

LAW

ON PUBLIC INVESTMENT

*Pursuant to the Constitution of the Socialist Republic of Vietnam;*

*The National Assembly hereby promulgates the Law on Public Investment.*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Scope**

This Law provides for state management of public investment; management and use of public investment capital; rights, obligations and responsibilities of regulatory authorities, affiliates, organizations and persons involved in public investment activities.

**Article 2. Regulated entities**

This Law applies to regulatory authorities, affiliates, organizations and persons involved in or related to public investment, management and use of public investment capital.

**Article 3. Application of Law on Public Investment, international treaties and agreements**

1. Management and use of public investment capital and public investment activities shall have to comply with provisions laid down herein and other provisions of relevant law.
2. If there is any difference between provisions of this Law and those of international treaties of which the Socialist Republic of Vietnam is a member state, the latter shall prevail.
3. Public investment programs and projects in foreign countries must be implemented in accordance with provisions of international treaties of which the Socialist Republic of Vietnam is a member state or international agreements between Vietnam and foreign parties.

4. Management and use of state-owned funds invested in enterprises shall be subject to provisions of law on management and use of state capital invested in production and business activities of enterprises.

#### **Article 4. Definitions**

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

1. “*investment policy proposal report*” refers to a document presenting a preliminary study’s contents, including necessity, feasibility, efficiency, intended capital sources and estimated capital amounts of a public investment program, or a group-B or group-C investment project, as a basis for a competent authority to make its decision on that investment policy.
2. “*pre-feasibility study report*” refers to a document presenting a preliminary study’s contents, including necessity, feasibility, efficiency, total investment, intended capital sources and estimated capital amounts of an investment project of national significance, or a group-A investment project, as a basis for a competent authority to make its decision on an investment policy.
3. “*feasibility study report*” refers to a document presenting a study’s contents, including necessity, feasibility, efficiency, capital sources and capital amounts of a public investment program or project, as a basis for a competent authority to make its investment decision.
4. “*Ministries, central and local authorities*” refers to regulatory authorities or organizations to whom planned public investment tasks are assigned by the Prime Minister, including:
  - a) Central authorities affiliated to political organizations, Supreme People’s Procuracy, Supreme People’s Court, State Audit Office, Office of the CPV Central Committee, Office of the President, Office of the National Assembly, Ministries, ministerial agencies, Governmental agencies, and central authorities of Vietnam Fatherland Front and socio-political organizations (hereinafter referred to as “Ministries and/or central authorities”);
  - b) Provincial-level People’s Committees;
  - c) State-owned enterprises, other agencies, organizations and enterprises to whom public investment projects or tasks are assigned in writing by competent authorities.
5. “*public investment programs/projects using ODA funds and/or foreign concessional loans*” includes public investment programs, investment projects and projects on technical assistance for preparation of investment projects that use ODA funds and/or foreign concessional loans.

6. “*program owner*” refers to an agency or organization assigned to preside over management of a public investment program.
7. “*project owner*” refers to an agency or organization assigned to directly manage a public investment project.
8. “*investment policy*” refers to a competent authority’s decision concerning major contents of an investment program or project, serving as a basis to issue, submit and approve a decision on investment in that investment program or project, or a decision on approval of a feasibility study report of a public investment project.
9. “*public investment program*” refers to a combination of goals, tasks and solutions designed to achieve socio-economic development objectives.
10. “*national target program*” refers to a public investment program designed to pursue socio-economic objectives in specific stages on a nationwide scale.
11. “*governing body*” refers to a Ministry, central or local authority that is prescribed in clause 4 of this Article and in charge of an investment program or project.
12. “*specialized agency in charge of public investment*” refers to an affiliated unit of the Ministry of Planning and Investment of Vietnam that performs the function of public investment management; an affiliated unit of a Ministry, central or local authority, or a public service unit, that is assigned to take charge of public investment management.
13. “*state regulatory authority in charge of public investment*” includes the Government, the Ministry of Planning and Investment of Vietnam, and People's Committees at all levels.
14. “*public investment project*” refers to a project using all or part of public investment capital.
15. “*urgent public investment project*” refers to a public investment project executed under the decision of a competent authority to promptly prevent, control and mitigate consequences of acts of God, disasters or epidemics, or to perform an urgent task to ensure national defense, security and external relations or a national political task.
16. “*public investment*” refers to the State’s investment in programs, tasks, projects and others classified as public investment objects as provided for herein.
17. “*proposal for programs/projects using ODA funds and/or foreign concessional loans*” refers to a written explanatory report on the necessity of making investment, relevant to the orientations of attracting, managing and using ODA funds and foreign concessional loans over periods of time, estimated structure of capital sources, donor(s) and domestic financial mechanism, as a basis for a competent authority to give its approval.

18. "*public investment activities*" include formulation, appraisal of and making of decision on an investment policy or decision on investment in a public program, project or task; formulation, appraisal, approval, assignment and implementation of a public investment plan; management and use of public investment capital; commissioning and transfer of a program and preparation of final accounts of a public investment project; monitoring, assessment, examination and inspection of a public investment plan, program, task or project.

19. "*public investment plan*" refers to a collection of objectives, orientations and lists of public investment programs and projects; balancing of public investment capital sources, alternatives for capital allocation, methods of channeling resources and implementation thereof.

20. "*investment preparatory tasks*" encompasses formulation of proposal for a project using ODA funds and/or foreign concessional loans; formulation, appraisal of and making of decision on an investment policy; formulation, appraisal of and making of decision on investment in a project.

21. "*planning tasks*" refers to activities to be performed to formulate and announce a planning and adjustments thereto in accordance with provisions of the Law on Planning.

22. "*outstanding debts accruing from capital construction*" refers to the post-commissioning value of items that constitute a program, task or project but is not yet included by a competent authority in a medium-term public investment plan, except urgent public investment projects.

23. "*decentralization of state regulatory authority over public investment*" refers to an act of determining rights and responsibilities of agencies, organizations and persons having competence in performing public investment activities.

24. "*public investment capital*" comprises state budget funds for public investment; legitimate revenues that are earned by state regulatory authorities and public service units and retained for investment purposes in accordance with regulations of law.

25. "*central budget-derived capital*" refers to an amount of funding derived from the central budget for covering public investment expenditures in accordance with the Law on State Budget.

26. "*local budget-derived capital*" refers to an amount of funding derived from a local budget for covering public investment expenditures in accordance with the Law on State Budget.

27. "*dedicated additional funding transferred from the central budget to the local budget*" refers to an amount of additional funding that is transferred from the central budget to the local budget to make investment in public investment programs, tasks,

projects and other objects of public investment listed in their respective tasks decided by a competent authority.

#### **Article 5. Public investment objects**

1. Investment in socio-economic infrastructure construction programs and projects.
2. Investment in giving support to activities of state regulatory authorities, public service units, political organizations and socio-political organizations.
3. Investment in and support given to investments in provision of public utility and social welfare products and services.
4. Investment of the State in participation in implementing projects in the public-private partnership form (PPP projects) in accordance with regulations of law on investment in public-private partnership form; compensation and termination of PPP projects before their expiry shall be subject to the decision of competent authorities; the responsibility to compensate for reduced revenues of PPP projects shall be burdened on the State; payments are made in cash under project contracts which are prepared in the form of a Build - Transfer contract (BT contract).
5. Investment in performing planning tasks.
6. Investment in granting subsidies to offset preferential lending interest rates and management fees; making contribution to the charter capital of policy banks and state off-budget financial funds; providing investment support for other policy beneficiaries under decisions of the Government or the Prime Minister.

The Government shall promulgate regulations on procedures for making the investments specified in this clause.

7. Allocation of local budget-derived funding for implementing preferential credit policies through branches of Vietnam Bank for Social Policies (VBSP) in provinces and central-affiliated cities.

The Government shall promulgate regulations on conditions, criteria and principles for allocation of trusted funds for implementing preferential credit policies through VBSP.

Provincial-level People's Councils shall decide specific mechanisms and policies to be adopted and allocation of local budget-derived funding for implementing these policies. Provincial-level People's Committees shall entrust local budget-derived funding for implementing preferential credit policies according to decisions of Provincial-level People's Councils.

8. Other objects of public investment as prescribed in relevant laws.

## **Article 6. Classification of public investment projects**

1. Public investment projects can be classified by their characteristics as follows:

a) Projects with construction components that are projects using public investment capital for new construction, renovation, upgradation and expansion of existing investment projects, including purchase of project-controlled assets and equipment;

b) Projects without construction components that are projects using public investment capital for purchasing assets, acquiring transferred land use rights, procuring, repairing and upgrading equipment, machinery and projects other than those specified in point a of this clause;

c) In case funding other than that included in public investment plans is used for performing tasks, the projects in points a and b of this clause shall be executed in accordance with regulations of law on state budget and other relevant laws.

2. Public investment projects may be classified by their level of significance and scale as follows:

a) Projects of national significance, group-A, group-B and group-C projects which must meet the corresponding criteria referred to in Article 8, 9, 10 and 11 herein;

b) When approving investment policies of projects of national significance, group-A, group-B and group-C projects, competent authorities may decide whether compensation, support, residential resettlement and site clearance tasks in these projects should be divided into independent projects.

The time of executing an independent constituent project on compensation, support, residential resettlement and site clearance is included in total length of time of allocation of capital for project execution prescribed in Article 57 herein;

c) If a public investment project involves different industries or sectors, the classification of the project by its investment industry or sector shall reply on the industry or sector in which the proportion of investment capital to total investment of the project is the highest;

d) A project that does not meet the criteria set out in Articles 8, 9, 10 and 11 herein shall be classified by its total investment as prescribed in clause 5 Article 9, clause 4 Article 10 and clause 4 Article 11 herein;

dd) The Government shall elaborate the classification of public investment projects prescribed in Articles 9, 10 and 11 herein.

## **Article 7. Industries, sectors using public investment capital**

1. Industries, sectors using public investment capital include:

- a) National defense;
- b) Public security, social order and safety;
- c) Education, training and vocational education;
- d) Science and technology;
- dd) Healthcare, population and family;
- e) Culture and information;
- g) Radio, television and news broadcasting;
- h) Sports and physical activities;
- i) Environmental protection;
- k) Economic activities;
- l) Activities of state regulatory authorities, public service units, political organizations and socio-political organizations;
- m) Social security;
- n) Other industries, sectors as prescribed in laws.

2. The Government shall elaborate on this Article.

### **Article 8. Criteria for classification of projects of national significance**

A project of national significance is an independent investment project or a complex of closely connected construction structures that must meet one of the following criteria:

- 1. Using public investment capital worth VND 30.000 billion or above;
- 2. Having substantial environmental impacts or posing potential risks in making serious environmental impacts, including the following projects:
  - a) Nuclear power plants;
  - b) Projects that require repurposing of land of special-use forests of at least 50 hectares; of headwater protection forests or border protection forests of at least 50 hectares; of

sand-fixing and windbreak coastal forests or protection forests for wave prevention of at least 500 hectares; of production forests of at least 1.000 hectares;

3. Using land subject to the requirement for repurposing from arable land for growing wet rice during at least two cropping seasons which covers an area of at least 500 hectares;

4. Moving and resettling at least 20.000 inhabitants in mountainous areas or at least 50.000 inhabitants in other regions;

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

### **Article 9. Criteria for classification of group-A projects**

Except projects of national significance specified in Article 8 herein, any project that meets one of the following criteria shall be classified as a group-A project:

1. A project falling into one of the following circumstances, irrespective of total investment:

a) Project on manufacture of hazardous substances and explosives, except those projects on manufacture of hazardous substances and explosives concerning national defense and security;

b) Projects on construction of infrastructure of industrial parks, export processing zones and hi-tech parks;

2. A project with total investment worth VND 4.600 billion or greater in the following sectors:

a) Transport, including bridges, seaports, inland ports, airports, railways and national highways;

b) Electric power industry;

c) Oil and gas production;

d) Chemical, fertilizer and cement production;

dd) Machine manufacturing and metallurgy;

e) Mining and mineral processing;

g) Construction of residential buildings;

3. A project with total investment worth VND 3.000 billion or greater in the following sectors:

- a) Transport, except those projects specified in point a clause 2 of this Article;
- b) Irrigation, disaster preparedness and control;
- c) Water supply and drainage, waste treatment and construction of other technical infrastructure facilities;
- d) Electrical engineering;
- dd) Production of communication and electronic equipment;
- e) Pharmaceutical chemistry;
- g) Production of materials, except those projects specified in point d clause 2 of this Article;
- h) Mechanical engineering works, except those projects specified in point dd clause 2 of this Article;
- i) Post and telecommunications;

4. A project with total investment worth VND 2.000 billion or greater in the following sectors:

- a) Agricultural, forestry, salt and aquacultural production;
- b) National parks and nature reserves;
- c) Technical infrastructure of new urban zones;
- d) Industry, except for those projects in the industrial sectors specified in clauses 1, 2 and 3 of this Article;

5. A project with total investment worth VND 1.600 billion or greater in the following sectors:

- a) Healthcare, culture, society, information and education;
- b) Scientific research, environment, information technology, radio and television broadcasting, finance, banking;
- c) Treasure;

d) Tourism, sport and physical activities;

dd) Civil construction, except construction of residential buildings specified in point g clause 2 of this Article;

e) Projects developed in the national defense and security sector, except those projects specified in clauses 1, 2, 3 and 4 of this Article.

#### **Article 10. Criteria for classification of group-B projects**

1. Those projects in the sectors specified in clause 2 Article 9 herein with the total investment worth from VND 240 billion to less than VND 4.600 billion.

2. Those projects in the sectors specified in clause 3 Article 9 herein with the total investment worth from VND 160 billion to less than VND 3.000 billion.

3. Those projects in the sectors specified in clause 4 Article 9 herein with the total investment worth from VND 120 billion to less than VND 2.000 billion.

4. Those projects in the sectors specified in clause 5 Article 9 herein with the total investment worth from VND 90 billion to less than VND 1.600 billion.

#### **Article 11. Criteria for classification of group-C projects**

1. Those projects in the sectors specified in clause 2 Article 9 herein with total investment worth less than 240 billion.

2. Those projects in the sectors specified in clause 3 Article 9 herein with total investment worth less than 160 billion.

3. Those projects in the sectors specified in clause 4 Article 9 herein with total investment worth less than 120 billion.

4. Those projects in the sectors specified in clause 5 Article 9 herein with total investment worth less than 90 billion.

#### **Article 12. Modification of criteria for classification of public investment projects**

1. The National Assembly of Vietnam shall have authority to make its decision on modification of criteria for classification of projects of national significance referred to in Article 8 herein.

2. The Government of Vietnam shall be charged with petitioning the Standing Committee of National Assembly to seek its decision on modification of criteria for classification of public investment projects prescribed in Articles 9, 10 and 11 herein and reporting to the National Assembly of Vietnam in the upcoming meeting session.

3. Criteria for classification of public investment projects specified in clauses 1 and 2 of this Article may be modified in the event that the price index has varied critically or there is a major adjustment in decentralization of public investment management powers related to criteria for classification of public investment projects or existence of other important elements affects criteria for classification of public investment projects.

### **Article 13. Public investment management principles**

1. Comply with regulations of law on public investment.
2. Conform to the national socio-economic development strategy, the national socio-economic development plan during the 05-year period and other relevant plannings prescribed in the Law on Planning.
3. Duly implement stipulated responsibilities and powers of state regulatory authorities, organizations and persons involved in public investment.
4. Manage the use of public investment capital classified by specific funding sources in accordance with regulations; ensure that investment is made on a concentrated and consistent manner, meets required quality standards, is economical and effective, and ensures capability of balancing resources; avoid any waste and loss.
5. Ensure transparency and public disclosure of public investment activities.

### **Article 14. Tasks involved in state management of public investment**

1. Promulgate and direct implementation of legislative documents on public investment.
2. Design and lead the implementation of public investment strategies, programs, plans, solutions and policies.
3. Monitor and provide information about management and use of public investment capital.
4. Assess effectiveness of public investment; check, inspect and oversee compliance with laws on public investment and conformance to public investment plans.
5. Impose sanctions for violations against law, handle complaints and denunciations of organizations and persons involved in public investment activities.
6. Offer rewards to agencies, organizations and persons who have delivered good performance of public investment activities.
7. Enter into international cooperation in public investment.

### **Article 15. Transparency and public disclosure of public investment activities**

1. Public investment information that must be made publicly available and transparent, including:

- a) Regulatory framework, laws and conduct of implementation of laws and policies during the period of management and use of public investment capital;
- b) Principles, criteria and norms for allocation of public investment capital;
- c) Principles, criteria and bases for compiling the portfolio of investment projects in the medium-term and annual public investment plans;
- d) Public investment plans and programs to be developed at localities; funding for each program in specific years and progress of implementation and disbursement of funds for public investment programs;
- dd) Portfolio of investment projects to be developed at localities, including scale, total investment, time and location; report on assessment of overall impacts of each investment project on receiving localities;
- e) Plan for distribution of medium-term and annual public investment capital, including the portfolio and public investment capital amounts allocated to specific investment projects;
- g) Current situations of mobilization of resources and other funding sources used as capital participation in implementation of public investment projects;
- h) Current situations and results of implementation of public investment plans, programs and projects;
- i) Implementation and fund disbursement progress;
- k) Results of acceptance testing and assessment of public investment programs and projects;
- l) Final accounts of public investment capital.

2. Heads of regulatory authorities, organizations and affiliates thereof must make public disclosure of such public investment information in accordance with laws.

### **Article 16. Costs of design, appraisal, monitoring, examination and assessment of public investment plans, programs, tasks and projects**

1. Costs of preparation and appraisal of an investment policy proposal report for a public investment program shall be covered by funding for covering current expenditures of agencies and units assigned to carry out these tasks.

2. Costs of investment preparatory tasks shall be covered by public investment capital source, state budget-derived funding for current expenditures, and other lawful funding sources, and included in total investment of the project.

In case a competent authority refuses to issue an investment policy decision or investment decision to the project, costs of performance of investment preparatory tasks shall be recorded and included in final accounts in accordance with the Government's regulations.

3. Costs of formulation and appraisal of a public investment plan shall be covered by funding for current expenditures of agencies and units in charge of formulating and appraising that public investment plan.

4. Costs of monitoring, examination and assessment of a public investment plan, program or project shall be covered by funding for current expenditures of agencies and units assigned to carry out these tasks.

5. As for programs or projects using ODA funds and foreign concessional loans, these donors shall be encouraged to give financial support to pay the costs specified in this Article.

#### **Article 17. Prohibited acts of public investment**

1. Issuing decisions on investment policies or adjustments thereto that are not conformable to public investment strategies, plans and programs; in which funding sources and capital balancing capability are not defined; ultra vires or in breach of legally required processes and procedures.

2. Issuing decisions on investment in programs or projects without obtaining the competent authority's decisions on investment policies as prescribed; issuing decisions on investment or adjustments to programs or projects ultra vires or in breach of requirements concerning objectives, locations or in excess of public investment capital, public investment capital derived from superior budget, or total investment specified in investment policies decided by competent authorities. Issuing decisions on adjustment in the total investment in public investment programs or projects in violation of regulations enshrined in law.

3. Abusing assigned titles and powers to appropriate, make personal gain from and commit corrupt acts while managing and using public investment capital.

4. Program or project owners collude with consulting organizations and contractors in issuing decisions on investment policies and decisions on public investment programs or projects that result in any loss or waste of state capital, property and national resources, and/or harms or infringement on legitimate interests of single citizens and the public.

5. Giving, taking bribes and acting as kickback brokers.

6. Requesting organizations and persons to put investment at their own expense when public investment programs or projects have not yet obtained decisions on investment policies or investment decisions; executing projects before receiving assigned tasks of public investment plans resulting in outstanding debts accruing from capital construction.
7. Using public investment capital for wrongful purposes, to serve incorrect beneficiaries, or in excess of standards and limits prescribed in law.
8. Counterfeiting and falsifying information and documents related to decisions on investment policies, investment decisions and implementation of public investment programs, tasks or projects.
9. Deliberately reporting and providing incorrect, untrue and impartial information that may affect formulation, appraisal and making of decision on public investment plans, programs and projects, and monitoring, assessing, examining, inspecting and imposing sanctions for any violation arising from implementation of public investment plans, programs, tasks and projects.
10. Deliberately damaging, lying about, concealing or storing an inadequate number of documents and evidences relating to decisions on investment policies, investment decisions and implementation of public investment programs, tasks and projects.
11. Hindering discovery of any violation against law on public investment.

## **Chapter II**

### **INVESTMENT POLICIES AND DECISIONS ON INVESTMENT IN PUBLIC INVESTMENT PROGRAMS AND PROJECTS**

#### **Section 1. FORMULATION, APPRAISAL AND MAKING OF DECISION ON INVESTMENT POLICIES**

##### **Article 18. Authority to issue decisions on investment policies for programs and projects**

1. The National Assembly of Vietnam shall be vested with authority to issue decisions on investment policies for the following programs and projects:
  - a) National target programs;
  - b) Projects of national significance.
2. The Government shall be vested with authority to issue decisions on investment policies for public investment programs funded by the central budget, except those specified in point a clause 1 of this Article.

3. The Prime Minister of Vietnam shall be vested with authority to issue decisions on investment policies for the following projects:

- a) Those projects specified in point a clause 1 Article 9 of this Law;
- b) Group-A projects with total investment of at least VND 10.000 under the jurisdiction of Ministries or central authorities.

4. Ministers and Heads of central authorities shall be vested with authority to issue decisions on investment policies for group-A, group-B and group-C projects under their jurisdiction, except those projects specified in clause 3 of this Article.

5. Provincial-level People's Councils shall be vested with authority to issue decisions on investment policies for the following programs and projects:

- a) Public investment programs funded by the local budget, including dedicated additional funding transferred from the central budget and local budget's legitimate funding sources under their jurisdiction;
- b) Group-A projects funded by local budgets at all levels, including dedicated additional funding transferred from the central budget and local budget's legitimate funding sources, in their provinces; a group-A project involving at least 02 provincial-level administrative divisions over which the Provincial-level People's Committee is assigned to act as the governing body according to a decision of the Prime Minister, except those projects specified in clause 3 of this Article.

6. District-level People's Councils shall be vested with authority to issue decisions on investment policies for public investment programs funded by the local budget, including dedicated additional funding transferred from the superior budget and local budget's legitimate funding sources under their jurisdiction.

7. Provincial-level People's Committees shall be vested with authority to issue decisions on investment policies for the following projects:

- a) Group-B and group-C projects funded by the local budget, including dedicated additional funding transferred from the superior budget and local budget's legitimate funding sources under their jurisdiction;
- b) A group-B or group-C project involving at least 02 provincial-level administrative divisions over which the Provincial-level People's Committee is assigned to act as the governing body according to a decision of the Prime Minister;
- c) Group-B and group-C projects using ODA funds and/or foreign concessional loans.

8. District-level People's Committees shall be vested with authority to issue decisions on investment policies for the following projects:

- a) Group-B and group-C projects funded by the local budget, including dedicated additional funding transferred from the superior budget and local budget's legitimate funding sources under their jurisdiction;
- b) A group-B or group-C project involving at least 02 district-level administrative divisions over which the district-level People's Committee is assigned to act as the governing body by Chairperson of the Provincial-level People's Committee; a group-B or group-C project involving at least 02 commune-level administrative divisions;
- c) The projects specified in clause 9 of this Article, as requested by Commune-level People's Committees.

9. Commune-level People's Committees shall be vested with authority to issue decisions on investment policies for Group-B and group-C projects funded by the local budget, including dedicated additional funding transferred from the superior budget and local budget's legitimate funding sources under their jurisdiction; In case the Commune-level People's Committees are found themselves to be professionally incapable of managing and executing projects, they shall submit reports to District-level People's Committees for issuing decisions on investment policies for Group-B and group-C projects under their jurisdiction.

10. Boards of Members or Company Presidents or Boards of Directors of state-owned enterprises shall be vested with authority to issue decisions on investment policies for group-A, group-B and group-C projects in which they are assigned to make investment according to decisions of the Prime Minister, except those projects specified in clause 3 of this Article.

11. In case of adjustments in investment policies for programs and projects, authority to make decisions on such adjustments shall be subject to regulations laid down in clause 1 Article 37 herein.

12. The Government shall provide regulations on the following matters:

- a) Power decentralization, procedures and processes for making decisions on investment policies for public investment programs or projects using legitimate revenues that are earned by state regulatory authorities and public service units and retained for investment purposes in compliance with regulations on financial autonomy of agencies and units.

In case where those public investment programs or projects specified in this clause are funded by state budget, authority, procedures and processes for making decisions on these programs or projects shall be subject to provisions laid down herein;

- b) Procedures and processes for making decisions on investment policies for projects funded by local budgets and executed by central authorities; procedures and processes for making decisions on investment policies for projects funded by district- or commune-level budgets and executed by provincial- or district-level authorities;

c) Documentation requirements for, contents and time of appraisal and making of decisions on investment policies for public investment programs and projects.

**Article 19. Requirements for granting decisions on investment policies for public investment programs and projects**

1. Conform to relevant socio-economic development strategies, orientations and plans, and relevant plannings in accordance with law on planning that have already obtained decisions or approval from competent authorities.
2. Avoid overlapping between public investment programs and projects already obtaining investment policy decisions or investment decisions.
3. Meet the capacity for balancing public investment capital and channeling other funding sources for use in public investment programs and projects using multiple sources of funding.
4. Correspond to capabilities of borrowing funds and repaying public or Governmental debts and local government's debts.
5. Ensure socio-economic efficiency, national defense and sustainable development.
6. Tasks and projects exempted from the investment policy decision requirement include:
  - a) Investment preparatory tasks;
  - b) Planning tasks;
  - c) Urgent public investment projects;
  - d) Public investment projects belonging to national target programs;
  - dd) Constituent projects belonging to those projects already obtaining the competent authority's investment policy decisions;
  - e) Investment projects using ODA grants, ODA grants-funded projects on technical assistance for making preparations for investment projects.

**Article 20. Procedures and processes for granting decisions on investment policies for national target programs and projects of national significance**

1. Agencies assigned to perform investment preparatory tasks of programs and projects shall assume the following responsibilities:
  - a) Assign their affiliated units to prepare investment policy proposal reports for national target programs and pre-feasibility study reports for projects of national significance;

b) Establish a council to appraise investment policy proposal reports and pre-feasibility study reports;

c) Completely prepare investment policy proposal reports and pre-feasibility study reports for submission to the Prime Minister.

2. The Prime Minister may establish the State Appraisal Council chaired by the Minister of Planning and Investment of Vietnam and tasked with appraising investment policy proposal reports for national target programs and prefeasibility study reports for projects of national significance.

3. The Government shall seek the National Assembly's decision on investment policies for national target programs and projects of national significance.

4. The National Assembly's competent agency shall evaluate documents on national target programs and projects of national significance proposed by the Government.

5. The National Assembly shall consider adopting resolutions on investment policies for national target programs and projects of national significance with the following primary contents:

a) For national target programs: objectives, scope, total investment, location, implementation time, mechanisms, solutions and policies for implementing the program.

b) For projects of national significance: objectives, scope, total investment, main technology (if any), location, implementation time, mechanisms, solutions and policies for implementing the project.

#### **Article 21. Documents on decisions on investment policies for national target programs and projects of national significance**

1. Government's report.

2. Investment policy proposal report for national target programs and pre-feasibility study report for projects of national significance.

3. Appraisal report of the State Appraisal Council.

4. Other relevant documents.

#### **Article 22. Procedures for and subject matters of evaluation of investment policies for national target programs and projects of national significance**

1. Evaluation procedures shall be regulated as follows:

- a) At least 60 days prior to the date of opening of a National Assembly's meeting, the Government sends documents on decisions on investment policies for national target programs and projects of national significance to the body presiding over evaluation;
- b) The body presiding over evaluation has the right to request the Government and other related agencies, organizations and persons to report on issues pertaining to national target programs and projects of national significance; carry out the field survey of issues related to national target programs and projects of national significance;
- c) Agencies, organizations and person requested to carry out evaluation by the presiding body are responsible for fully providing all information and documents required for the evaluation.

2. Subject matters of an evaluation shall be composed of the following:

- a) Satisfaction of criteria for identification of national target programs and projects of national significance;
- b) Necessity of investing in public investment program or project;
- c) Compliance with regulations of law;
- d) Relevance to related socio-economic development strategies, orientations, plans and other relevant plannings in accordance with law on planning;
- dd) Basic parameters of public investment program or project, including objectives, scale, investment form, scope, location and area of land to be used, timelength and schedule of implementation, alternatives for selecting main technologies, environmental protection approaches, funding sources, capital recovery and debt repayment capability;
- e) Assessment of socio-economic efficiency and maintenance of national defense and sustainable development;
- g) Assessment of level of risk that an outward investment project of national significance may run in a host country.

**Article 23. Procedures and processes for granting decisions on investment policies for public investment programs under Government's jurisdiction**

1. A program owner shall have the following responsibilities:

- a) Authorize their affiliated units to prepare an investment policy proposal report;
- b) Authorize a competent entity to carry out the appraisal or establish a Council to appraise the investment policy proposal report;

c) Completely prepare the investment policy proposal report for submission to the Prime Minister.

2. The Prime Minister of Vietnam may establish an interagency Council or authorize the Ministry of Planning and Investment of Vietnam to preside over or cooperate with related agencies in appraising the investment policy proposal report.

3. The program owner prepares a complete investment policy proposal report according to appraisal opinions received as prescribed in clause 2 of this Article for submission to the Government.

4. The Government reviews inclusions in the report before issuing its decision on investment policy for the public investment program, including objectives, scope, total investment capital, timelength, mechanism and solutions as well as policies for implementation of the intended program.

#### **Article 24. Procedures and processes for granting decisions on investment policies for group-A projects under Prime Minister's jurisdiction**

1. Ministers and Heads of central and local authorities shall have the following responsibilities:

a) Authorize their specialized agencies or affiliated units, including affiliated public service units, to prepare pre-feasibility study reports;

b) Authorize competent agencies or units to carry out the appraisal or establish a Council to appraise pre-feasibility study reports;

c) Command agencies or units specified in point a of this clause to prepare complete pre-feasibility study reports for submission to the Prime Minister.

2. The Prime Minister shall be accorded authority to make a decision on establishment of an Interagency Appraisal Council or mandate an agency to take charge of the appraisal of pre-feasibility study reports as a basis to issue a decision on the investment policy for the intended project.

The Interagency Appraisal Council or the agency in charge of appraisal may invite any qualified or experienced organization or individual to join in the appraisal of pre-feasibility study reports or may request the project owner to designate any qualified and experienced organization or individual to join in the appraisal of pre-feasibility study reports.

3. The Ministry of Planning and Investment of Vietnam shall be vested with authority to preside over the appraisal of funding sources and capacity for balancing funds and file results of such appraisal to the Interagency Appraisal Council or the agency in charge of appraisal.

4. The Interagency Appraisal Council or the agency in charge of appraisal that is stated in clause 2 of this Article shall submit appraisal opinions to Ministries, central and local authorities so that they prepare complete pre-feasibility study reports for submission to the Prime Minister.

5. The Prime Minister shall be vested with authority to issue an investment policy decision, which includes such contents as investment objectives, scale, total investment, structure of funding sources, location, and implementation timelength.

**Article 25. Procedures and processes for granting decisions on investment policies for group-A projects under jurisdiction of provincial-level People's Councils**

1. Chairperson of each provincial-level People's Committee shall assume the following responsibilities:

- a) Authorize their affiliated units, including affiliated public service units and district-level People's Committees, to prepare pre-feasibility study reports;
- b) Establish an Appraisal Council composed of the Chairperson or Vice-Chairperson of the provincial-level People's Committee as the Council's Chair, the specialized agency in charge of public investment at the provincial level as the Council's standing commissioner, and related agencies as the Council's members, in order to carry out the appraisal of pre-feasibility study reports, funding sources and capital balancing capacity;
- c) Command the units mentioned in point a of this clause to prepare complete pre-feasibility study reports on the basis of appraisal opinions.

2. Provincial-level People's Committees shall petition same-level People's Councils to consider granting decisions on investment policies for projects under their jurisdiction, including such contents as investment objectives, scale, total investment, structure of funding sources, location, implementation timelength, and capital allocation plan.

**Article 26. Procedures and processes for granting decisions on investment policies for group-A, group-B and group-C projects under jurisdiction of Ministers or heads of central authorities**

1. Ministers and heads of central authorities shall have the following responsibilities:

- a) Authorize their affiliated units, including affiliated public service units, to prepare pre-feasibility study reports, investment policy proposal reports;
- b) Establish Appraisal Councils or authorize competent units to carry out appraisal of pre-feasibility study reports, investment policy proposal reports, funding sources and capital balancing capacity;

c) Direct the units mentioned in point a of this clause to prepare complete pre-feasibility study reports, investment policy proposal reports based on appraisal opinions.

2. Ministers and heads of central authorities shall issue investment policy decisions, including such contents as investment objectives, scale, total investment, structure of funding sources, location, implementation timelength, and capital allocation plan.

### **Article 27. Procedures and processes for granting decisions on investment policies for public investment programs under jurisdiction of local governments**

1. Chairpersons of all-level People's Committees shall assume the following responsibilities:

a) Authorize their affiliated units, including affiliated public service units or People's Committees at the inferior level, to prepare investment policy proposal reports;

b) Establish Appraisal Councils or authorize competent units to carry out appraisal of investment policy proposal reports, funding sources and capital balancing capacity with respect to public investment programs under their respective jurisdiction;

c) Direct the units mentioned in point a of this clause to prepare complete investment policy proposal reports based on appraisal opinions.

2. People's Committees petition same-level People's Councils to consider granting decisions on investment policies for public investment programs, including such contents as investment objectives, scale, total investment capital, structure of funding sources, location, implementation timelength, capital allocation plan, and mechanisms, solutions and policies for implementation.

### **Article 28. Procedures and processes for granting decisions on investment policies for group-B and group-C projects under jurisdiction of all-level People's Committees**

1. Chairpersons of all-level People's Committees shall assume the following responsibilities:

a) Authorize their affiliated units, including affiliated public service units (if any) or People's Committees at the inferior level, to organize preparation of investment policy proposal reports;

b) Establish Appraisal Councils or authorize competent units to carry out appraisal of investment policy proposal reports in respect of projects under their respective jurisdiction;

c) Direct the units mentioned in point a of this clause to prepare complete investment policy proposal reports based on appraisal opinions.

2. All-level People's Committees shall consider granting decisions on investment policies for projects under their jurisdiction, including such contents as investment objectives, scale, total investment, structure of funding sources, location, and implementation timelength.

**Article 29. Procedures and processes for granting decisions on investment policies for group-A, group-B and group-C projects using public investment capital under management of state-owned enterprises**

1. Based on the Prime Minister's document authorizing the state-owned enterprise to act as the governing body of the project, the Board of Members or Company President or Board of Directors of the state-owned enterprise shall assume the following responsibilities:

- a) Authorize its affiliated unit to prepare pre-feasibility study report, investment policy proposal report;
- b) Establish an Appraisal Council or authorize a competent unit to carry out appraisal of pre-feasibility study report, investment policy proposal report;
- c) Direct the units mentioned in point a of this clause to prepare a complete pre-feasibility study report, investment policy proposal report based on appraisal opinions.

2. The Board of Members or Company President or Board of Directors of the state-owned enterprise shall consider granting investment policy decision, including such contents as investment objectives, scale, total investment, structure of funding sources, location, and implementation timelength.

**Article 30. Procedures and processes for granting decisions on investment policies for projects involving at least 02 provincial-level administrative divisions**

1. In case a Provincial-level People's Committee will be assigned to act as the governing body of a project involving at least 02 provincial-level administrative divisions, relevant Provincial-level People's Committees shall reach an agreement on the plan to assign 01 Provincial-level People's Committee to act as the governing body of the project, and request Provincial-level People's Councils to give approval of policies for assigning 01 Provincial-level People's Committee to act as the governing body of the project.

Based on resolutions of Provincial-level People's Councils, the Provincial-level People's Committee that is recommended to act as the governing body of the project shall submit relevant reports requesting the Prime Minister to consider granting a decision to assign it to act as the governing body of the project.

2. Pursuant to the decision issued by the Prime Minister, the Provincial-level People's Committee assigned to act as the governing body of the project shall assume the following responsibilities:

a) Request the Provincial-level People's Council to consider granting a decision on investment policy for a group-A project following procedures and processes specified in Article 25 of this Law;

b) Consider granting a decision on investment policy for a group-B or group-C project following procedures and processes specified in Article 28 of this Law.

**Article 31. Procedures and processes for granting decisions on investment policies for projects involving at least 02 district- or commune-level administrative divisions**

1. In case a district-level People's Committee will be assigned to act as the governing body of a project involving at least 02 district-level administrative divisions, relevant district-level People's Committees shall reach an agreement on the plan to assign 01 district-level People's Committee to act as the governing body of the project, and request district-level People's Councils to give approval of policies for assigning 01 district-level People's Committee to act as the governing body of the project.

Based on resolutions of district-level People's Councils, the district-level People's Committee that is recommended to act as the governing body of the project shall submit relevant reports requesting the Chairperson of the Provincial-level People's Committee to consider granting a decision to assign it to act as the governing body of the project.

2. Pursuant to the decision issued by Chairperson of the Provincial-level People's Committee, the district-level People's Committee assigned to act as the governing body of the project shall organize preparation, appraisal and grant of decision on investment policy for the project in accordance with provisions of Article 28 of this Law.

3. Regarding projects involving at least 02 commune-level administrative divisions, district-level People's Committees shall consider granting decisions on investment policies for these projects following procedures and processes specified in Article 28 of this Law, and organize execution of these projects in accordance with regulations of relevant laws.

**Article 32. Principles, authority, procedures and processes for granting decisions on investment policies for public investment projects in foreign countries, projects in public-private partnership form, and investment projects on construction of official residences**

1. Principles, authority, procedures and processes for granting decisions on investment policies for group-A, group-B and group-C public investment projects in foreign countries shall be subject to the Government's regulations.

2. Principles, authority, procedures and processes for granting decisions on investment policies for investment projects existing in the public-private partnership form shall be subject to provisions of the Law on investment in public-private partnership form.

3. Decisions on investment policies, investment decisions and decisions on approval of project owners for investment projects on construction of official residences, purchase or lease of commercial housing for use as official residences must be made in accordance with provisions of the Housing Law.

### **Article 33. Contents of investment policy proposal reports for public investment programs**

Main contents of investment policy proposal reports on public investment programs shall include:

1. Necessity of the public investment program for implementation of objectives of related socio-economic development strategies, plans and plannings in accordance with law on planning;
2. Objectives, extent of the public investment program;
3. Total estimated investment capital and structure of resources necessary for implementation of the program, capacity for balancing public investment capital, mobilization of other funds and resources;
4. List of constituent projects (if any) belonging to the national target program, other public investment program;
5. Capital allocation plan and schedule of implementation of the program which are adapted for practical conditions and capacity for calling for resources in the rational order of preference, and ensure concentrated and efficient investment;
6. Determination of costs incurred during the implementation process and costs incurred from operation of the program after the program is completed;
7. Preliminary analysis and assessment of environmental and social impacts and influences of the program, measurement of investment efficiency in terms of socio-economic aspects of the program;
8. Implementation measures.

### **Article 34. Contents of pre-feasibility study reports of projects of national significance and group-A projects**

1. Contents of pre-feasibility study reports of projects of national significance and group-A projects with construction components shall be subject to law on construction.
2. Main contents of pre-feasibility study reports of projects of national significance and group-A projects without construction components shall be comprised of the following:

- a) Necessity of making investment, requirements for carrying out investment, assessment of relevance to related plannings, as prescribed in the law on planning;
- b) Forecast of demands, service scope and proposed investment objectives, scale and form of investment;
- c) Investment region, location, proposed size of land to be used and demands for other resources;
- d) Preliminary analysis and selection of technologies, techniques and requirements for provision of raw materials, equipment, fuels, energy, services and infrastructure;
- dd) Preliminary analysis and selection of investment plans and scale of investment items;
- e) General plan for compensation, site clearance, residential resettlement and environmental protection measures;
- g) Preliminary analysis and assessment of social impacts; preliminary assessment of environmental impacts (if any) in accordance with regulations of law on environmental protection;
- h) Preliminary determination of total investment, plans to call for capital and funding structure;
- i) Preliminary determination of costs incurred during the implementation of project and costs incurred from operation of the project after completion;
- k) Proposed capital allocation plan, schedule of implementation of the project and investment phasing;
- l) Preliminary measurement of investment efficiency in socio-economic aspects of the project;
- m) Division of constituent projects or subprojects (if any);
- n) Implementation measures.

**Article 35. Contents of investment policy proposal reports for group-B and group-C projects**

Main contents of investment policy proposal reports for group-B and group-C projects shall include the following:

1. Necessity of making investment, requirements for carrying out investment, assessment of relevance to related plannings as prescribed in the law on planning;

2. Objectives, scale, location and extent of investment;
3. Estimated total investment and structure of funding sources, capacity for balancing public investment capital, mobilization of other funds and resources for implementation of the project;
4. Proposed schedule of investment and capital allocation plan which are adapted for practical conditions and capacity for calling for resources in the rational order of priority, ensure concentrated and efficient investment;
5. Preliminary determination of costs incurred during the implementation of project and costs incurred from operation of the project after completion;
6. Preliminary analysis and assessment of social and environmental impacts; preliminary measurement of investment efficiency in socio-economic aspects;
7. Division of constituent projects (if any);
8. Implementation measures.

**Article 36. Decentralization of power to appraise funding sources and capacity for balancing funds for programs and projects**

1. Appraisal of funding sources and capacity for balancing funds is part of the appraisal of investment policies.
2. The Ministry of Planning and Investment of Vietnam shall be vested with authority to appraise funding sources and capacity for balancing funds for the following programs and projects:
  - a) National target programs;
  - b) Projects of national significance;
  - c) Public investment programs, subject to the Government's investment policy decisions;
  - d) Public investment programs or projects, subject to the Prime Minister's investment policy decisions.
3. Ministers and Heads of central authorities shall mandate specialized agencies in charge of public investment to preside over and cooperate with relevant agencies in appraising funding sources and capacity for balancing funds for those projects using public investment capital under their jurisdiction provided that these funds do not exceed total capital of the current medium-term public investment plan, estimated total medium-term investment capital limit for the later period of time as informed by the Prime Minister, and other lawful funding sources informed by competent authorities, including those

funds specified in clauses 2 and 3 Article 93 of this Law, except those projects specified in clause 2 of this Article.

4. Chairpersons of all-level People's Committees shall mandate specialized agencies in charge of public investment to preside over and cooperate with relevant agencies in appraising funding sources and capacity for balancing funds for programs or projects using public investment capital under their jurisdiction provided that these funds do not exceed total medium-term investment capital limit that the Prime Minister or the competent authority informs to apply in the later period of time, or existing total medium-term investment capital limit that the National Assembly or People's Council at any level decides to apply to localities, and are not greater than the actual excess of the local budget's revenues (if any) intended for development investment purposes, other lawful funding sources, capital amounts prescribed in clauses 2 and 3 Article 93 of this Law.

5. Regarding ODA funds and/or foreign concessional loans, the competent authorities specified in clauses 2, 3 and 4 of this Article shall, pursuant to decisions issued by the Prime Minister of Vietnam to give approval for proposals for programs or projects using ODA funds and/or foreign concessional loans, letters of interest or written commitments of foreign donors of ODA grants, appraise funding sources and capacity for balancing funds for programs or projects provided that these funds do not exceed total capital of the current medium-term public investment plan. Where a project is implemented for 02 consecutive terms of medium-term public investment plans, provisions of clauses 2 and 3 Article 93 of this Law shall apply.

### **Article 37. Adjustment, termination of investment policies**

1. The authority mandated to make decisions on investment policies for a program or project shall be competent to issue a decision to adjust or terminate investment policies for that program or project and shall be responsible for their issued decision.

2. The investment policy for a program or project shall be adjusted in case there are changes in objectives or location of that program or project, or public investment capital, public investment capital derived from superior budget, or total investment in that program or project is exceeded in comparison to those specified in the investment policy for that program or project.

3. Procedures and processes for granting a decision to adjust an investment policy shall be regulated as follows:

a) As for public investment programs, these procedures and processes shall be subject to regulations laid down in Articles 20, 23 and 27 herein;

b) As for projects of national significance, these procedures and processes shall be subject to regulations laid down in Article 20 herein;

c) As for group-A, group-B and group-C projects, these procedures and processes shall be subject to regulations laid down in Articles 24, 25, 26, 28 and 29 herein;

d) As for projects involving at least 02 provincial-level administrative divisions over which the Provincial-level People's Committee is assigned to act as the governing body, these procedures and processes shall be subject to regulations laid down in Article 30 herein;

dd) As for projects involving at least 02 district-level or commune-level administrative divisions over which the district-level People's Committee is assigned to act as the governing body, these procedures and processes shall be subject to regulations laid down in Article 31 herein.

4. The Government shall promulgate regulations on documentation requirements, procedures, processes and contents of adjustment of investment policies for programs or projects; cases in which investment policies for programs or projects are terminated, and implementation procedures and processes.

## **Section 2. DESIGN, APPRAISAL OF AND DECISION ON INVESTMENT IN PUBLIC INVESTMENT PROGRAMS OR PROJECTS**

### **Article 38. Authority to grant decisions on investment in programs and projects**

1. The Prime Minister shall be accorded authority to issue decisions on investment in the following programs and projects:

a) National target programs and projects of national significance that have already obtained investment policy decisions from the National Assembly;

b) Public investment programs that have already obtained investment policy decisions from the Government.

2. Ministers and Heads of central authorities shall have the power to:

a) Grant decisions on investment in group-A, group-B and group-C projects under their jurisdiction;

b) Decentralize powers or grant authorization to issue decisions on investment in group-B and group-C projects prescribed in point a of this clause to their affiliated agencies or units;

c) Based on specific conditions of projects, assign specialized or regional project management units to act as project owners. Where the project management unit is not established or is not qualified to act as a project owner, the Minister or head of central authority may assign an agency or organization that fully meets experience and

managerial capacity requirements to act as the project owner, and shall assume responsibility for their assignment.

3. Chairpersons of provincial-level People's Committees shall be vested with authority to grant decisions on investment in the following programs and projects:

- a) Public investment programs and group-A projects which have already obtained investment policy decisions from provincial-level People's Councils;
- b) Group-B and group-C projects falling under jurisdiction of provincial-level authorities;
- c) Group-B and group-C projects using ODA funds and/or foreign concessional loans; projects using ODA grants.

4. Chairpersons of district-level and commune-level People's Committees shall be vested with authority to grant decisions on investment in the following programs and projects:

- a) Public investment programs which have already obtained investment policy decisions from same-level People's Councils;
- b) Group-B and group-C projects falling under their respective jurisdiction.

5. Directors or General Directors of state-owned enterprises shall be vested with authority to grant decisions on investment in group-A, group-B and group-C projects which have already obtained investment policy decisions from Boards of Members or Company Presidents or Board of Directors of such enterprises.

6. In case decisions on investment in programs and projects need to be adjusted, the authority to adjust such decisions shall be subject to regulations laid down in clause 3 Article 46 herein.

7. The Government shall set forth regulations on decentralization of powers, procedures and processes for granting decisions on investment in programs or projects using legitimate revenues of state regulatory authorities and public service units for investment purposes provided that these regulations are consistent with those on the financial autonomy of involved authorities and units.

8. Ministers and Heads of central and local authorities granting decisions on investment in programs and projects shall have the burden of ensuring investment efficiency of approved programs and projects.

### **Article 39. Bases for formulation, appraisal of and decision on investment in programs or projects**

1. Socio-economic strategies and plans.

2. Related plannings as prescribed in the law on planning.
3. Necessity of the program or project.
4. Objectives of the program or project.
5. Investment policies that have already been decided by competent authorities.
6. Capability of channeling and balancing public investment capital and other funds for implementation of the program or project.

**Article 40. Procedures for formulation, appraisal of and decision on investment in national target programs**

1. Based on the investment policy already obtaining the National Assembly's decision, the program owner prepares a feasibility study report for that program and submits it to the Prime Minister.
2. The Prime Minister establishes a State Appraisal Council chaired by the Minister of Planning and Investment to appraise the intended program.
3. The State Appraisal Council conducts the appraisal regarding the issues specified in clause 1 Article 47 herein.
4. Based on appraisal opinions given by the State Appraisal Council, the program owner prepares a complete feasibility study report for that program and drafts an investment decision and submits them to the State Appraisal Council for submission to the Prime Minister for consideration and decision.

**Article 41. Procedures for formulation, appraisal of and decision on investment in public investment programs subject to the Government's investment policy decision**

1. Based on the investment policy already obtaining the Government's decision, the program owner prepares a feasibility study report for the program and carries out the appraisal in accordance with law before submission thereof to the Prime Minister.
2. The Ministry of Planning and Investment of Vietnam conducts the appraisal regarding the issues specified in clause 1 Article 47 herein.
3. Based on appraisal opinions given by the Ministry of Planning and Investment of Vietnam, the program owner prepares a complete feasibility study report for that program and drafts an investment decision and submits them to the Ministry of Planning and Investment of Vietnam for submission to the Prime Minister for consideration and decision.

**Article 42. Procedures for formulation, appraisal of and decision on investment in public investment programs subject to investment policy decisions granted by People's Councils**

1. Based on the investment policy already obtaining the decision from the People's Council, the program owner prepares a feasibility study report for that program and carries out the appraisal in accordance with law before submission thereof to Chairperson of the same-level People's Committee.
2. Chairperson of the People's Committee assigns a specialized agency to conduct the appraisal regarding the issues specified in clause 1 Article 47 herein.
3. Based on appraisal opinions, the program owner prepares a complete feasibility study report for that program and drafts an investment decision and submits them to the Chairperson of the People's Committee to seek his/her decision.

**Article 43. Procedures for formulation, appraisal of and decision on investment in projects**

1. Procedures for formulation, appraisal of and decision on investment in projects of national significance shall be subject to the following regulations:
  - a) Based on the investment policy already obtaining the decision from the National Assembly, the project owner prepares a feasibility study report for that project and submits it to the governing body for consideration and submission to the Prime Minister;
  - b) The Ministry of Planning and Investment of Vietnam reports to the Prime Minister to establish the State Appraisal Council to carry out the appraisal of the project;
  - c) The State Appraisal Council conducts the appraisal regarding the issues specified in clauses 2 and 3 Article 47 herein;
  - d) Based on appraisal opinions, the project owner prepares a complete feasibility study report for that project and submits it to the governing body for approval and submission to the State Appraisal Council;
  - dd) The State Appraisal Council submits it to the Prime Minister for considering and granting a decision on investment in that project.
2. Procedures for formulation, appraisal of and decision on investment in projects which do not fall in the case specified in clause 1 of this Article and exist without construction components shall be subject to the following regulations:
  - a) Based on the investment policy already obtaining the decision from the competent authority, the project owner prepares a feasibility study report for that project and submits it to the competent authority to seek its decision;

b) Minister, Head of central authority or Chairperson of People's Committee at the relevant level establishes an appraisal council or assign a specialized agency to carry out the appraisal of the project;

c) The appraisal council or assigned specialized agency conducts the appraisal regarding the issues specified in clause 2 Article 47 herein;

d) Based on appraisal opinions, the project owner prepares a complete feasibility study report for the project and submits it to the competent authority to seek its investment decision.

3. Procedures for formulation, appraisal of and decision on investment in projects with construction components shall be subject to provisions of the law on construction and other relevant laws, except projects of national significance.

4. Principles of, authority over, contents of, procedures and processes for formulation, appraisal of and decision on feasibility study reports for projects existing in the public-private partnership form shall be subject to provisions of the Law on investment in public-private partnership form.

5. Principles of, authority over, contents of, procedures and processes for formulation, appraisal of and decision on investment in public investment projects in foreign countries shall be subject to the Government's regulations.

**Article 44. Procedures for formulation, appraisal and approval of project preparation costs, cost estimates for investment preparatory tasks and planning tasks**

1. Procedures for formulation, appraisal and approval of project preparation costs or cost estimates for investment preparatory tasks of projects with construction components shall be subject to the Law on Construction.

2. Procedures for formulation, appraisal and approval of cost estimates for investment preparatory tasks of projects without construction components and planning tasks shall be regulated as follows:

a) Based on investment preparatory tasks and planning tasks decided by competent authorities, agencies or organizations assigned to perform these tasks prepare the cost estimates for these tasks and submit them to Ministers, Heads of central authorities and Chairpersons of People's Committees at any level to seek their decisions;

b) Ministers, Heads of central authorities and Chairpersons of People's Committees at any level may establish Appraisal Councils or assign specialized agencies to carry out the appraisal of the cost estimates for these tasks;

c) Appraisal Councils or assigned specialized agencies conduct the appraisal of the cost estimates for these tasks in accordance with regulations of law;

d) Based on appraisal opinions, project owners prepare complete cost estimates for these tasks and submit them to Ministers, Heads of central authorities and Chairpersons of People's Committees at any level to seek their approval;

dd) Ministers, Heads of central authorities and Chairpersons of People's Committees at any level may decentralize powers to heads of their affiliated agencies or units or public service units to organize formulation, appraisal and approval of cost estimates for planning tasks and investment preparatory tasks.

#### **Article 45. Procedures and processes for granting decisions on investment in urgent public investment projects**

1. Ministers, Heads of central authorities and Chairpersons of People's Committees at any level decide and take responsibility for implementation of urgent public investment projects under their respective jurisdiction.

2. Ministers, Heads of central authorities and Chairpersons of People's Committees at any level organize formulation and appraisal of feasibility study reports, technical-economic reports, and consider granting decisions on investment in such projects.

3. Project owners are allowed to make decisions on all tasks in investment activities to organize the implementation of such projects on schedule while meeting quality requirements, and assume responsibility for their decisions.

4. Ministers and Heads of central authorities submit reports to the Government on implementation of urgent public investment projects. Chairpersons of People's Committees submit reports to People's Councils at the same level on implementation of urgent public investment projects in the upcoming meeting.

#### **Article 46. Adjustment of programs and projects**

1. A program shall be adjusted:

a) in case of adjusting objectives and changing requirements for implementation thereof in the relevant socio-economic development strategy or plan and other plannings as provided for in the Law on Planning;

b) in case of adjusting or terminating the investment policy under the competent authority's direction;

c) due to causes of force majeure resulting in changes in objectives, extent, costs and duration of implementation of the program.

2. A project shall be adjusted:

- a) in case of adjusting or terminating the investment policy under the competent authority's direction;
- b) in case of adjustments to the planning resulting in direct impacts on the project;
- c) due to causes of force majeure resulting in changes in investment objectives, scale, costs and duration of implementation of the project;
- d) due to the impact of emergencies arising from natural disasters, conflagration or other force majeure events upon expiry of the project's insurance policy;
- dd) if factors creating more financial or socio-economic efficiency arise by reason of such adjustment and such efficiency is appraised by the competent authority;
- e) if the price index quoted during the implementation of the project is higher than the price index used for calculation of the allowance for price escalation included in the project's total investment that is decided by the competent authority.

3. The authority competent to make its decision on investment in the program or project shall be competent to issue a decision to adjust that program or project, and shall be responsible for its decision.

4. The competent authority may adjust a program or project only when that program or project has already undergone the appraisal, inspection or assessment as provided herein.

5. In case there is any change in objectives or location, or an increase in public investment capital, public investment capital derived from superior budget, or total investment in the project compared to that specified in the investment policy decision granted by the competent authority, procedures and processes for granting a decision to adjust the investment policy for the program or project must be completed before receipt of a decision to adjust that program or project from the competent authority.

6. The Government shall provide for contents of, procedures and processes for formulation and appraisal of adjustment of programs and projects.

#### **Article 47. Contents of feasibility study reports of programs and projects**

1. A feasibility study report of a public investment program shall, inter alia, have the following main contents:

- a) Necessity of making investment;
- b) Assessment of the current status of sectors and industries specified in the program's objectives and scope; urgent issues that need to be solved in the program;

c) General objectives, specific objectives, expected outcomes and main indicators defined in each stage;

d) Scope of the program;

dd) Constituent projects (if any), for a national target program; list of constituent projects (if any), for another public investment project;

e) Estimated total investment necessary to implement the program, distribution of funds specific to objectives, constituent projects and schedule of implementation, funding sources and capital mobilization plans;

g) Anticipated duration and schedule of implementation of the program;

h) Solutions for implementing the program; mechanisms and policies applied to the program; capability of integrating and coordinating with other programs;

i) International cooperation requirements (if any);

k) Arrangements made to implement the program;

l) Assessment of the overall socio-economic efficiency of the program.

2. A feasibility study report of a project without construction components shall, inter alia, have the following main contents:

a) Necessity of making investment;

b) Assessment of relevance of the project to the related planning as provided for in the Law on Planning;

c) Analysis and determination of objectives, tasks and outputs of the project; analysis and selection of the appropriate scale; investment phasing; selection of investment form;

d) Analysis of natural conditions, economic and technical conditions and selection of investment location;

dd) Plans for management, operation and use of the project;

e) Environmental impact assessment and environmental protection measures;

g) General plan for compensation, site clearance and residential resettlement;

h) Proposed schedule of implementation of the project; main timeline of investment;

i) Determination of total investment, funding structure and capital mobilization plans;

k) Determination of costs incurred during the implementation of the project and operation costs incurred at the stage of operation and exploitation of the project;

l) Arrangements necessary for management of the project, including determination of project owner, analysis and selection of form of project implementation management, relationship and responsibilities of persons and entities involved in implementation of the project, and organizational structure of the unit in charge of management and operation of the project;

m) Analysis of investment efficiency, including efficiency and impacts in socio-economic, national defense and security aspects, and capital recovery capacity (if any).

3. Contents of feasibility study reports of projects with construction components shall be subject to the Law on Construction and other relevant laws.

#### **Article 48. Documentation requirements, contents and time limits for appraisal and grant of decisions on programs and projects**

1. Documents required for appraisal of a program or project include:

a) A written request for appraisal of the program or project;

b) The feasibility study report of the program or project;

c) Other relevant documents.

2. The Government shall provide for documentation requirements for grant of decisions on programs and projects, contents of, time limit for appraisal and grant of decisions on programs and projects.

### **Chapter III**

#### **FORMULATION, APPRAISAL, APPROVAL AND ASSIGNMENT OF TASKS OF PUBLIC INVESTMENT PLANS**

#### **Article 49. Classification of public investment plans**

1. Public investment plans shall be classified by their terms into:

a) Medium-term public investment plan that must be valid for the period of 05 years and in line with the 05-year socio-economic development plan;

b) Annual public investment plan that must be made to support the implementation of the medium-term public investment plan and must fit into objectives of the annual socio-economic development plan and the annual public investment budget balance.

2. Public investment plans shall be classified by levels of regulatory authority into:

- a) National public investment plan;
- b) Public investment plans of Ministries and central authorities;
- c) Public investment plans of local authorities at any level.

3. Public investment plans shall be classified by funding sources into:

- a) Plan for investment of the central budget's funds, including investments specific to sectors, industries, public investment programs and portions of state capital participation in PPP projects;
- b) Plan for investment of the local budget's funds, including investments specific to sectors, industries, public investment programs and portions of state capital participation in PPP projects;
- c) Plan for investment of legitimate revenues that state regulatory authorities and public service units retain for investment purposes.

#### **Article 50. Bases for formulation of medium-term and annual public investment plans**

1. A medium-term public investment plan shall be formulated on the following bases:

- a) Current conditions and outcomes of implementation of the 05-year socio-economic development plan and the medium-term public investment plan developed in the previous stage;
- b) Socio-economic development strategy; national, sector-specific, industry-specific and local 05-year socio-economic development orientations or plans; 05-year financial plan; 05-year borrowing and public debt repayment plans; preferred investment objectives included in 05-year national, sector-specific, industry-specific and local public investment plans;
- c) Related plannings as provided for in the Law on planning;
- d) Demands for and forecast of capabilities of mobilization of funding sources invested in construction of socio-economic infrastructure and of balancing the state budget's capital;
- dd) Forecast of impacts of global and domestic situations on development and capabilities of mobilization of investment funds;
- e) Mechanisms and policies on calling for investment funds from different economic sectors for the purposes of construction of socio-economic infrastructure.

2. An annual public investment plan shall be formulated on the following bases:

a) Review of progress in and outcomes of implementation of national, sector-specific, industry-specific and local socio-economic development plans; outcomes of implementation of the previous-year public investment plan;

b) Annual socio-economic development plan;

c) Medium-term public investment plan;

d) Demands for and capabilities of balancing resources for the purposes of investing in construction of socio-economic infrastructure in the plan year.

### **Article 51. Principles of formulation of medium-term and annual public investment plans**

1. Agree with developmental objectives included in the socio-economic development strategy, 05-year and annual national, sector-specific, industry-specific or local socio-economic development orientations or plans and other approved plannings, 05-year financial plan, and 05-year borrowing and public debt repayment plan.

2. Correspond to capabilities of balancing public investment funds and calling for different investment capital from other economic sectors; ensure macroeconomic balance and prioritization of public debt safety.

3. Allocation of public investment capital must adhere to principles, criteria and norms for allocation of public investment capital in specific stages that have already been approved by competent authorities.

4. Prefer to allocate funds to sectors, industries or territorial areas by taking account of developmental objectives and guidelines existing over periods of time.

5. Ensure public disclosure, transparency and fairness.

6. Make sure that managerial activities must be performed in a concentrated and consistent manner in terms of objectives, mechanisms and policies; ensure that investment management powers are decentralized and autonomy is granted to Ministries, central and local authorities in accordance with laws in order to enhance investment efficiency.

7. Annual public investment plan must be consistent with the approved medium-term public investment plan, except the first-year public investment plan.

### **Article 52. Contents of reports on medium-term public investment plans submitted to competent authorities to seek their approval**

1. Review of progress in and expected outcomes of implementation of the medium-term public investment plan existing in the previous stage.
2. Socio-economic development orientations or plans; medium-term sector-, industry- and public investment program-specific investment objectives and investment structure directions. Classification by specific sectors or industries shall be subject to provisions enshrined in this Law.
3. Capabilities of calling for and balancing funds; estimated total investment in carrying out medium-term socio-economic, sector- and industry-specific development orientations, objectives and tasks, including funds allocated for covering costs of planning tasks, investment preparatory tasks, programs or projects, and repaying advances and other borrowings granted by local budget for investment purposes.
4. Total state budget-derived capital for the medium-term public investment plan, including the central budget's capital, the local budget's capital; the central budget's total capital specific to sectors, industries and proposed transfers to specific Ministries, central authorities and dedicated additional funding transferred from the central budget to the local budget, with respect to reports presented to the National Assembly. Total capital of each authority, unit or organization allocated the public investment plan using the local budget specific to sectors, industries and dedicated additional funding transferred from the superior budget to the inferior budget, with respect to reports presented to People's Councils.
5. Principles, criteria and norms for allocation of medium-term public investment capital.
6. Arranging public investment projects in order of priority, selecting the investment portfolio and capital allocated to specific programs, tasks and projects in the medium-term public investment plan to ensure relevance to capabilities of balancing public investment capital and calling for other funding sources for the purposes of achieving and implementing the 05-year socio-economic development objectives, tasks and orientations or plans.
7. Measures for implementation and expected outcomes.

**Article 53. Contents of reports on annual public investment plans submitted to competent authorities to seek their approval**

1. Review of progress in implementation of the previous-year public investment plan.
2. Directions for making public investment in the plan year.
3. Capability of calling for and balancing capital to be realized in the plan year.

4. Selecting the investment portfolio and capital allocated to specific programs, tasks and projects to ensure relevance to the portfolio of projects belonging to the medium-term public investment plan and capabilities of balancing the annual public investment capital.

5. Measures for administration, arrangements for implementation and expected outcomes.

**Article 54. Principles for allocation of capital included in medium-term and annual public investment plans for programs and projects**

1. Serve the purposes of carrying out developmental objectives and directions in the approved socio-economic development strategies, orientations or plans and plannings.

2. Comply with capital allocation principles, criteria and norms already obtaining the competent authority's decision.

3. Concentrate on allocating public investment capital to complete and accelerate the progress in implementation of national target programs, projects of national significance, key programs and projects of great significance to the socio-economic development, and key projects on national defense and security industry.

4. Public investment capital shall be allocated in the following order of priority:

a) Urgent public investment projects;

b) National target programs, projects of national significance;

c) Repayment of advances;

d) Projects already completed and transferred for use but yet to obtain the adequate amount of allocated capital;

dd) Programs/projects using ODA funds and/or foreign concessional loans, including reciprocal capital;

e) Investment of the State in participation in implementing PPP projects in accordance with regulations of law on investment in public-private partnership form; compensation for and costs incurred from termination of PPP projects before their expiry according to decisions of competent authorities, fulfillment of the State liability to make compensation for reduced revenues of PPP projects, payments in cash under BT contracts;

g) Transitional projects which are expected to be completed during the plan period;

h) Transitional projects to be implemented according to the approved schedule;

i) Planning tasks, investment preparatory tasks;

k) Repayment of outstanding debts accruing from capital construction prior to January 01, 2015 (if any);

l) Granting subsidies to offset preferential lending interest rates and management fees; making contribution to the charter capital of policy banks and state off-budget financial funds; providing investment support for other policy beneficiaries under decisions of the Government or the Prime Minister;

m) Allocation of local budget's funds for implementing preferential credit policies through Vietnam Bank for Social Policies (VBSP) under resolutions of Provincial-level People's Councils;

n) New projects meeting requirements specified in clause 5 of this Article.

5. Budgeted capital for new programs and projects must be allocated in conformance to the following requirements:

a) These new programs and projects must prove its necessity and meet regulatory requirements for being allocated budgeted capital as provided in Articles 55 and 56 herein;

b) The capital must be allocated in the order of priority specified in clause 4 of this Article and the amount of capital allocated must be adequate for completion of these new programs and projects according to the approved investment schedule.

6. Based on midterm assessment of the progress of implementation of the medium-term public investment plan, the National Assembly shall consider deciding to use the central budget's general provisions for medium-term public investment plans.

Pursuant to the resolution of the National Assembly, the Standing Committee of National Assembly shall consider deciding to allocate the central budget's general provisions for medium-term public investment plans to Ministries, central and local authorities for implementing programs, projects, tasks and other objects of public investment when there are sufficient funds, and submit reports thereon to the National Assembly in the upcoming meeting.

7. People's Councils at any level shall make their decision on allocation of the general provisions in their respective budget for medium-term public investment plans when there are sufficient funds.

**Article 55. Requirements for eligibility of other public investment programs, projects, tasks and objects for entering into medium-term public investment plans**

In order for other public investment programs, projects, tasks and objects to enter into medium-term public investment plans, they must comply with regulations of law on

principles and criteria for allocation of public investment capital and meet one of the following requirements:

1. Transitional projects belong to the portfolio of projects in the medium-term public investment plan in the previous stage;
2. Programs and projects already obtain investment policy decisions from competent authorities;
3. Tasks and projects are classified as those referred to in clause 6 Article 19 herein;
4. They have to be classified as objects referred to in clauses 4, 6 and 7 Article 5 herein;
5. They have to be classified as objects referred to in clause 8 Article 5 herein, if meeting requirements laid down in relevant laws.

**Article 56. Requirements for eligibility of other public investment programs, projects, tasks and objects for access to capital specified in annual public investment plans**

1. Other public investment programs, projects, tasks and objects have to be listed in the medium-term public investment plan, except urgent public investment projects and investment projects funded by ODA grants.
2. Other public investment programs, projects, tasks and objects have obtained decisions from competent authorities in accordance with regulations of law.
3. Cost estimates for investment preparatory tasks, planning tasks have been approved by competent authorities.

**Article 57. Time of allocation of capital for project implementation**

1. Time of allocation of capital for implementing a project is continuously calculated from the first plan year in which capital is allocated to implement the project to the year in which the project is finished, put under acceptance testing, and transferred for use, excluding the time of allocation of capital for covering costs of investment preparatory tasks and time for preparation of final accounts of the project.
2. Time of allocation of capital for implementation of projects is stipulated as follows:
  - a) The time for allocation of capital for implementation of national target programs and projects of national significance shall be subject to resolutions of the National Assembly;
  - b) Allocation of capital for implementing a group-A project shall be completed within a maximum duration of 06 years;

c) Allocation of capital for implementing a group-B project shall be completed within a maximum duration of 04 years;

d) Allocation of capital for implementing a group-C project shall be completed within a maximum duration of 03 years;

3. Extension of the capital allocation periods prescribed in clause 2 of this Article shall be subject to the following provisions:

a) The Government shall petition the National Assembly to consider granting decisions on extension of time for allocation of capital to national target programs and projects of national significance;

b) The competent authorities granting decisions on investment policies for central budget-funded projects shall consider granting decisions on extension of time for allocation of capital for implementing these projects as follows: the time for allocation of capital for group-A, group-B and group-C projects may be extended for a period of up to 01 year; regarding a group-A project with total investment worth from VND 10.000 billion to less than VND 30.000 billion, the maximum extension period shall be 02 years;

c) Chairpersons of People's Committees at any level shall consider granting decisions on extension of time for allocation of capital for implementing local budget-funded projects as follows: the time for allocation of capital for group-A, group-B and group-C projects may be extended for a period of up to 01 year; regarding a group-A project with total investment worth from VND 10.000 billion to less than VND 30.000 billion, the maximum extension period shall be 02 years;

d) If the capital allocation time has to be extended upon expiry of the extension periods granted as prescribed in points b and c of this clause, governing bodies of central budget-funded projects shall be subject to responsibility review and petition the Prime Minister to consider granting decisions on extension of the time for allocation of capital to these projects while People's Committees shall be subject to responsibility review and petition People's Councils at the same level to consider granting decisions on extension of the time for allocation of capital to local budget-funded projects.

dd) Regarding projects exempted from the investment policy decision requirement laid down in clause 6 Article 19 herein, the authorities granting decisions on investment in these projects shall consider granting decisions on extension of the time for allocation of capital to these projects according to provisions of points b and c of this clause.

4. The time for allocation of capital for implementing projects using legitimate revenues of state regulatory authorities and public service units for investment purposes shall be subject to provisions of clause 2 of this Article. Where the capital allocation time has to be extended, the authorities granting decisions on investment policies for these projects shall consider granting extension decisions and assume responsibility for their decisions.

5. The Government shall elaborate on this Article.

**Article 58. Capital for investment preparatory tasks, planning tasks and project implementation**

1. Capital for investment preparatory tasks may be allocated for covering costs of formulation of proposals for programs/projects using ODA funds and/or foreign concessional loans; formulation, appraisal and grant of decisions on investment policies for projects; formulation, appraisal and grant of decisions on investment in projects.

2. Capital for planning tasks may be allocated for covering costs of formulation and announcement of plannings and adjustments thereto in accordance with provisions of the Law on Planning.

3. Capital used for implementing projects may be allocated for covering costs of clearing project sites, making technical designs, construction drawings, creating cost estimates for projects or work items thereof, carrying out construction and other activities under project approval decisions.

**Article 59. Procedures for formulation, approval and assignment of tasks of medium-term public investment plans using state budget's capital**

1. Prior to June 30 of the fourth year of a medium-term public investment plan, the Prime Minister shall promulgate a directive for formulation of the medium-term public investment plan for the subsequent period.

2. Prior to July 31 of the fourth year of a medium-term public investment plan, the Government shall submit principles, criteria and norms for allocation of estimated medium-term public investment capital in the subsequent period to the Standing Committee of National Assembly for approval.

3. Prior to September 30 of the fourth year of a medium-term public investment plan, the Prime Minister informs Ministries, central and local authorities of the estimated total public investment capital which is equal to total public investment capital specified in the previous medium-term public investment plan as a basis to grant decisions on investment policies for programs and projects in the subsequent period.

4. Prior to December 31 of the fourth year of a medium-term public investment plan, the Government shall estimate the state budget balancing capability to allocate funding for development investment expenditures in the subsequent period to specific Ministries, central and local authorities, and the Prime Minister shall inform Ministries, central and local authorities of total public investment capital in the subsequent period.

5. Prior to January 31 of the fifth year of the previous medium-term public investment plan, provincial-level People's Committees shall get opinions from same-level People's Councils about the contents specified in Article 52 herein, and send them to the Ministry

of Planning and Investment of Vietnam, Ministry of Finance of Vietnam for consolidating and reporting to competent authorities.

6. In the year-end meeting held in the fifth year of the National Assembly's tenure, the Government shall propose the medium-term public investment plan for the subsequent period to the National Assembly to get its opinions about the contents thereof specified in Article 52 herein.

7. According to opinions given by the previous National Assembly, the Government shall present to the current National Assembly in the first meeting the contents specified in Article 52 herein. The National Assembly shall consider issuing its decision on the medium-term public investment plan, including the following contents:

a) Objectives and orientations of medium-term public investment of the state budget's capital to be made on a nationwide scale;

b) Total capital listed in medium-term public investment plans using the state budget's capital, including the capital derived from both the central budget and local budget;

c) Total capital included in the medium-term public investment plan derived from the central budget specific to sectors, industries, estimate of capital amounts allocated to specific Ministries, central authorities and dedicated additional funding transferred from the central budget to each local budget.

The Government shall report the capital included in the medium-term public investment plan derived from the central budget which is yet to be allocated to the Standing Committee of National Assembly for considering, deciding and reporting to the National Assembly in the upcoming meeting;

d) Portfolio and investment capital of projects of national significance and national target programs;

dd) Main solutions and policies for implementation of medium-term public investment plans.

8. The Prime Minister shall assign tasks of medium-term public investment plans, including total capital and structure of the central budget's capital, to Ministries, central and local authorities; portfolio and capital of public investment programs and projects, total capital used for performing planning tasks, total capital used for performing investment preparatory tasks and other public investment objects using the central budget's capital.

9. Assignment of tasks of medium-term public investment plans using local budget shall be subject to the following provisions:

a) Pursuant to the National Assembly's resolution regarding medium-term public investment plans for the new period and the resolution of the provincial-level People's Council regarding the 05-year socio-economic development plan, the provincial-level People's Council shall make a decision on medium-term public investment plan to be implemented at their locality, including total capital of the medium-term public investment plan, portfolio and capital allocated to specific projects, total capital used for performing planning tasks, total capital used for performing investment preparatory tasks, other public investment objects using the provincial budget's capital and dedicated additional funding transferred to the inferior budget, and shall send a report thereon to the Ministry of Planning and Investment of Vietnam and the Ministry of Finance of Vietnam for consolidating and reporting to the Government;

b) Pursuant to the resolution of the provincial-level People's Council regarding the medium-term public investment plan, the district-level People's Council shall make decision on the medium-term public investment plan under its jurisdiction, including total capital of the medium-term public investment plan, portfolio and the local budget-derived capital allocated to specific projects, total capital used for performing planning tasks, total capital used for performing investment preparatory tasks, other public investment objects and dedicated additional funding transferred to the inferior budget;

c) Pursuant to the resolution of the district-level People's Council regarding the medium-term public investment plan, the commune-level People's Council shall make decision on the medium-term public investment plan under its jurisdiction, including total capital of the medium-term public investment plan, portfolio and the local budget-derived capital allocated to specific projects, total capital used for performing planning tasks, total capital used for performing investment preparatory tasks, other public investment objects;

d) Within the maximum period of 30 days after the People's Council promulgates the resolution on medium-term public investment plan, the same-level People's Committee shall assign tasks of the medium-term public investment plan to their affiliated units, including total investment, portfolio of programs and projects, and capital allocated to specific projects.

10. The Government shall elaborate on this Article.

#### **Article 60. Procedures for formulation, approval and assignment of tasks of annual public investment plans using state budget's capital**

1. Prior to every May 15, the Prime Minister promulgates regulations on formulation of socio-economic development plan and preparation of subsequent-year state budget estimate under which this plan and estimate must describe main objectives and orientations and assignment of tasks to take control of formulating the subsequent-year public investment plan.

2. Prior to every August 15, the Government shall estimate the state budget balancing capability to allocate funding for development investment expenditures in the subsequent year to specific Ministries, central and local authorities.

3. In the year-end meeting of the People's Council, People's Committee shall present the subsequent-year public investment plan, including portfolio and capital allocated to specific projects, to the same-level People's Council.

4. In the year-end meeting of the National Assembly, the Government shall propose subsequent-year public investment plans to the National Assembly for its decision on public investment plans using state budget's capital intended for the subsequent year.

The Government shall arrange and allocate cost estimates in respect of unallocated amounts in a timely, efficient and effective manner that ensures compliance with regulations of law, and submit quarterly reports thereon to the Standing Committee of National Assembly, and also to the National Assembly at the upcoming meeting.

5. Before every November 30, the Prime Minister shall assign tasks of public investment plans using the state budget's capital intended for the subsequent year in which total capital and structure of capital have already been decided by the National Assembly to Ministries, central and local authorities.

6. Before every December 31, Ministries, central and local authorities shall organize the detailed allocation of the capital of public investment plans derived from the central budget intended for the subsequent year, portfolio and capital allocated to specific tasks and projects, and shall send detailed allocation plans to the Ministry of Planning and Investment of Vietnam and the Ministry of Finance of Vietnam for consolidating and reporting to the Government and for monitoring purposes.

7. Assignment of tasks of annual public investment plans using local budget shall be subject to the following provisions:

a) In the year-end meeting, the provincial-level People's Council shall decide the subsequent-year public investment plan under its jurisdiction, including portfolio and capital allocated to specific projects;

b) In the year-end meeting, the district- and commune-level People's Councils shall decide the subsequent-year public investment plans under their jurisdiction, including portfolio and capital allocated to specific projects;

c) Before every December 31, the People's Committee at any level shall assign tasks of subsequent-year public investment plan to their affiliated units.

8. With respect to public investment plans for the first year of the subsequent period, based on the estimate of the state budget's capital for development investment expenditures in the first year, the Government shall submit them to the National

Assembly to seek its decision issued in the year-end meeting held in the fifth year of the National Assembly's tenure. With respect to the public investment plan using local budget's capital for the first year of the subsequent period, based on the estimate of the local budget's capital for development investment expenditures, the People's Committee shall submit it to the same-level People's Council to seek its decision.

9. The Government shall elaborate on this Article.

**Article 61. Principles of selection of project portfolio, estimation of capital allocated to specific programs, tasks and projects listed in medium-term and annual public investment plans using state budget's capital**

1. These activities shall be subject to regulations laid down in Article 54, 55, 56, 57 and 58 herein.
2. Corresponding to capabilities of balancing state budget capital mentioned in medium-term and annual public investment plans, estimating capabilities of calling for other funding sources for use in projects using multiple investment capital sources. Regarding projects using ODA funds and/or foreign concessional loans, conforming to the capacity and progress of completion of investment procedures, negotiation and signing of international conventions or loan agreements.
3. These activities have to fall within programs and tasks covered by the state budget's capital for development investment expenditures which have already been approved.
4. Conforming to principles, criteria and norms of allocation of the state budget's capital for development investment expenditures during the plan period.
5. Capital allocated to a specific program or project is not allowed to exceed the approved total investment capital of that program or project.
6. In respect of local budgets, in addition to the abovementioned principles, corresponding to capabilities of balancing the local budget's revenues and expenditures, medium-term and annual public investment plans, capabilities of calling for other funding sources for use in projects using multiple investment capital sources, and falling within programs and tasks covered by the local budget's capital for development investment expenditures which have already been approved.

**Article 62. Formulation, appraisal, approval and assignment of tasks of medium-term and annual plans of capital derived from legitimate revenues of state regulatory authorities and public service units retained for investment purposes**

1. State regulatory authorities and public service units using capital from their legitimate revenues retained for investment purposes must prepare medium-term and annual public investment plans and submit them to their supervisory bodies for submission to Ministries, central authorities and People's Committees at any level.

2. Ministries, central authorities and People's Committees at any level shall be responsible for appraising, approving and assigning tasks of annual capital plans, approving adjustments in annual plans of capital derived from legitimate revenues of state regulatory authorities and public service units retained for investment purposes in order to ensure that such capital falls within actual capabilities for use as capital expenditures in accordance with relevant laws.

3. Medium-term and annual public investment plans using legitimate revenues of state regulatory authorities and public service units retained for investment purposes shall be independent of medium-term and annual public investment plans using the state budget's capital.

4. Ministries, central authorities and provincial-level People's Committees shall be responsible for consolidating medium-term and annual public investment plans using legitimate revenues of state regulatory authorities and public service units retained for investment purposes, and submitting them to the Ministry of Planning and Investment of Vietnam and the Ministry of Finance of Vietnam for consolidating and making representations to the Government and National Assembly.

5. The Government shall elaborate on this Article.

#### **Chapter IV**

### **FORMULATION, APPRAISAL OF AND DECISION ON INVESTMENT POLICIES, DECISION ON INVESTMENT IN PUBLIC INVESTMENT PROGRAMS AND PROJECTS USING ODA FUNDS AND/OR FOREIGN CONCESSIONAL LOANS, MANAGEMENT OF PLANS OF INVESTMENT CAPITAL DERIVED FROM ODA FUNDS AND/OR FOREIGN CONCESSIONAL LOANS**

#### ***Article 63. Proposal for public investment programs/projects using ODA funds and/or foreign concessional loans***

1. Proposal for programs/projects using ODA funds and/or foreign concessional loans applies to:

a) Public investment programs/projects using ODA funds and/or foreign concessional loans;

b) Investment projects using ODA grants in the national defense, security and religion fields;

c) Public investment programs using ODA grants.

2. Investment projects using ODA grants other than those specified in point b clause 1 of this Article are exempted from the project proposal requirement.

3. Procedures and processes for formulation and approval of proposals for public investment programs/projects using ODA funds and/or foreign concessional loans are regulated as follows:

a) Ministries, central and local authorities shall organize preparation of proposals for public investment programs or project proposals, and send them to the Ministry of Planning and Investment of Vietnam and the Ministry of Finance.

Where a state-owned enterprise or an enterprise belonging to this state-owned enterprise is assigned by the Prime Minister to implement a public investment project, the preparation of proposal for public investment program or project using ODA funds and/or foreign concessional loans shall be subject to the Government's regulations;

b) The Ministry of Finance of Vietnam presides over identifying grant elements, assessing impacts of ODA and foreign concessional loans with respect to debt safety ratios, and determining the domestic financial mechanism, and submitting reports thereon to the Prime Minister in accordance with the Law on Public Debt Management;

c) The Ministry of Planning and Investment of Vietnam shall consolidate opinions given by relevant Ministries, central and local authorities and assess the necessity of public investment program and projects; their relevance to orientations for attraction, management and use of ODA funds and/or foreign concessional loans over periods of time; carry out preliminary assessment of feasibility, socio-economic efficiency and environmental impacts (if any), and choose to present appropriate public investment programs and projects to the Prime Minister of Vietnam to seek his decision;

d) Based on reports submitted by the Ministry of Finance of Vietnam and the Ministry of Planning and Investment of Vietnam, the Prime Minister shall consider granting approval of proposals for public investment programs and projects using ODA funds and/or foreign concessional loans, including the following main contents: name of the public investment program or project; donor; objectives; estimated total amount of ODA funds and/or foreign concessional loans; domestic financial mechanism (full disbursement, full on-lending, partial disbursement and partial on-lending); portfolio of projects belonging to the public investment program using ODA funds and/or foreign concessional loans (if any).

4. A proposal for public investment program or project using ODA funds and/or foreign concessional loans shall be adjusted in the following cases:

a) There are changes in the main contents of the program or project which have been approved by the Prime Minister, including: name of the project, donor, objectives or financial mechanism of the program or project;

b) There is an increase in total amount of ODA funds and/or foreign concessional loans (expressed in the original currency) used in the program or project.

5. The Government shall provide for documentation requirements, contents and criteria for selection and approval of proposal proposals; procedures and processes for adjusting programs and projects using ODA funds and/or foreign concessional loans.

**Article 64. Investment policies for public investment programs/projects using ODA funds and/or foreign concessional loans**

1. Authority to issue decisions on investment policies for programs and projects shall be subject to provisions of Article 18 herein.

2. Requirements for granting investment policy decisions include:

a) Those requirements laid down in clauses 1, 2, 3, 4 and 5 f Article 19 herein;

b) Orientations for attraction, management and use of ODA funds and/or foreign concessional loans over periods of time;

c) Conformity with the Prime Minister's decisions on approval of program/project proposals;

d) Relevance to capability of calling for ODA funds and/or foreign concessional loans specified in the letter of interest or written commitment to give assistance from development partner; regulations adopted by the foreign donor.

3. Procedures and processes for granting decisions on investment policies for programs/projects shall be subject to provisions of Articles 20, 23, 24, 25, 26, 27, 28, 29 and 30 herein.

4. Contents of pre-feasibility study reports, investment policy proposal reports for public investment programs/projects using ODA funds and/or foreign concessional loans include:

a) The contents specified in Articles 33, 34 and 35 herein;

b) Capability of calling for ODA funds and/or foreign concessional loans;

c) Domestic financial mechanism (full disbursement, full on-lending, partial disbursement and partial on-lending).

5. Sources of capital and capital balancing capacity:

a) Regarding ODA funds and/or foreign concessional loans, competent authorities shall consider granting decisions on investment policies for programs/projects on the basis of appraisal opinions about sources of capital and capital balancing capacity as prescribed in clause 5 Article 36 herein;

b) Regarding reciprocal capital, provisions of Article 36 and clause 4 Article 54 herein shall apply.

6. Documentation requirements for, contents and time of appraisal and grant of decisions on investment policies for projects shall be subject to the Government's regulations.

7. Adjustment of investment policies for programs/projects using ODA funds and/or foreign concessional loans:

a) Such adjustment shall be subject to provisions of Article 37 herein;

b) Where the project proposal needs to be adjusted as prescribed in clause 4 Article 63 herein as a result of the adjustment of the project investment policy, procedures and processes for adjusting the project proposal must be completed before the adjustment of the project investment policy is submitted to the competent authority for approval as prescribed.

8. Authority to give approval for projects on technical assistance for making preparations for investment projects and engaging in regional or global cooperation projects:

a) Ministers, heads of central authorities shall consider approving technical assistance projects using ODA funds and/or foreign concessional loans for making preparations for investment projects under their jurisdiction;

b) Provincial-level People's Committees shall consider approving technical assistance projects using ODA funds and/or foreign concessional loans for making preparations for investment projects under their jurisdiction;

c) Grant of decisions on policies for engagement in regional or global cooperation projects shall be subject to the Government's regulations.

**Article 65. Decision on investment in programs/projects using ODA funds and/or foreign concessional loans**

1. Authority to issue decisions on investment in programs and projects shall be subject to provisions of Article 38 herein.

2. Bases for formulation, appraisal and grant of decisions on investment include:

a) The contents specified in Article 39 herein;

b) Project proposal and investment policies that have already been decided by competent authorities;

c) Capability of calling for ODA funds and/or foreign concessional loans as specified in the letter of interest or written commitment of the foreign donor.

3. Procedures and processes for granting decisions on investment in programs/projects:

a) Procedures and processes for granting decisions on investment in programs/projects shall comply with provisions of Article 40, 41, 42 and 43 herein;

b) Urgent projects, investment projects using ODA grants shall be subject to provisions of Article 45 herein.

4. Contents of feasibility study reports of programs and projects include:

a) Those contents specified in Article 47 herein;

b) Capability of calling for ODA funds and/or foreign concessional loans;

c) Domestic financial mechanism.

5. Documentation requirements for grant of decisions on projects, contents of, time of appraisal and grant of decisions on programs/projects shall be subject to the Government's regulations.

6. Adjustment of programs/projects using ODA funds and/or foreign concessional loans shall be subject to provisions of Article 46 herein.

**Article 66. Procedures and processes for ceasing use of ODA funds and/or foreign concessional loans**

1. Procedures and processes for ceasing use of ODA funds and/or foreign concessional loans in case the subject program or project is yet to be executed are regulated as follows:

a) If the proposal for a program/project has been approved while investment policies for that program/project are yet to be approved, the governing body shall petition the Prime Minister to consider granting a decision on invalidation of that program/project proposal;

b) If the investment policies for a program/project have been approved while a decision on investment in that program/project is yet to be issued, the competent authority making a decision on investment policies for that program/project shall consider granting a decision to terminate the project, assume responsibility for its decision and submit a report thereon to the Prime Minister;

c) If a decision on investment in a program/project has been issued, the competent authority issuing that decision shall consider granting a decision to terminate that program/project, assume responsibility for its decision and submit report thereon to the competent authority approving investment policies for that program/project and to the Prime Minister;

d) If a decision on investment policies for a project of national significance using ODA funds and/or foreign concessional loans has been issued by the National Assembly, the Government shall submit reports to petition the National Assembly to consider issuing a decision to terminate that project.

2. Procedures and processes for ceasing use of ODA funds and/or foreign concessional loans in the stage of execution of a project are regulated as follows:

a) The governing body shall submit a report to the Prime Minister on ceasing use of ODA funds and/or foreign concessional loans; such report must indicate the reasons, responsibility to pay costs, capability of arranging other legitimate sources of capital and other contents (if any);

b) The Prime Minister shall consider granting a decision to cease using ODA funds and/or foreign concessional loans;

c) Pursuant to the decision issued by the Prime Minister, the Ministry of Finance of Vietnam shall follow procedures for ceasing use of ODA funds and/or foreign concessional loans with the foreign donor;

d) The governing body shall carry out acceptance testing of workloads finished using ODA funds and/or foreign concessional loans and assume responsibility to use the remaining amount of ODA funds and/or foreign concessional loans (if any), state budget-derived funding or other legitimate sources of capital for making payment therefor;

dd) In case the governing body re-approves the project using domestic capital sources in order to execute unfinished investment items of the project using ODA funds and/or foreign concessional loans without satisfying binding requirements imposed by the donor under the international treaty or loan agreement, procedures and processes for formulation, appraisal and approval of investment policies, decision on investment in the project shall be subject to provisions herein applicable to projects using domestic capital sources;

e) In case the governing body carries out approval of adjustment of the project using ODA funds and/or foreign concessional loans, adjustment of the structure of domestic and foreign capital in order to execute unfinished investment items of the project, procedures and processes for formulation, appraisal and approval of investment policies, decision on investment in the project shall be subject to provisions herein.

3. Documentation requirements for, contents and time of granting decisions to cease using ODA funds and/or foreign concessional loans shall be subject to the Government's regulations.

**Article 67. Principles, requirements, procedures and processes for formulation, appraisal, approval and assignment of tasks of public investment plans; time for**

**allocation of capital plans; methods for disbursement of capital to programs/projects using ODA funds and/or foreign concessional loans**

1. Principles, requirements, procedures and processes for formulation, appraisal, approval and assignment of tasks of public investment plans shall be subject to provisions of Chapter III herein.
2. The period for allocation of planned foreign capital and reciprocal capital of a project using ODA funds and/or foreign concessional loans, excluding the time for investment preparation and time for preparation of final accounts for the project, shall not exceed the disbursement period defined in the international treaty or agreement on ODA funds or foreign concessional loans and regulations on the disbursement period adopted by the foreign donor, including adjustment or extension thereof.
3. The planned foreign capital of a program or project using ODA funds and/or foreign concessional loans which is fully disbursed by the central budget and derived from on-lent capital of the local budget shall be disbursed according to the annual state budget estimates, irrespective of the disbursement and on-lending ratios.

The Government shall elaborate this clause.

**Chapter V**

**IMPLEMENTATION, MONITORING, ASSESSMENT, AUDIT AND SUPERVISION OF PUBLIC INVESTMENT PLANS, PROGRAMS AND PROJECTS**

**Section 1. IMPLEMENTATION OF PUBLIC INVESTMENT PLANS**

**Article 68. Administration of public investment plans**

1. Pursuant to the National Assembly's resolution regarding medium-term and annual public investment plans, the Government shall regulate measures to take control of and implement these plans.
2. Pursuant to the National Assembly's resolution, the competent authority's decision on assignment of planned tasks and the resolution of the People's Council at any level regarding medium-term and annual public investment plans, Ministries, central and local authorities, district-level, commune-level People's Committees and other agencies/units using public investment capital shall make their decisions on measures to take control of administering public investment plans funded by funding sources under their respective management.
3. The Prime Minister may coordinate and integrate funding sources intended for implementation of investment programs using the state budget's capital of Ministries,

central and local authorities, agencies and units using public investment capital provided that objectives of investment programs remain unchanged.

4. The Chairperson of the provincial-level People's Committee may decide to coordinate and integrate funding sources intended for implementation of programs and projects using the local budget's capital and other borrowings of the local budget for investment purposes provided that objectives of programs and projects remain unchanged.

#### **Article 69. Enforcement of public investment plans**

1. Ministries, central and local authorities, district-level and commune-level People's Committees shall assume the following responsibilities:

a) Inform or decide assignment of tasks of public investment plans to their agencies and units using public investment capital;

b) Report to senior competent authorities on assignment of tasks of public investment plans.

2. Agencies and units using public investment capital shall be obliged to send senior competent authorities review reports on implementation of public investment plans under the Government's regulations.

3. The Ministry of Planning and Investment of Vietnam and specialized agencies in charge of public investment shall be responsible for checking and expediting assignment of planned tasks and enforcement of public investment plans under the senior competent authority's regulations.

#### **Article 70. Implementation of public investment plans**

1. Ministries, central and local authorities, district-level and commune-level People's Committees, agencies and units using public investment capital shall assume the following responsibilities:

a) Take charge of carrying out public investment plans to meet objectives already decided by competent authorities;

b) Implement investment projects according to the schedule and budget plan already decided by competent authorities;

c) Plan and organize contractor selection with respect to packages belonging to projects funded according to public investment plans already obtaining the competent authority's decision;

d) Carry out the commissioning and acceptance testing, make payments for and final accounts as agreed upon in contracts with respect to packages already completed and transferred to put these projects in operation;

dd) Balance funding sources to repay outstanding debts accruing from capital construction as provided in clause 6 Article 103 herein;

e) Ensure that the scope and scale of investment in each project are aligned with objectives, sectors and programs already approved and conform to plans for use of allocated capital;

g) Monitor, inspect and assess implementation of public investment plans.

2. The Ministry of Planning and Investment of Vietnam shall provide instructions for, monitor and inspect implementation of medium-term and annual public investment plans of Ministries, central authorities and provincial-level People's Committees.

3. The Ministry of Finance of Vietnam shall ensure allocation of a full amount of the central budget's capital specified in public investment plans already decided by competent authorities.

4. The Government shall adopt specific regulations on implementation of public investment plans.

#### **Article 71. Adjustment of public investment plans**

1. The National Assembly shall decide to make overall adjustment of medium-term and annual public investment plans using the state budget's capital:

a) due to any adjustment in the national socio-economic development strategy and plan;

b) due to any sudden change in the state budget balance or capacity for calling for funds of different sources.

2. The Standing Committee of National Assembly shall decide to adjust annual public investment plans using the central budget's capital to ensure the concordance between those of Ministries, central and local authorities if total annual investment capital already decided by the National Assembly is kept unchanged.

3. The Prime Minister shall decide to adjust medium-term public investment plans using the central budget's capital in the following cases:

a) Adjust medium-term public investment plans using the central budget's capital to ensure the concordance between those of Ministries, central and local authorities if total medium-term capital decided by the National Assembly is not exceeded, the efficiency in

capital use is ensured, and a report on such adjustment shall be submitted to the National Assembly at the upcoming meeting;

b) Make internal adjustment of medium-term public investment plans using the central budget's capital and make adjustment thereof to ensure concordance between sector- and industry-specific plans and programs of Ministries, central and local authorities if total medium-term capital of each Ministry, central or local authority decided by the National Assembly is kept unchanged.

4. The Ministry of Planning and Investment of Vietnam shall assume the following responsibilities:

a) Submit reports to request the Government to seek the Standing Committee of National Assembly's decision on adjustment of annual public investment plans using the central budget's capital to ensure concordance between these plans of Ministries, central and local authorities;

b) Submit reports to seek the Prime Minister's decision on adjustment of medium-term public investment plans using the central budget's capital to ensure concordance between those of Ministries, central and local authorities; on internal adjustment of medium-term public investment plans using the central budget's capital and make adjustment thereof to ensure concordance between sector- and industry-specific plans and programs of Ministries, central and local authorities.

5. Ministers and Heads of central authorities shall have the following powers and responsibilities:

a) Adjust annual public investment plans using the central budget's capital to ensure concordance between projects included in the list of medium-term public investment plans decided by competent authorities provided that total investment capital assigned by competent authorities under such plans will not be exceeded;

b) Send reports to the Ministry of Planning and Investment of Vietnam and the Ministry of Finance of Vietnam for consolidating and monitoring purposes with respect to the central budget's capital.

6. Each provincial-level People's Committee shall have the following powers and responsibilities:

a) Adjust annual public investment plans using dedicated additional funding transferred from the central budget under their jurisdiction provided that total investment capital assigned by competent authorities in the medium-term public investment plan will not be exceeded, and a report on such adjustment shall be submitted to the provincial-level People's Council at the upcoming meeting;

b) Send reports to the Ministry of Planning and Investment of Vietnam and the Ministry of Finance of Vietnam for consolidating and monitoring purposes with respect to dedicated additional funding transferred from the central budget.

7. The People's Council at any level shall decide to adjust medium-term and annual public investment plans using the local budget's capital:

- a) due to any adjustment in objectives of local socio-economic development plans;
- b) due to any sudden change in the local budget balance or capacity for calling for funds of different sources at localities;
- c) due to any change in demands for or capacity for making investment of annual planned capital of local agencies and units.

8. The People's Committee at any level shall have the following powers and responsibilities:

- a) Adjust medium-term public investment plans using local budget's capital to ensure concordance between those of agencies and units under their jurisdiction to whom planned capital is allocated provided that total investment capital assigned by the same-level People's Council in medium-term public investment plans will not be exceeded, and submit a report on such adjustment to the same-level People's Council at the upcoming meeting;
- b) Adjust medium-term and annual public investment plans using the local budget's capital to ensure concordance between tasks and projects of agencies and units under their jurisdiction to whom planned capital is allocated provided that total capital decided by the same-level People's Council will not be exceeded.

9. The Government shall adopt specific regulations on processes and procedures for adjustment of medium-term and annual public investment plans using the state budget's capital.

## **Article 72. Deadlines for implementation and disbursement of capital defined in annual public investment plans**

1. Implementation and disbursement of capital of annual public investment plans shall last till January 31 of the subsequent year. If an additional amount of capital is allocated by a competent authority to a Ministry, central or local authority after September 30 of the plan year for performing tasks, programs and projects, implementation and disbursement of such additional capital may last till December 31 of the subsequent year.

2. The time for implementation and disbursement of capital defined in annual public investment plans may be extended but not later than December 31 of the subsequent year, subject to decision issued by the Prime Minister (with respect to capital derived from the

central budget) or by Chairperson of the People's Committee at any level (with respect to capital derived from their local budget's capital), in the following cases:

- a) Projects of national significance;
- b) Projects on compensation, support, residential resettlement and site clearance;
- c) A project that is eligible for planned capital allocation for being finished and put into use in the plan year but the plan for capital allocation in the subsequent year is not available;
- d) Projects whose implementation schedule is affected by natural disasters, conflagration, epidemics or other objective causes which are unforeseeable and cannot be remedied;
- dd) Projects of representative missions and other missions of Vietnam in foreign countries;
- e) A Ministry, central or local authority only has 01 project in the plan year or adjustment of the plan cannot be carried out;
- g) Other necessary or urgent cases, subject to the Prime Minister's decision.

3. Heads of public service units self-covering both recurrent expenditures and investment expenditures shall decide to extend the time for implementation and disbursement of capital derived from their legitimate revenues retained for investment purposes, and submit reports on such extension to governing bodies.

4. Ministers, heads of central government authorities, and Chairpersons of People's Committees at all levels shall decide to extend the time for implementation and disbursement of capital derived from legitimate revenues of state regulatory authorities and public service units retained for investment purposes under their management, except those public service units prescribed in clause 3 of this Article.

## **Section 2. MONITORING, ASSESSMENT, AUDIT AND SUPERVISION OF PUBLIC INVESTMENT PLANS, PROGRAMS AND PROJECTS**

### **Article 73. Monitoring and inspection of public investment plans**

1. Specialized agencies in charge of public investment shall take charge of monitoring and inspecting public investment plans under their management.

2. Subject matters of monitoring and inspection of public investment plans:

- a) Review of implementation of provisions of the Law on public investment;
- b) Formulation, approval and assignment of tasks of public investment plans;

c) Formulation, appraisal, approval and implementation of programs and projects listed in public investment plans;

d) Review of implementation of public investment plans;

dd) Review of outstanding debts accruing from capital construction, waste and loss arising from public investment activities.

#### **Article 74. Assessment of public investment plans**

1. Medium-term public investment plans shall be subject to the assessment made during and at the end of the plan period.

2. Annual public investment plans shall be subject to the assessment made on an annual and quarterly basis.

3. Subject matters of the assessment of a public investment plan shall include:

a) Level of attainment of objectives compared to those defined in the public investment plan already approved by competent authorities;

b) Impacts of the public investment plan on attraction of investments from other funding sources and socio-economic development outcomes;

c) Feasibility of the public investment plan;

d) Review of public investment management;

dd) Difficulties and problems; causes of difficulties and problems arising from implementation of the public investment plan and recommended solutions;

e) A report on midterm assessment of a medium-term public investment plan must also include the assessment of state budget expenses, revenues and balancing capacity to implement the public investment plan and proposed measures for use of the central budget's general provisions for medium-term public investment plans.

#### **Article 75. Monitoring and inspection of programs and projects**

1. Governing bodies, program and project owners, persons competent to make decisions on investment in programs and projects and state regulatory authorities in charge of public investment shall carry out the monitoring and inspection of the entire process of investment in these programs and projects with respect to approved subject matters and items of monitoring and inspection in order to ensure fulfillment of investment objectives and investment efficiency.

2. Inspection of programs and projects shall be carried out under the following regulations:

- a) The program or project owner shall inspect the program or project under their delegated authority;
- b) Governing body and person competent to make investment decision shall carry out at least one inspection of the program or project with the duration of implementation thereof which is more than 12 months;
- c) Governing body and person competent to make investment decision shall carry out the inspection when any adjustment to the program or project may result in any change in location, objectives or structure of capital sources, or any increase in the total investment, and as otherwise necessary;
- d) State regulatory authorities in charge of public investment shall decide to carry out the planned or unplanned inspection of programs and projects.

#### **Article 76. Assessment of programs and projects**

1. Assessment of programs and projects may be classified into initial assessment, midterm or stage-by-stage assessment, final assessment, impact assessment and ad-hoc assessment.
2. Public investment programs must be subject to the midterm or stage-by-stage assessment, final assessment and impact assessment.
3. Projects of national significance and group-A projects shall be subject to the initial assessment, midterm assessment, final assessment and impact assessment.
4. Group-B and group-C projects shall be subject to the final assessment and impact assessment.
5. Notwithstanding provisions laid down in clauses 2, 3 and 4 of this Article, governing bodies, persons competent to make investment decisions and state regulatory authorities in charge of public investment shall be entitled to decide other assessment provided for in clause 1 of this Article where necessary.

#### **Article 77. Subject matters of assessment of programs and projects**

1. The initial assessment shall address:
  - a) Preparation, arrangement and mobilization of resources for implementation of the program or project to ensure conformity with the approved objectives and schedule;

b) Difficulties and unsolved issues that may arise in comparison with those arising on the date of approval of the program or project;

c) Recommended measures to deal with these difficulties and unsolved issues in line with actual conditions.

2. The midterm or stage-by-stage assessment shall address:

a) Consistency of outcomes of the program or project with investment objectives;

b) Level of completion of workloads determined till the assessment date compared with that specified in the approved plan;

c) Recommended measures, including adjustments to the program or project.

3. The final assessment shall address:

a) Process of implementation of the program or project, including: management of implementation of the program or project; fulfillment of objectives of the program or project; mobilized resources; benefits that beneficiaries gain from the program or project; impacts and sustainability of the program or project;

b) Lessons learned from the process of implementation of the program or project and useful advice; responsibilities of consulting organizations, governing bodies, program or project owner, persons competent to grant decisions on investment policies, investment decisions and other authorities, organizations and individuals involved.

4. The impact assessment shall address:

a) Review of current economic - engineering operational conditions;

b) Socio-economic impacts;

c) Environmental and biological impacts;

d) Project sustainability;

dd) Lessons learned from investment policies, investment decisions, implementation and operation of the program or project; responsibilities of consulting organizations, governing bodies, program or project owner and persons competent to grant decisions on investment policies, investment decisions and other authorities, organizations and individuals involved.

5. The ad-hoc assessment shall address:

- a) Consistency of outcomes of the program or project determined at the assessment date with investment objectives;
  - b) Level of completion of workloads determined till the assessment date compared with that specified in the approved plan;
  - c) Determination of issues arising unexpectedly (if any), causes thereof and responsibilities of authorities, organizations and individuals involved;
  - d) Impacts and extent of impacts of issues arising unexpectedly on implementation of the program or project, and capabilities of accomplishing objectives defined in the program or project;
  - dd) Recommended solutions.
6. The Government shall adopt regulations on methods and criteria for assessment of effectiveness in investment in public investment programs and projects.

#### **Article 78. Public investment supervision**

1. Programs and projects shall be subject to the public supervision. Vietnam Fatherland Front Committees at all levels shall take charge of ensuring the public supervision and criticism over investment activities.
2. Governing bodies must refer and respond to and seriously take opinions of inhabitants living at or near project sites as to the decision on investment in projects of national significance, group-A projects, those projects associated with a large scale of residential mobility, resettlement and agricultural resettlement, those projects posing risks of causing huge environmental impacts, those projects directly impacting socio-economic lives of communities at or near project sites in terms of investment guidelines, policies on investment, construction, land, waste treatment and environmental protection, compensation, site clearance and agricultural and residential resettlement plans as per law.
3. The public supervision shall focus on:
  - a) Compliance with law on investment, construction, land, waste treatment and environmental protection;
  - b) Compensation, site clearance and agricultural and residential resettlement plans that assure rights and interests of the People;
  - c) Programs or projects partially funded by the public capital participation;
  - d) Implementation and progress of programs or projects;

dd) Public disclosure and transparency of public investments as prescribed in Article 15 herein;

e) Discovery of acts that may harm public benefits; negative impacts of a project on the living environment of the public during the period of investment in and operation of that project; activities that inflict any loss and waste of capital and assets of a project.

#### **Article 79. Procedures and processes for public supervision**

1. Vietnam Fatherland Front Committees shall preside over and cooperate with socio-political organizations and relevant agencies in performing the following tasks:

a) Preparing annual plans for the public supervision over programs and projects implemented at localities as prescribed in clause 3 Article 78 herein;

b) Establishing a public investment supervision commission in charge of each program or project;

c) Informing the program or project owner and management unit about supervision plans and the composition of the public investment supervision commission at least 45 days before the supervision commences.

2. Program or project owners and management units shall assume the following responsibilities:

a) Provide documents related to implementation of programs and projects under the provisions of clause 2 Article 78 herein on an adequate, truthful and timely manner to the public investment supervision commission;

b) Enable the public investment supervision commission to carry out supervision activities in accordance with law;

c) Take public opinions seriously and strengthen measures to implement projects.

#### **Article 80. Implementary responsibilities for monitoring, inspection and assessment of plans, programs and projects**

1. Program/project owners shall take charge of carrying out the monitoring, inspection, initial, midterm and final assessment of programs and projects.

2. Governing bodies, investment decision makers and state regulatory authorities in charge of public investment shall carry out the monitoring, inspection, impact assessment and ad-hoc assessment of programs and projects under their delegated authority.

3. Authorities and organizations in charge of assessment tasks may carry out self-assessment or hire other experts or qualified and competent consultants to provide assessment services.
4. The Government shall adopt detailed regulations on the monitoring, inspection and assessment of plans, programs and projects and public investment supervision.

## **Chapter VI**

### **DUTIES, POWERS AND RESPONSIBILITIES OF AUTHORITIES, ORGANIZATIONS AND INDIVIDUALS INVOLVED IN PUBLIC INVESTMENT ACTIVITIES**

#### **Article 81. Duties and powers of National Assembly**

1. Promulgate laws and resolutions regarding public investment.
2. Issue decisions on investment policies for national target programs and projects of national significance using public investment capital.
3. Make decisions on medium-term and annual public investment plans, and overall adjustments thereto.
4. Adjust criteria for classification of projects of national significance.
5. Supervise the implementation of public investment plans, national target programs, and projects of national significance; supervise compliance with law on public investment.

#### **Article 82. Duties and powers of Standing Committee of National Assembly**

1. Promulgate principles, criteria and norms for allocation of public investment capital derived from state budget.
2. Make decisions to adjust criteria for classification of public investment projects prescribed in Articles 9, 10 and 11 herein.
3. Make decisions to adjust annual public investment plans using the central budget's capital to ensure the concordance between those of Ministries, central and local authorities provided that total annual investment capital already decided by the National Assembly is kept unchanged.
4. Make decisions to provide additional state budget estimates and allocate planned annual public investment capital using increase in revenues and unused amount of planned funding for expenditures of the central budget to Ministries, central and local authorities.

5. Make decisions to allocate the unallocated amounts of the capital defined in medium-term public investment plans using the central budget's capital.

6. Make decisions to allocate the central budget's general provisions for medium-term public investment plans to implement other tasks, projects and objects of public investment when there are sufficient funds.

### **Article 83. Duties and powers of Government**

1. Carry out the consistent state management of public investment.

2. Petition the National Assembly to promulgate laws and resolutions; petition the Standing Committee of National Assembly to promulgate ordinances and resolutions regarding public investment.

3. Promulgate legislative documents on management of public investment under its jurisdiction.

4. Provide for management of performance of investment preparatory tasks, planning tasks and public investment projects without construction constituents; provide for management of implementation of public investment programs and projects using ODA funds and/or foreign concessional loans.

5. Recommend the National Assembly to grant decisions on investment policies for national target programs and projects of national significance.

6. Make decisions on investment policies for public investment programs under its jurisdiction as prescribed in this Law.

7. Formulate medium-term and annual public investment plans for submission to the National Assembly to seek its decision or approval of overall adjustments thereto.

8. Formulate annual public investment plans for submission to the Standing Committee of National Assembly to seek its decision or approval of overall adjustments thereto, provided that total annual investment capital already decided by the National Assembly is kept unchanged.

9. Preside over implementation of medium-term and annual public investment plans. Make decisions to allocate and assign detailed estimates of the unallocated amounts of the capital defined in annual public investment plans using the central budget's capital.

10. Submit review reports to the National Assembly on implementation of medium-term and annual public investment plans, national target programs and projects of national significance.

11. Take charge of carrying out the inspection and audit of implementation of medium-term and annual public investment plans; inspect implementation of programs and projects using the central budget's capital, legitimate revenues that state regulatory authorities, public service units retain for investment purposes, and the inspection of implementation of public investment objectives and policies at localities.

#### **Article 84. Duties and powers of Prime Minister**

1. Make decisions on investment policies for, decisions on investment in projects under his jurisdiction as prescribed in this Law.
2. Assign tasks of medium-term and annual public investment plans using the state budget's capital, state budget estimates and plans for public investment capital derived from increase in revenues and unused amount of planned funding for expenditures of the central budget to Ministries, central and local authorities.
3. Make decision to assign a Provincial-level People's Committee to act as the governing body in charge of implementing the project involving at least 02 provincial-level administrative divisions.
4. Make decisions to adjust medium-term public investment plans using the central budget's capital to ensure the concordance between those of Ministries, central and local authorities provided that total medium-term investment capital already decided by the National Assembly will not be exceeded.
5. Make internal adjustment of medium-term public investment plans using the central budget's capital and make adjustment thereof to ensure concordance between sector- and industry-specific plans and programs of Ministries, central and local authorities if total medium-term capital of each Ministry, central or local authority decided by the National Assembly will not be exceeded.

#### **Article 85. Duties and powers of Ministry of Planning and Investment**

The Ministry of Planning and Investment of Vietnam shall act as a presiding body assisting the Government in carrying out the state management of public investment, and shall have the following duties and powers:

1. Promulgate or petition competent authorities to promulgate legislative documents related to public investment, distribution and use principles, criteria and norms of public investment capital;
2. Preside over and cooperate with the Ministry of Finance of Vietnam in reporting to the Government on determination of the state budget's funding for investment expenditures for national investment activities in the specific sectors and industries which are defined in medium-term and annual public investment plans;

3. Consolidate national medium-term and annual public investment plans for submission to the Government and the Prime Minister; petition the Government and the Prime Minister to assign tasks of public investment plans using the state budget's capital;
4. Consolidate adjustments to national medium-term public investment plans for submission to the Prime Minister; submit adjustments to national medium-term and annual public investment plans to the Government and the Prime Minister for considering and reporting to the National Assembly or the National Assembly Standing Committee to seek their decision within its jurisdiction as prescribed in Article 71 herein;
5. Preside over and cooperate with relevant authorities in carrying out the appraisal of funding sources and capital balancing capability in accordance with Article 36 herein;
6. Request competent authorities to promulgate general provisions on management of national target programs; consolidate and request competent authorities to decide and assign medium-term and annual public investment objectives, tasks and plans using the central budget's capital defined in national target programs;
7. Take charge of carrying out, monitoring, inspecting, supervising, assessing and auditing plans, programs and projects and other tasks of state management related to public investment.

#### **Article 86. Duties and powers of Ministry of Finance**

1. Cooperate with the Ministry of Planning and Investment of Vietnam in performing duties and powers prescribed in Article 85 herein.
2. Cooperate with the Ministry of Planning and Investment of Vietnam in reporting to the Government on determination of the state budget's funding for investment expenditures for the national investment activities in the specific sectors and industries which are defined in medium-term and annual public investment plans.
3. Preside over recommending competent authorities to adopt or adopt, within its jurisdiction, regulations on managing, paying and making final accounts of costs incurred from projects using public investment capital.
4. Report to the Government on disbursement of capital to, and final accounts of costs incurred from, programs and projects.

#### **Article 87. Duties and powers of Ministries and central authorities**

1. Perform the function of state management of public investment in accordance with law.
2. Adopt, provide instructions about, inspect and supervise implementation of technical standards, regulations and technical-economic norms.

3. Preside over and cooperate with relevant authorities in carrying out the appraisal of funding sources and capital balancing capability of projects as provided in Article 36 herein.
4. Grant decisions on investment policies for projects as per clause 4 Article 18 herein and decisions on investment in projects as per clause 2 Article 38 herein.
5. Take charge of formulating public investment plans.
6. Carry out the monitoring, assessment, supervision, inspection and audit of implementation of plans, programs and projects under their respective jurisdiction.
7. Submit reports on implementation and outcomes of plans, programs and projects.
8. Cooperate with Ministries, central and local authorities in carrying out plans, programs and projects within their assigned duties and under their delegated powers.

#### **Article 88. Duties and powers of People's Councils at all levels**

1. Make decisions on investment policies for programs and projects under their jurisdiction as prescribed in this Law.
2. Review and give opinions on medium-term and annual public investment plans of localities, including portfolios and capital allocated to specific projects using dedicated additional funding transferred from the central budget.
3. Make decisions on investment in medium-term and annual public investment plans of localities, including portfolios and capital allocated to specific projects using the local budget's capital.
4. Supervise projects using public investment capital assigned to be put under the control of localities, including the central budget's capital, the local budget's capital, legitimate revenues that state regulatory authorities and public service units retain for investment purposes under the management of these localities.

#### **Article 89. Duties and powers of provincial-level People's Committees**

1. Perform the function of state management of public investment made at localities falling within their remit in accordance with law.
2. Petition provincial-level People's Councils to:
  - a) Make decisions on investment policies for programs and projects under their jurisdiction as prescribed in this Law.

b) Review and give opinions on investment policies for projects under the authority to grant decisions on investment policies delegated to the Prime Minister as provided in this Law;

c) Consider granting decisions on medium-term and annual public investment plans based on portfolios and capital allocated to specific projects falling within their remit.

3. Make decisions on investment policies for projects falling under their jurisdiction as prescribed in this Law, and submit reports thereon to the Provincial-level People's Councils at the upcoming meeting.

4. Adjust medium-term public investment plans using local budget's capital to ensure concordance between those of agencies and units under their jurisdiction to whom planned capital is allocated provided that total investment capital assigned by the same-level People's Council in medium-term public investment plans will not be exceeded, and submit report on such adjustment to the same-level People's Council at the upcoming meeting.

5. Adjust medium-term and annual public investment plans using the local budget's capital to ensure concordance between tasks and projects of agencies and units under their jurisdiction to whom planned capital is allocated provided that total capital decided by the same-level People's Council will not be exceeded.

6. Take charge of carrying out, monitoring, assessing, supervising and inspecting plans, programs and projects under their jurisdiction; cooperate with Ministries and central authorities in carrying out, monitoring, inspecting and assessing programs and projects in their provinces.

7. Chairperson of each provincial-level People's Committee shall perform the following duties and powers:

a) Make decisions on investment in projects under his/her jurisdiction as prescribed in this Law;

b) Authorize his/her deputies, Chairpersons of district-level People's Committees or heads of specialized agencies to make decision on investment in group-B and group-C projects under the provincial-level authority;

c) Make decision to assign a district-level People's Committee to act as the governing body in charge of implementing the project involving at least 02 district-level administrative divisions.

#### **Article 90. Duties and powers of district- or commune-level People's Committees**

1. Take charge of preparing medium-term and annual public investment plans under their jurisdiction.

2. Take charge of carrying out the appraisal of programs and projects under their jurisdiction.
3. Petition same-level People's Councils to:
  - a) Issue decisions on investment policies for public investment programs using the local budget's capital, including dedicated additional funding transferred from the superior budget;
  - b) Make decisions on medium-term and annual public investment plans using the local budget's capital under their jurisdiction.
4. Make decisions on investment policies for projects falling under their jurisdiction as prescribed in this Law, and submit reports thereon to the same-level People's Councils at the upcoming meeting.
5. Take charge of carrying out, monitoring, inspecting, assessing and auditing plans, programs and projects and other tasks of state management related to public investment that fall within their jurisdiction; cooperate with relevant authorities and organizations in carrying out, monitoring, inspecting and assessing programs and projects in localities.
6. Chairpersons of district- or commune-level People's Committees shall make decisions on investment in projects under their jurisdiction as prescribed in this Law.

#### **Article 91. Duties and powers of Vietnam Fatherland Front Committee**

1. Preside over public investment supervision and criticism with respect to programs and projects in accordance with provisions herein, the Law on Vietnamese Fatherland Front and other relevant laws.
2. Conduct public opinion surveys on investment policies for programs and projects at localities in accordance with provisions herein and law on implementation of grassroots democracy.

#### **Article 92. Rights and responsibilities of authorities, organizations and individuals regarding proposal for investment policies**

1. Propose programs and projects in line with related socio-economic development strategies, plans and plannings as provided in the law on planning over periods of time.
2. Mobilize and balance resources to ensure that programs and projects are carried out on schedule and finished by the prescribed deadlines.
3. Petition competent authorities to consider granting decisions on investment policies when proving that programs are not the same as others and regular tasks under their delegated powers and within the scope of their assigned duties.

4. Take responsibility for information and data related to proposed programs and projects.

**Article 93. Rights and responsibilities of authorities, organizations and individuals concerning investment policy decisions**

1. Authorities, organizations, individuals and heads of organizations shall make decisions on investment policies for programs and projects in conformance to regulations laid down herein.

2. Regarding programs and projects which are carried out for 02 consecutive terms of medium-term public investment plans, in addition to the provisions of clause 1 of this Article, authorities, organizations, individuals and heads of organizations granting decisions on investment policies for these programs and projects shall assume the following responsibilities:

a) Make decisions on investment policies for programs and projects in a manner ensuring that total value of the total investments in programs and projects to be implemented during the medium-term public investment plan of the subsequent period does not exceed 20% of total capital defined in the medium-term public investment plan of the previous period sorted by the central budget's capital and the local budget's capital, except national target programs, projects of national significance, projects using ODA funds and/or foreign concessional loans, and those projects using legitimate revenues that state regulatory authorities and public service units retain for investment purposes;

b) National target programs and projects of national significance shall be subject to resolutions of the National Assembly. The Government shall petition the National Assembly to consider granting decisions on investment policies for national target programs, projects of national significance on the basis of capital balancing capability, assessment of impacts on the state budget deficit and ensured public debt safety;

c) Projects using legitimate revenues of state regulatory authorities and public service units shall be subject to the Government's regulations;

d) Regarding programs/projects using ODA funds and/or foreign concessional loans, the competent authorities granting decisions on investment policies for programs/projects ensure that sum of total investments in programs/projects to be implemented during the medium-term public investment plan for the subsequent period does not exceed 20% of total foreign capital defined in the national medium-term public investment plan for the previous period.

3. In case the sum of total investments in programs and projects which are carried out for 02 consecutive terms of medium-term public investment plans prescribed in points a, d clause 2 of this Article exceeds the 20% limit, the competent authorities granting decisions on investment policies for programs/projects shall submit reports to the Prime Minister (with respect to capital derived from the central budget) or People's Councils at all levels (with respect to capital derived from the local budget under their management)

to seek their approval of such excess which must not exceed the corresponding 50% limit prescribed in points a, d clause 2 of this Article.

**Article 94. Rights and responsibilities of program/project owners regarding formulation of programs and projects**

1. Assume legal responsibility for contents of documents submitted to competent authorities to request their appraisal, inspection and grant of decisions.
2. Provide necessary documents for bodies carrying out appraisal and inspection of programs and projects.
3. Propose measures to mobilize funds to ensure that programs and projects are carried out on schedule and finished by the prescribed deadlines.
4. Assume legal liability for formulation of programs and projects.

**Article 95. Rights and responsibilities of authorities, organizations and individuals concerning decisions on investment in programs and projects**

1. Make decisions on investment in programs and projects in line with objectives, locations, structure of capital sources, and total investment defined in investment policies already decided by competent authorities, except tasks and projects which are exempted from the requirement regarding investment policy decisions, provided that such decisions meet capabilities of balancing funds falling within their respective jurisdiction, conform to standards and regulations on investment and are consistent with appraisal results.
2. Carry out the appraisal of programs and projects prior to approval, including the appraisal of capital sources and capital balancing capabilities.
3. Balance funds for payment of costs incurred from formulation and appraisal of programs and projects falling within their jurisdiction.
4. Command program/project owners to implement programs and projects on schedule, and ensure that quality of these programs and projects falls within the quality standards defined in approved public investment plans.
5. Make decisions on adjustment, temporary suspension or cancellation of programs and projects.
6. Carry out the monitoring, inspection and assessment of programs and projects and activities of program/project owners performed during the period of implementation of these programs and projects.
7. Assume legal liability for any violation against regulations on authority in the process of selection of program/project owners.

**Article 96. Rights and responsibilities of authorities, organizations and individuals concerning consultancy on design of programs and projects**

1. Design consultancy service providers may request program/project owners to provide information and documents related to design of programs and projects.
2. Design programs and projects according to standards, regulations and norms and engineering solutions to ensure they meet quality requirements; avoid producing designs beyond standards, regulations, and norms.
3. Take responsibility for results of design of programs and projects.

**Article 97. Rights and responsibilities of authorities, organizations and individuals concerning appraisal of programs and projects**

1. Authorities, organizations and individuals involved in the appraisal of programs and projects shall carry out the appraisal under law and shall take responsibility for appraisal results and their own recommendations.
2. The appraisal must ensure independence, integrity, objectivity and compliance with this Law and other provisions of relevant law.

**Article 98. Rights and responsibilities of program/project owners regarding management and implementation of programs and projects**

1. Take charge of the management and implementation of programs and projects, and ensure that these programs and projects are carried out according to defined objectives, on schedule, and meet quality and efficiency requirements.
2. Report to and provide information for supervisory authorities and Vietnam Fatherland Front Committees at all levels on implementation of programs and projects under this Law and other provisions of relevant law.

**Article 99. Rights and responsibilities of program/project management units**

1. Propose plans and measures regarding and conduct the management and implementation of programs and projects to ensure that these programs and projects are carried out according to defined objectives, on schedule, meet quality requirements under the mandate from program/project owners.
2. Report to program/project owners on the progress in implementation of programs and projects.

**Article 100. Rights and responsibilities of authorities, organizations and individuals for monitoring, inspection and assessment of plans, programs and projects**

1. Ministers, Heads of central and local authorities, Chairpersons of district-level and commune-level People's Committees and program/project owners shall be responsible for any consequence resulting from failure to monitor, assess and inspect plans, programs and projects or make reports in accordance with regulations in force.
2. Authorities, organizations and individuals authorized to monitor, inspect and assess plans, programs and projects shall be responsible for contents of their reports.
3. Program/project owners shall be responsible for contents of their reports and shall assume responsibility before law if they make and provide incorrect reports and information about investments falling within their jurisdiction.

#### **Article 101. National database and information system regarding public investment**

1. National database and information system regarding public investment must be built and applied consistently on a nationwide scale to state management of public investment, including consolidating, reporting on, assigning and adjusting medium-term and annual public investment plans; monitoring and assessing programs and projects; managing, storing and publicly disclosing data in accordance with regulations in force.
2. Responsibilities for building, managing, using and applying the national database and information system regarding public investment shall be regulated as follows:
  - a) The Ministry of Planning and Investment of Vietnam shall take charge of building, managing and operating the national database and information system regarding public investment;
  - b) Ministries, central and local authorities shall apply the national database and information system regarding public investment to activities under their jurisdiction.
3. Data and information included in the national database and information system regarding public investment must be original data and information of or related to public investment programs, projects and plans.
4. The Government shall elaborate on this Article.

### **Chapter VII**

#### **IMPLEMENTATION**

#### **Article 102. Effect**

1. This Law comes into force from January 01, 2025.
2. The Law on Public Investment No. 39/2019/QH14, as amended by the Law No. 64/2020/QH14, the Law No. 72/2020/QH14, the Law No. 03/2022/QH15, the Law No.

27/2023/QH15 and the Law No. 38/2024/QH15 (hereinafter referred to as “Law on Public Investment No. 39/2019/QH14”) shall cease to have effect from the effective date of this Law, except provisions of clauses 2 and 3 Article 103 of this Law.

3. Localities that are piloting certain specific mechanisms and policies or applying urban governance model shall comply with provisions of this Law and resolutions of the National Assembly. If provisions herein are different from those in any resolution of the National Assembly in respect of the same matter, Provincial-level People’s Councils shall decide whether to apply provisions herein or the National Assembly’s resolution.

4. Point a clause 4 Article 67 of the Land Law No. 31/2024/QH15, as amended in the Law No. 43/2024/QH15, is amended as follows:

“a) The decision on investment in the project falling under authority to grant investment policy decision delegated to the National Assembly, the Prime Minister, Minister, head of central authority, Provincial-level People’s Council or Provincial-level People’s Committee has been issued in accordance with provisions of the Law on public investment;”.

5. Certain Articles of the Law on organization of local governments No. 77/2015/QH13, as amended in the Law No. 21/2017/QH14, the Law No. 47/2019/QH14, the Law No. 31/2024/QH15, the Law No. 34/2024/QH15 and the Law No. 43/2024/QH15, are amended as follows:

a) Clause 9 is added following Clause 8 Article 21 as follows:

“9. Make decisions on investment policies for projects as prescribed in the Law on public investment.”;

b) Clause 7 is added following Clause 6 Article 28 as follows:

“7. Make decisions on investment policies for projects as prescribed in the Law on public investment.”;

c) Clause 4 is added following Clause 3 Article 35 as follows:

“4. Make decisions on investment policies for projects as prescribed in the Law on public investment.”;

d) Clause 6 is added following clause 5 Article 49 as follows:

“6. Make decisions on investment policies for projects as prescribed in the Law on public investment.”;

dd) Clause 4 is added Clause 3 Article 63 as follows:

“4. Make decisions on investment policies for projects as prescribed in the Law on public investment.”;

e) Clause 4 is added following clause 3 Article 70 as follows:

“4. Make decisions on investment policies for projects as prescribed in the Law on public investment.”.

6. Certain Articles of the Law on Capital No. 39/2024/QH15 are amended as follows:

a) Point b Clause 2 Article 37 is amended as follows:

“b) Public investment projects and PPP projects in which total investment capital is not limited, except those projects specified in point a of this clause, projects that have substantial environmental impacts or pose potential risks in making serious environmental impacts and fall under authority to grant investment policy decision delegated to the National Assembly, projects on manufacture of hazardous substances and explosives falling under authority to grant investment policy decision delegated to the Prime Minister, and projects falling under authority to grant investment policy decision delegated to the City’s People’s Committee in accordance with regulations of law on public investment and the law on investment in form of public-private partnership form.”;

b) The phrase “và điểm d” (“and point d”) in point a clause 1 Article 12 is abrogated;

c) Point b Clause 5 Article 9 and Point d Clause 3 Article 11 are abrogated.

### **Article 103. Transition**

1. Public investment programs and projects that have already obtained investment decisions from competent authorities prior to January 01, 2015 and received allocated capital but are yet to be finished shall continue to be implemented. Any adjustments to the project shall be subject to provisions herein without requiring fulfillment of the requirement that decision on or adjustment of investment policies must be made before the project adjustment.

In case of adjustment of investment projects that use ODA grants and have already obtained investment policy decisions from competent authorities prior to the effective date of this Law, Ministers, heads of central authorities, and Chairpersons of provincial-level People’s Committees shall be vested with authority to make decisions to adjust investment decisions without carrying out adjustment of investment policies, and assume responsibility for their decisions.

2. Classification of projects already obtaining investment policy decisions or investment decisions prior to the effective date of this Law shall be subject to provisions of the Law on public investment No. 39/2019/QH14.

3. If programs and projects have already undergone formulation and appraisal procedures and submitted to competent authorities for consideration and grant of investment policy decisions or investment decisions prior to the effective date of this Law, competent authorities shall consider granting decisions in accordance with provisions of the Law on public investment No. 39/2019/QH14.

4. In case of adjustment of investment policies for projects which have been decided before the effective date of this Law, the competent authorities granting decisions on investment policies in accordance with regulations on power decentralization laid down this Law shall consider granting decisions to adjust investment policies for these projects and assume responsibility for their decisions; in respect of projects of national significance already obtaining decisions on investment policies from the National Assembly, the National Assembly shall consider granting decisions adjust investment policies for these projects.

5. If time for allocation of capital for implementing projects which has been extended by the Prime Minister or Provincial-level People's Councils before the effective date of this Law needs further extension, such extension shall be subject to provisions of point d clause 3 Article 57 of this Law.

6. Capital defined in public investment plans shall only be allocated to repay outstanding debts which accrue from capital construction prior to January 01, 2015.

The Government shall review outstanding debts accruing from capital construction as prescribed in provisions of the Law on public investment No. 39/2019/QH14, and submit review reports to the National Assembly to seek its decision.

*This Law is ratified by the 15<sup>th</sup> National Assembly of the Socialist Republic of Vietnam during its 8<sup>th</sup> session held on November 29, 2024.*

**CHAIRMAN OF THE NATIONAL  
ASSEMBLY OF VIETNAM**

**Tran Thanh Man**

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