contract;

b) There are changes in the project, scope of tasks, scope of supply, primary construction solutions, designs or supply methods due to objective reasons resulting in changes in the contract execution schedule;

c) One or both parties to the contract propose initiatives for executing the contract which require changes in the contract execution schedule with the aim of generating considerable interests to the employer;

d) The contract execution schedule is affected due to the employer's failure to provide the site as agreed upon in the contract or suspension of the contract through no fault of the contractor;

dd) The performance of tasks is suspended at the request of a competent authority due to the fault of neither of the employer and the contractor.

4. Any modification to the contract resulting in changes in the contract execution schedule or an increase in the approved package price (including contingencies) shall require an approval from the competent person. However, any increase in price shall not make the contract price exceed the total investment or total funding in the procurement cost estimate. In case a project or procurement cost estimate comprises multiple packages, any increase in price shall not make the sum of contract prices exceed the total investment or total funding in the procurement cost estimate.

5. In case of changes in the contract price, quantities and other contents as agreed upon in the contract, the signing of contract appendices shall not be required if the following conditions are met:

a) Any change shall not make the contract price exceed the package price specified in the contractor selection plan; if the package cost estimate is approved after the approval of the contractor selection plan, total funding in the package cost estimate shall not be exceeded;

b) Any change shall not lengthen the package execution duration specified in the contract;

c) Methods, formula, items and other contents necessary for making such changes are available in the contract.

6. The Government shall elaborate this Article.

Section 2. INVESTMENT PROJECT CONTRACTS IN CASE OF INVESTOR SELECTION

Article 71. Signing of contract and rules for executing investment project contracts

1. An investment project contract shall be signed if the following conditions are met:

a) The bid of the selected investor must still remain valid at the time of signing the contract;

b) At the time of signing contract, the selected investor is required to meet technical and financial requirements for executing the investment project as laid down in the bidding documents.

2. Contents of the signed contract must be conformable with contents of the bidding documents, the investor's bid, decision on approval of investor selection result, and contract negotiation and completion record.

3. The contract shall be signed by and between a competent authority or the procuring entity (if authorized) and the selected investor. In case of a consortium, the contract agreement must bear signatures and seals (if any) of all members of the consortium.

4. The investment project contract shall be executed following the rules set forth in Article 69 of this Law.

Article 72. Investment project contract documents

The documents constituting an investment project contract consist of:

1. Contract agreement;
2. Contract appendices (if any);
3. Contract negotiation and completion record;
4. Decision on approval of investor selection result;
5. The selected investor's bid and clarifications thereof;
6. Bidding documents and addenda thereto;
7. Other relevant documents.

Article 73. Contents of investment project contract

1. An investment project contract shall, inter alia, have the following primary contents:
 - a) Particulars of the contracting parties, effective date and duration of the contract;
 - b) Details of the investment project, including: objectives, location, and execution schedule; scale and total investment; conditions for use of land and other resources (if any); compensation and relocation measures and requirements, and construction of auxiliary works (if any); safety and environmental protection requirements; force majeure events and actions taken;
 - c) Responsibility to follow compensation and relocation procedures and organize construction of auxiliary works (if any); allocation or lease of land (if any);
 - d) The investor's obligations to fulfill commitments proposed in their bid; establishment of enterprise in charge of managing the investment project (if any);
 - dd) Performance security; rules and conditions for modification and termination of contract; transfer of rights and obligations by the parties;
 - e) Governing law and dispute settlement mechanism.
2. The Government shall elaborate this Article.

Article 74. Duration of investment project contract

1. Duration of an investment project contract means the length of time for executing the contract which is specified in the signed contract.
2. Duration of an investment project contract begins on the effective date of the contract until the investor fulfills their commitments specified in their bid and other obligations as agreed upon by the parties in the contract.
3. When the contract expires, the investor shall execute the investment project in accordance with regulations of the Law on investment and relevant laws.

Article 75. Security for performance of investment project contract

1. The investor is required to adopt one of the following performance security options for ensuring their fulfillment of responsibility to execute the investment project before or when the contract becomes effective:

- a) Submit a letter of guarantee issued by a domestic credit institution or foreign bank branch lawfully established under the law of Vietnam; or
- b) Submit a certificate of surety bond insurance issued by a domestic non-life insurer or branch of a foreign non-life insurer duly established under the law of Vietnam.

2. Depending on the scale and nature of the investment project, the value of the performance security equaling 1% - 3% of the total investment shall be specified in the bidding documents.

3. The validity period of the performance security begins on the official signing date of the contract until the contract is terminated. If the duration of the contract needs to be extended for a specified period, the investor shall be requested to extend the validity of their furnished performance security for a corresponding additional period.

4. The performance security shall be forfeited if the investor:

- a) refuses to perform the contract that is still effective;
- b) violates terms and conditions of the contract; or
- c) refuses to extend the validity period of the performance security, in case failure to meet the contract execution schedule is at the investor's fault.

Article 76. Modification of investment project contract

1. An investment project contract may be modified in the following cases:

a) The investment project which is subject to approval of investment guidelines is modified in accordance with regulations of the Law on investment resulting in changes in contents of the project contract.

Modifications to the contract shall only be made after the modified investment guidelines have been approved by a competent authority. The investor must meet technical and financial requirements for executing the modified investment project;

b) The investment project is transferred in accordance with regulations of the Law on investment and relevant laws;

c) In other cases as agreed upon by the parties in the contract in conformity with regulations of law.

2. The transfer of an investment project specified in Point b Clause 1 of this Article must meet the following conditions:

a) The transfer is approved by the competent person;

b) The investor that receives the transfer (transferee) meets technical and financial requirements for executing the investment project;

c) The transferee commits to inherit all rights and obligations of the transferor as defined in the signed investment project contract.

Chapter VIII

RESPONSIBILITIES OF PARTIES IN BIDDING

Article 77. Responsibilities of competent persons

1. Consider approving the contractor selection master plan as prescribed in Article 36 of this Law.

2. Consider approving contractor selection plans as prescribed in Articles 40 and 41 of this Law.

3. Organize appraisal of the contents specified in Clauses 1 and 2 of this Article.

4. Suspend bidding process, refuse to recognize contractor/investor selection results, and impose penalties for violations in bidding sector in accordance with the provisions of this Law and relevant laws.

5. Cancel bidding process in the cases specified Points b, c, d, dd Clause 1 and Points b, c, d, dd Clause 2 Article 17 of this Law.

6. Settle petitions arising during the contractor/investor selection as prescribed in this Law.
7. Organize inspection and supervision of bidding activities and contract execution.
8. In case of contractor selection, in addition to the responsibilities specified in Clauses 1 through 7 of this Article, a competent person shall also discharge the following:
 - a) Adjust tasks and powers of the employer in case of failure to satisfy the conditions laid down in this Law and requirements of the project or package;
 - b) Request the employer or the procuring entity to provide documents used in inspection, supervision, settlement of petitions, handling of violations in bidding sector and fulfillment of the tasks specified in Clauses 4, 5 of this Article;
 - c) Give opinions about complicated situations at the request of the employer as prescribed in Point a Clause 3 Article 88 of this Law.
9. In case of investor selection, in addition to the responsibilities specified in Clauses 4, 5, 6 and 7 of this Article, a competent person shall also discharge the following:
 - a) Act on behalf of the competent authority to decide the organization of investor selection;
 - b) Decide to appoint a unit whose personnel are qualified to perform investor selection tasks as the procuring entity; employ qualified consultant to perform certain tasks of the procuring entity in case qualified personnel are not available;
 - c) Consider approving EOI request; consider approving bidding documents or give authorization to do so;
 - d) Consider approving EOI selection result and investor selection result;
 - dd) Make decisions on handling of situations in bidding;
 - e) Conclude contracts on the basis of approval given by a competent authority; organize the management of the contract signed with the successful investor;
 - g) Request the procuring entity to provide documents used in inspection, supervision, settlement of petitions, handling of violations in bidding sector and fulfillment of the tasks specified in Clauses 4, 5 of this Article.
10. Explain the fulfillment of responsibilities specified in this Article at the request of superior authorities, inspecting authorities and bidding authorities.
11. Discharge other responsibilities as prescribed by this Law and relevant laws.

Article 78. Responsibilities of employers

1. Consider approving the following contents:

a) The contractor selection plan in case the package is executed before the project is approved or the bidding is executed in advance; the contractor selection plan for a project covered by an approved contractor selection master plan;

b) The EOI request, prequalification document and shortlist;

c) Bidding documents, RFP;

d) Contractor selection result.

2. Organize the appraisal of the contents specified in Clause 1 of this Article.

3. Sign, or give authorization to sign, contract with the successful bidder, and manage the contract execution; sign and manage framework agreement in case of centralized procurement with use of framework agreement; make payment for contractors under terms and conditions of the signed contract.

4. Decide to establish the procuring entity with personnel that are qualified to perform contractor selection tasks; employ qualified consultant to act as the procuring entity or to perform certain tasks of the procuring entity in case qualified personnel are not available. Decide to establish the expert team meeting the requirements laid down in Article 19 of this Law in case no consultant is employed to act as the procuring entity.

5. Make decisions on handling of situations in bidding.

6. Settle petitions arising during the contractor selection.

7. Protect confidentiality of information and documents concerning the contractor selection.

8. Retain relevant information obtained during the contractor selection in accordance with regulations of law on archives and this Law.

9. Submit reports on performance of annual bidding tasks.

10. Cancel bidding process in the cases specified Point a Clause 1 Article 17 of this Law.

11. Provide relevant information and documents and explanations about the fulfillment of responsibilities specified in this Article at the request of the competent person, inspecting authorities and bidding authorities.

12. Assume responsibility before the law and the competent person for the contractor selection.
13. Discharge the responsibilities specified in Article 79 of this Law if the employer is also the procuring entity.
14. Provide information technology infrastructure facilities meeting online bidding requirements.
15. Assume legal responsibility for the accuracy and truthfulness of information which is registered and published on VNEPS using the employer's digital certificate.
16. Discharge other responsibilities as prescribed by this Law and relevant laws.

Article 79. Responsibilities of procuring entities

1. In case of contractor selection, the procuring entity shall:
 - a) Prepare for the contractor selection; organize the contractor selection; organize evaluation of EOIs, prequalification applications, bids or proposals;
 - b) Decide to establish an expert team in case the procuring entity is a consultant that is employed by the employer;
 - c) Request bidders to provide clarifications to their EOIs, prequalification applications, bids or proposals during evaluation process;
 - d) Submit prequalification document, EOI request, RFP, bidding documents, shortlist and contractor selection result for approval;
 - dd) Conduct negotiation (if any) and completion of contract with the successful bidder, and manage the execution of the signed contract (if any);
 - e) Conduct negotiation (if any) and completion of framework agreement with the successful bidder, and manage the execution of the signed framework agreement (if any) in case of centralized procurement with use of the framework agreement;
 - g) Protect confidentiality of information and documents concerning the contractor selection;
 - h) Publish information on VNEPS; provide relevant information and documents and explanations about the fulfillment of responsibilities specified in this Clause at the request of the competent person, employer, inspecting authorities and bidding authorities;
 - i) Assume responsibility before the law and the employer for the performance of assigned tasks as prescribed in this Clause.

2. In case of investor selection, in addition to the responsibilities specified in Point h Clause 1 of this Article, the procuring entity shall also:

- a) Prepare for investor selection; organize investor selection; organize bid evaluation as prescribed in this Law;
- b) Decide to establish an expert team;
- c) Request investors to provide clarifications to their bids during evaluation process;
- d) Submit bidding documents and investor selection result for approval; consider approving bidding documents if authorized;
- dd) Conduct contract negotiation with the successful investor; sign and manage the contract signed with the successful investor if authorized;
- e) Cancel bidding process in the cases specified Point a Clause 2 Article 17 of this Law;
- g) Protect confidentiality of information and documents concerning the investor selection;
- h) Retain relevant information obtained during the investor selection in accordance with regulations of law on archives and this Law;
- i) Settle petitions arising during the investor selection;
- k) Submit reports on performance of annual bidding tasks;
- l) Assume responsibility before the law and the competent person for the performance of assigned tasks as prescribed in this Clause.

3. Provide information technology infrastructure facilities meeting online bidding requirements.

4. Discharge other responsibilities as prescribed by this Law and relevant laws.

Article 80. Responsibilities of expert teams

- 1. Prepare EOI request, prequalification document, bidding documents or RFP.
- 2. Organize evaluation of EOIs, prequalification applications, applications for project execution, bids or proposals; propose measures for handling situations arising during bidding process (if any) to the procuring entity.
- 3. Protect confidentiality of information and documents concerning the contractor/investor selection.

4. Provide relevant information and documents and explanations about the fulfillment of responsibilities specified in this Article at the request of the competent person, employer, procuring entity, inspecting authorities and bidding authorities.

5. Discharge other responsibilities as prescribed by this Law and relevant laws.

Article 81. Responsibilities of appraising teams

1. Perform appraisal tasks in an independent and objective manner.

2. Request the employer/procuring entity to provide adequate relevant documents.

3. Protect confidentiality of information and documents obtained during appraisal process.

4. Provide relevant information and documents and explanations about the fulfillment of responsibilities specified in this Article at the request of the competent person, employer, inspecting authorities and bidding authorities.

5. Assume responsibility before the law, the competent person and employer for performance of appraisal tasks and other assigned tasks as prescribed in this Article.

6. Discharge other responsibilities as prescribed by this Law and relevant laws.

Article 82. Responsibilities of contractors, investors

1. Request the procuring entity to clarify their EOI request, prequalification document, bidding documents or RFP.

2. Provide relevant information and documents and explanations about the fulfillment of responsibilities specified in this Article at the request of the competent person, employer, procuring entity, inspecting authorities and bidding authorities.

3. In addition to the responsibilities specified in Clauses 1 and 2 of this Article, when participating in bidding through VNEPS, bidder or investor shall also:

a) Have information technology infrastructure facilities when participating in online bidding;

b) Assume legal responsibility for the accuracy and truthfulness of information which is registered and published on VNEPS.

4. Comply with terms and conditions of the signed contract.

5. Discharge other responsibilities as prescribed by this Law and relevant laws.

Chapter IX

STATE MANAGEMENT OF BIDDING ACTIVITIES

Section 1. STATE MANAGEMENT OF BIDDING

Article 83. Contents of state management of bidding activities

1. Promulgate and organize the implementation of legislative documents on bidding.
2. Review, assess and submit reports on the implementation of bidding activities.
3. Manage information systems and databases on bidding nationwide.
4. Supervise, inspect and settle bidding-related complaints, denunciations and petitions, and take actions against violations in bidding sector within the jurisdiction and scope of responsibility prescribed in this Law and relevant laws.
5. Provide professional training and retraining courses in bidding activities.
6. Carry out international cooperation in bidding.

Article 84. Responsibility for state management of bidding

1. The Government shall carry out uniform state management of bidding activities nationwide.
2. The Ministry of Planning and Investment of Vietnam shall act as a focal point in charge of assisting the Government in carrying out uniform state management of bidding activities, and have the following powers and responsibilities:
 - a) Formulate and promulgate, within its jurisdiction, or request competent authorities to promulgate, legislative documents on bidding;
 - b) Build and manage VNEPS and press products on bidding to serve online bidding, and public disclosure of information on contractor/investor selection as prescribed in this Law;
 - c) Build and manage national database on contractors and investors, containing information on contract execution results and quality of supplied goods according to the Government's regulations;
 - d) Provide regulations on training, retraining and improvement of professional knowledge on bidding for persons in charge of bidding tasks; regulations on examination, issuance and revocation of professional certificates in bidding;

dd) Carry out inspection of bidding activities;

e) Perform other powers and responsibilities to carry out state management of bidding activities as assigned by the Government or the Prime Minister in accordance with this Law and relevant laws.

Article 85. Responsibilities of ministries, ministerial agencies and people's committees of all levels

1. Perform state management of bidding activities within their jurisdiction.
2. Organize professional training and retraining courses in bidding for officials and public employees in charge of bidding tasks.
3. Inspect and settle complaints, denunciations and petitions and take actions against violations in bidding sector.
4. Review, assess and submit reports on the implementation of bidding activities.
5. Perform other powers and responsibilities as prescribed by this Law and relevant laws.

Article 86. Inspection and supervision of bidding activities

1. Inspection under the Law on inspection:

- a) Organizations and individuals involved in bidding activities as prescribed in this Law shall be subject to inspection under the Law on inspection;
- b) Organization and operation of inspection agencies in bidding sector shall comply with provisions of the Law on inspection.

2. General inspection of bidding activities:

- a) General inspection of bidding activities shall be carried out on a periodical or ad hoc basis which is decided by heads of authorities competent to carry out inspection;
- b) The general inspection of bidding activities covers one or some of the following contents: promulgation of guidelines and instructions on performance of bidding tasks; submission, appraisal and approval of contractor selection plans; preparation for contractor/investor selection; organization of contractor/investor selection; management and execution of contracts; other bidding activities;
- c) General inspection of bidding activities may be carried out adopting either direct inspection or written reporting method;

d) Inspection process: preparing for inspection; organizing the inspection; reaching inspection conclusions; monitoring the implementation of inspection conclusions.

3. Supervision of bidding activities:

a) Competent persons and bidding authorities shall take charge of supervising bidding activities performed by employers and procuring entities with the aim of ensuring the compliance of contractor/investor selection with the provisions of this Law and relevant laws;

b) Bidding activities are subject to the community supervision. Vietnamese Fatherland Front Committees at all levels shall take charge of organizing the community supervision of bidding activities;

c) Bidding authorities affiliated to Ministries, central-government regulatory authorities and local governments shall carry out regular supervision of bidding activities in respect of packages of projects, investment projects or procurement cost estimates in their provinces or within their jurisdiction;

d) Competent persons shall carry out supervision of bidding activities in respect of projects, investment projects or procurement cost estimates within their jurisdiction;

dd) Supervision of bidding activities covers one or some of the following contents: prequalification document, bidding documents, RFP, evaluation of bids or proposals; contractor/investor selection process;

e) Process of supervision of bidding activities by competent persons: preparing for supervision; carrying out supervision; reporting supervision results.

4. The Government shall elaborate this Article.

Article 87. Handling of violations

1. Organizations and individuals that commit violations against regulations of law on bidding shall, depending on the nature and severity of their violations, be disciplined, face administrative penalties or criminal prosecution, and make compensation for any damage in accordance with regulations of law.

2. In addition to penalties prescribed in Clause 1 of this Article, depending on the nature and severity of each violation, the organization or individual that commits any of the prohibited acts prescribed in this Law shall be prohibited from participating in bidding activities for a period from 06 months to 05 years.

3. Power to decide prohibition from participating in bidding activities:

a) Competent persons shall issue decisions on prohibition from participating in bidding for projects, investment projects or procurement cost estimates within their jurisdiction;

b) Ministers, heads of ministerial agencies, Governmental agencies, and other central-government agencies, and Chairperson of provincial People's Committees shall issue decisions on prohibition from participating in bidding activities within their jurisdiction;

c) The Minister of Planning and Investment of Vietnam shall issue decisions on prohibition from participating in bidding activities within his/her jurisdiction and nationwide.

4. A decision on prohibition from participating in bidding activities must be sent to the violating organization or individual and relevant authorities and organizations; and also be sent to the Ministry of Planning and Investment of Vietnam and published on VNEPS.

5. The Government shall elaborate Clauses 2, 3 and 4 of this Article.

Section 2. HANDLING SITUATIONS AND PETITIONS ARISING FROM BIDDING ACTIVITIES

Article 88. Handling certain situations in bidding

1. If a situation which is not specifically and clearly prescribed in the contractor selection plan, EOI request, prequalification document, bidding documents or RFP or other tasks of the bidding process occurs, the competent person or employer shall make decision, and assume legal responsibility for their decision, to handle the situation on the basis of ensuring competitiveness, fairness, transparency, economic efficiency and accountability.

2. Situations shall be handled on the basis of the contractor selection plan; EOI request, prequalification document, bidding documents or RFP; EOIs, prequalification applications, applications for project execution, bids or proposals; contractor/investor selection result; the contract signed with the selected bidder or investor; actual execution of the package, project or investment project.

3. Power to handle situations arising in bidding:

a) In case of contractor selection, situations shall be handled according to decisions of employers. In complicated cases, employers shall decide to handle situations after obtaining opinions from competent persons;

b) In case of investor selection, situations shall be handled according to decisions of competent persons.

4. The Government shall elaborate this Article.

Article 89. Settlement of petitions in bidding

1. If there are grounds for presuming that their legitimate rights and interests are affected, bidders, investors, authorities and organizations are entitled to submit petitions to competent persons, employers or procuring entities for review or consideration of issues concerning the contractor/investor selection process and/or result as prescribed in Articles 90, 91 and 92 of this Law.

2. Bidders, investors, authorities or organizations shall only have their petitions put into consideration if they have not yet filed any other complaints, denunciations or lawsuits. If a bidder, investor, authority or organization is found to have filed a lawsuit, complaint or denunciation during the settlement of their petition, the settlement process shall be terminated immediately.

3. A petition may be withdrawn during its settlement process.

Article 90. Conditions for settlement of petitions

1. In order to be put into consideration, petitions for review of issues that arise before the publishing of contractor/investor selection result must meet the following conditions:

a) Petitions for review of bidding documents may be submitted by authorities or organizations having interest in the package or investment project; petitions for review of other issues concerning the contractor/investor selection process shall only be filed by bidders or investors participating in the bidding;

b) The petition must bear signature and seal (if any) of the petitioner's lawful representative or be digitally signed and submitted through VNEPS;

c) The petition must be submitted to the entity in charge of settling the petition prescribed in Clause 1 Article 91 and Clause 1 Article 92 of this Law before the contractor/investor selection result is published.

2. In order to be put into consideration, petitions for review of the contractor/investor selection result must meet the following conditions:

a) The petition must be filed by the bidder or investor participating in the bidding (petitioner);

b) The petition must bear signature and seal (if any) of the petitioner's lawful representative or be digitally signed and submitted through VNEPS;

c) The issue in the petition has not been included in any other lawsuit, complaint or denunciation filed by the petitioner;

d) The issue in the petition must directly concern the petitioner's bid evaluation results;

dd) The petition settlement fee is paid by the petitioner to the standing assistance section of the chairperson of the petition settlement advisory board (hereinafter referred to as “standing section”) before or at the same time when the petition is submitted;

e) The bidder and the investor must submit their petitions to the employer/competent person and the procuring entity/competent person respectively within the time limit specified in Clause 2 Article 91 of this Law.

3. The person in charge of settling the petition shall inform the petitioner in writing in case their petition is rejected because the conditions specified in Clauses 1 and 2 of this Article are not fulfilled.

Article 91. Procedures for settlement of petitions arising from contractor selection

1. Settlement of petitions for review of issues that arise before the notice of contractor selection result is published shall be subject to the following provisions:

a) The bidder, authority or organization (petitioner) shall send their petition to the employer before the contractor selection result is published on VNEPS;

b) The employer shall send a written response to the petitioner within 07 working days from the receipt of the petition;

c) In case the petitioner disagrees with the petition settlement result or does not receive any response from the employer upon the expiration of the time limit specified in Point b of this Clause, the petitioner shall be entitled to send their petition to the competent person within 05 working days from the prescribed deadline for petition settlement or from the day on which the employer’s response is received;

d) The competent person shall send a written response to the petitioner within 05 working days from the receipt of the petition.

2. Petitions for review of the issues that arise after the notice of contractor selection result is published shall be settled according to one of the following processes:

a) The bidder (petitioner) shall send their petition to the employer within 10 days from the day on which the contractor selection result is published on VNEPS. The employer shall send a written response to the petitioner within 07 working days from the receipt of the petition.

In case the petitioner disagrees with the petition settlement result or does not receive any response from the employer upon the expiration of the time limit specified in this Clause, the petitioner shall be entitled to send their petition to the competent person through the standing section within 05 working days from the prescribed deadline for petition settlement or from the day on which the employer’s response is received. The competent person shall issue a decision on settlement of the petition for review of the contractor

selection result within 05 working days from the receipt of the written opinion from the petition settlement advisory board;

b) The bidder (petitioner) shall send their petition to the competent person through the standing section within 10 days from the day on which the contractor selection result is published on VNEPS. The competent person shall issue a decision on settlement of the petition for review of the contractor selection result within 05 working days from the receipt of the written opinion from the petition settlement advisory board.

3. The time limit for settling a petition prescribed in Clause 1 and Clause 2 of this Article starts on the day on which the administrative section of the person in charge of settling the petition receives the petition or when the petition is sent through VNEPS.

4. Where necessary, the petition settlement advisory board shall, based on the received petition, request the competent person to consider suspending the signing or execution of the contract. If the request of the petition settlement advisory board is accepted, within 05 working days from its receipt, the competent person shall provide the employer with a written notice of suspension of contract signing or execution in which the suspension duration must be clearly stated.

5. A written response shall contain conclusions on the issue in the petition. If the petition is found to be true, remedial measures and implementation time limit (if any) must also be specified in the written response. The petitioner shall have their paid petition settlement fee reimbursed. If the petition is found to be false, the written response shall contain detailed explanations. In this case, the paid petition settlement fee shall not be reimbursed.

6. If the petitioner disagrees with the decision on petition settlement issued by the competent person or employer, they shall be entitled to initiate Court proceedings.

Article 92. Procedures for settlement of petitions arising from investor selection

1. Settlement of petitions for review of issues that arise before the investor selection result is published shall be subject to the following provisions:

a) The investor, authority or organization (petitioner) shall send their petition to the procuring entity before the investor selection result is published;

b) The procuring entity shall send a written response to the petitioner within 15 working days from the receipt of the petition;

c) In case the petitioner disagrees with the petition settlement result or does not receive any response from the procuring entity upon the expiration of the time limit specified in Point b of this Clause, the petitioner shall be entitled to send their petition to the competent person within 05 working days from the prescribed deadline for petition settlement or from the day on which the procuring entity's response is received;

d) The competent person shall send a written response to the petitioner within 05 working days from the receipt of the petition.

2. Petitions for review of the issues that arise after the investor selection result is published shall be settled according to one of the following processes:

a) The investor (petitioner) shall send their petition to the procuring entity within 10 days from the day on which the investor selection result is published. The procuring entity shall send a written response to the petitioner within 15 working days from the receipt of the petition.

In case the petitioner disagrees with the petition settlement result or does not receive any response from the procuring entity upon the expiration of the time limit specified in this Point, the petitioner shall be entitled to send their petition to the competent person through the standing section within 05 working days from the prescribed deadline for petition settlement or from the day on which the procuring entity's response is received. The competent person shall issue a decision on settlement of the petition for review of the investor selection result within 10 working days from the receipt of the written opinion from the petition settlement advisory board;

b) The investor (petitioner) shall send their petition to the competent person through the standing section within 10 days from the day on which the investor selection result is published. The competent person shall issue a decision on settlement of the petition for review of the investor selection result within 10 working days from the receipt of the written opinion from the petition settlement advisory board.

3. The time limit for settling a petition prescribed in Clause 1 and Clause 2 of this Article starts on the day on which the administrative section of the person in charge of settling the petition receives the petition or when the petition is sent through VNEPS.

4. Where necessary, the petition settlement advisory board shall, based on the received petition, request the competent person to consider suspending the signing or execution of the contract. If the request of the petition settlement advisory board is accepted, within 10 working days from its receipt, the competent person shall issue a written notice of suspension of contract signing or execution in which the suspension duration must be clearly stated.

5. A written response shall contain conclusions on the issue in the petition. If the petition is found to be true, remedial measures and implementation time limit (if any) must also be specified in the written response. The petitioner shall have their paid petition settlement fee reimbursed. If the petition is found to be false, the written response shall contain detailed explanations. In this case, the paid petition settlement fee shall not be reimbursed.

6. If the petitioner disagrees with the decision on petition settlement issued by the competent person or the procuring entity, they shall be entitled to initiate Court proceedings.

Article 93. Composition, responsibilities and operation of petition settlement advisory board

1. The petition settlement advisory board (hereinafter referred to as “advisory board”) includes:

- a) The advisory board established by the Minister of Planning and Investment of Vietnam;
- b) Advisory boards established by Ministers or heads of ministerial agencies, Governmental agencies or other central-government agencies;
- c) Advisory boards established by Directors of Provincial Departments of Planning and Investment.

An advisory board shall be established within 05 working days from the receipt of a petition from the bidder or investor.

2. Composition and standing section of the advisory board:

- a) An advisory board is composed of a chairperson, deputy chairperson(s) (if deemed necessary) and other members who are representatives of the competent person and relevant authorities, and may also be representatives of trade associations, experts and/or scientists.

The advisory board shall not have any member who is a family relative, as defined in the Law on enterprises, of the petitioner, any member of the expert team or appraising team or the person approving the contractor/investor selection result;

- b) The chairperson of the advisory board specified in Point a Clause 1 of this Article is a representative of the Ministry of Planning and Investment of Vietnam. The chairperson of the advisory board established by an authority mentioned in Point b Clause 1 of this Article is a representative of its affiliated unit tasked with managing bidding activities. The chairperson of the advisory board specified in Point c Clause 1 of this Article is a representative of the Provincial Department of Planning and Investment;

- c) The standing section is the unit tasked with managing bidding activities. Its members do not include any member of the expert team or appraising team of the package or project. The standing section shall perform administrative tasks assigned by the chairperson of the advisory board; receive and manage fees paid by petitioners.

3. Responsibilities of an advisory board:

a) The advisory board specified in Point a Clause 1 of this Article shall give advice on petition settlement at the request of the Prime Minister;

b) An advisory board specified in Point b Clause 1 of this Article shall give advice on settlement of petitions relevant to all packages of projects, procurement cost estimates or investment projects which are subject to the jurisdiction of, or whose competent person is, the Minister or head of ministerial agency, Governmental agency or another central-government agency establishing that advisory board, except the packages and projects specified in Point a of this Clause;

c) An advisory board specified in Point c Clause 1 of this Article shall give advice on settlement of petitions relevant to all packages of projects, procurement cost estimates or investment projects located in the province or central-affiliated city, except the packages and projects specified in Points a and b of this Clause.

4. Operation of an advisory board:

a) The advisory board shall work on a case-by-case basis and on the principle of collectives, and make decision under the majority rule. All members have the right to express and are legally responsible for their opinions;

b) The advisory board shall have the right to request the bidder, investor, employer, procuring entity and relevant authorities to provide information concerning the package, project or investment project and other information necessary for performing its tasks;

c) The competent person must be provided with the petition settlement result within 25 days, for petitions filed by bidders, or 35 days, for petitions filed by investors, from the establishment date of the advisory board.

Article 94. Right to file a lawsuit and request the Court to grant interim injunctions

1. Initiating Court proceedings shall comply with regulations of the Code of Civil Procedures.

2. When filing a lawsuit or while the Court proceedings are running, concerned parties shall have the right to request the Court to suspend the bid closing; approval of the shortlist; approval of the contractor/investor selection result; signing of the contract; execution of the contract and issue other interim injunctions in accordance with regulations of law.

Chapter X

IMPLEMENTATION

Article 95. Effect

1. This Law comes into force from January 01, 2024.
2. The Law on Bidding No. 43/2013/QH13, as amended by the Law No. 03/2016/QH14, the Law No. 04/2017/QH14, the Law No. 40/2019/QH14, the Law No. 64/2020/QH14 and the Law No. 03/2022/QH15, (hereinafter referred to as "Law on Bidding No. 43/2013/QH13") shall cease to have effect from the effective date of this Law, except provisions of Article 96 of this Law.
3. Contracts signed according to the provisions of Point a Clause 1 Article 55 of this Law shall be valid for a validity period specified therein which shall not exceed 05 years from the effective date of this Law.

Article 96. Transition

1. In case the EOI requests, prequalification documents, bidding documents or RFPs for packages have been approved and issued before the effective date of this Law, the shortlisting, contractor selection, signing of contract and management of contract performance shall continue to be carried out in accordance with the Law on Bidding No. 43/2013/QH13 and legislative documents elaborating and providing guidelines on this Law.
2. In case bidding documents for an investment project have been approved and issued before the effective date of this Law, the investor selection, signing of contract and management of contract performance shall continue to be carried out in accordance with the Law on Bidding No. 43/2013/QH13 and legislative documents elaborating and providing guidelines on this Law.
3. From January 01, 2024 to the effective date of the amended Law on land, the selection of investors for executing investment projects with land use shall continue to be carried out in accordance with the Law on Bidding No. 43/2013/QH13 and legislative documents elaborating and providing guidelines on this Law.
4. Contracts for supply of test equipment and chemicals which have been signed before the effective date of this Law and under which suppliers are responsible for supplying medical devices serving the use of their test equipment and chemicals shall remain valid for a validity period specified therein which shall not exceed 05 years from the effective date of this Law.

This Law is ratified by the 15th National Assembly of the Socialist Republic of Vietnam during its 5th session held on June 23, 2023.

**CHAIRMAN OF THE NATIONAL
ASSEMBLY**

Vuong Dinh Hue

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