

**THE GOVERNMENT**

No. 115/2024/ND-CP

**THE SOCIALIST REPUBLIC OF VIETNAM**

**Independence - Freedom - Happiness**

*Hanoi, September 16, 2024*

**DECREE**

**Detailing a number of articles of and measures to implement the Bidding Law regarding selection of investors to implement land-using investment projects**

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

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

*Pursuant to the Law Amending and Supplementing a Number of Articles of the Law on Organization of the Government and the Law on Organization of Local Administration dated November 22, 2019;*

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

*Pursuant to the Land Law dated January 18, 2024;*

*Pursuant to the Law Amending and Supplementing a Number of Articles of the Land Law No. 31/2024/QH15, Housing Law No. 27/2023/QH15, Law on Real Estate Business No. 29/2023/QH15 and Law on Credit Institutions No. 32/2024/QH15 dated June 26, 2024;*

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

*At the proposal of the Minister of Planning and Investment;*

*The Government hereby promulgates the Decree detailing a number of articles of and measures to implement the Bidding Law regarding selection of investors to implement land-using investment projects.*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Scope of regulation**

This Decree details a number of articles of and measures to implement the

Bidding Law and the Land Law regarding selection of investors to implement land-using investment projects, including:

1. Provisions detailing a number of articles of the Bidding Law regarding selection of investors to implement land-using investment projects:

a) Provisions of Clause 6 Article 6 on assurance of competition in the selection of investors;

b) Provision of Clause 6 Article 10 on incentives in selection of investors;

c) Provision of Clause 3 Article 15 on costs of investor selection;

d) Provision of Clause 4 Article 35 on investor selection methods;

dd) Provision of Clause 3 Article 46 on process and procedures for investor selection;

e) Provisions of Clause 5 Article 50 and Point c Clause 2 Article 84 on process, procedures, expenses and roadmap for online investor selection; national database on investor selection; cases in which bidding is not carried out on the Vietnam National E-Procurement System;

g) Provisions of Clause 5 Article 62 on method and criteria for evaluation of bid dossiers;

h) Provisions of Clause 2 Article 73 on contents of land-using investment project contracts;

i) Provisions of Clause 4 Article 86 on examination and supervision of bidding activities regarding investor selection;

k) Provision of Clause 4 Article 88 on response to arising eventualities in investor selection;

l) Provisions of Clause 2 Article 96 on transitional provisions.

2. Provisions detailing Point b Clause 1 and Clause 9 Article 126 of the Land Law regarding selection of investors to implement land-using investment projects.

3. Measures to implement the Bidding Law regarding selection of investors to implement land-using investment projects, including:

a) Disclosure of information on land-using investment projects, for projects not subject to approval of investment policy;

b) Organization of implementation of land-using investment projects.

4. Requirements on capacity and experience of members of expert teams and appraising teams; connection and sharing of information between the Vietnam National E-Procurement System and other information systems; handling of violations in bidding activities shall comply with the corresponding regulations of Articles 19, 96 and 125 of the Government's Decree No.

24/2024/ND-CP dated February 27, 2024, detailing a number of articles and measures to implement the Bidding Law regarding contractor selection.

### **Article 2. Subjects of application**

1. Organizations and individuals engaged or involved in the selection of investors to implement land-using investment projects prescribed in Article 4 of this Decree.

2. Organizations and individuals carrying out investor selection activities that are not regulated by Article 4 of this Decree may optionally apply the Bidding Law in accordance with Clause 4 Article 2 of the Bidding Law.

### **Article 3. Interpretation of terms**

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

1. Table for monitoring the progress of investor selection activities refers to a table that presents information about the duration for performing tasks in the investor selection process, serving as a basis for conducting investor selection in accordance with Clause 3 Article 49 of the Bidding Law.

2. Party inviting the expression of interest means an agency or unit under a ministry or ministerial-level agency; specialized agency, agency or unit under the provincial-level People's Committee, agency or unit of the Economic Zone Management Board (for projects implemented in economic zones), or another agency as prescribed by specialized laws; the district-level People's Committee that is assigned to carry out the procedure for inviting the expression of interest.

3. Competent agency means an agency approving the investment policy in accordance with the investment law, or an agency deciding on organization of investor selection. For project of which the investment policy is approved by the National Assembly or the Prime Minister, the competent agency is the agency deciding on organization of investor selection.

4. Agencies deciding on organization of a bidding to select investors include ministries, ministerial-level agencies, provincial-level People's Committees and Management Boards of Economic Zones, other agencies as prescribed by specialized laws.

5. Total investment capital includes preliminary total project implementation costs, costs for compensation, support, and resettlement (if any), and other costs in accordance with specialized laws (if any).

### **Article 4. Land-using investment projects subject to bidding organization for selection of investors as prescribed by the land law**

1. Land-using investment projects specified at Point a Clause 1 Article 126 of the Land Law.

2. Land-using investment projects specified at Point b Clause 1 Article 126

of the Land Law include:

a) Investment projects to build domestic solid waste treatment works as prescribed by the law on environmental protection;

b) Investment projects to build water supply works as prescribed by the law on production, supply and consumption of clean water;

c) Market investment and construction projects as prescribed by the law on development and management of markets;

d) Investment project to build roadside service stations as prescribed by the law on road management;

dd) Investment projects for construction of aviation service works at airports and airfields that are subject to bidding as prescribed by the law on civil aviation;

e) Investment projects in the fields of education, health, culture, sports, and environment that are subject to bidding as prescribed by the law on encouraging socialization when there are 2 or more investors expressing interests and registering to implement, except for projects specified at Point a and Point b of this Clause;

g) Social housing investment projects; investment projects on condominium renovation and reconstruction; investment projects on construction of houses for the people's armed forces that are subject to bidding as prescribed by the housing law when there are 2 or more investors expressing interests and registering to implement. Provisions specified at this Point do not regulate social housing projects prescribed in Clauses 1, 2, 3 and Point c Clause 4 Article 84 of the Housing Law No. 27/2023/QH15; investment projects on condominium renovation and reconstruction prescribed in Clauses 1 and 2 Article 68 of the Housing Law No. 27/2023/QH15; and investment projects on construction of houses for the people's armed forces prescribed in Clause 1 Article 106 of the Housing Law No. 27/2023/QH15;

h) Horse or greyhound racecourse investment projects covering horse racing or greyhound racing betting business subject to bidding as prescribed by the law on horse racing, greyhound racing and international football betting business when there are 2 or more investors expressing interests and registering to implement, of which the investment policy has been approved by the Prime Minister under the law on investment and specialized laws;

i) Investment projects on construction of energy works that are subject to bidding as prescribed by the law on electricity when there are 2 or more investors expressing interests and registering to implement;

k) Other projects as specified in Article 79 and Point b Clause 1 Article 126 of the Land Law.

3. Land areas planned to implement the projects specified in Clause 1 and Clause 2 of this Article must fully satisfy the following conditions:

a) Being subject to recovery of land as prescribed in Article 79 of the Land Law. In case the land areas where projects are to be implemented cover the parts of land specified in Clause 1 Article 217 of the Land Law, the State shall recover the whole land areas for land allocation or land lease through bidding to select investors to implement projects;

b) Being on the list of land areas put for bidding for land-using investment projects decided by the provincial-level People's Council in accordance with the land law.

### **Article 5. Assurance of competition**

1. From the date of distribution of dossiers of invitation for expression of interest, the investors that submit the dossiers of registration for implementation of land-using investment projects must be legally and financially independent from the following parties:

a) Competent agencies, parties inviting the expression of interest;

b) Contractors providing consultancy for formulation of dossiers of request for approval of investment policy (for projects subject to investment policy approval), dossiers of project proposals (for projects not subject to investment policy approval), except for projects proposed by the investors;

c) Contractors providing consultancy for formulation of prefeasibility study reports or feasibility study reports, if specialized laws require the formulation of prefeasibility study reports or feasibility study reports before organizing the invitation for expression of interest, except for projects proposed by the investors;

d) Contractors providing consultancy for formulation of dossiers of invitation for expression of interest, or evaluation of dossiers of registration for project implementation.

2. From the date of distributing the bidding dossiers, investors participating in the bidding must do not have shares or contributed capitals with the following consultancy contractors:

a) Contractors providing consultancy for formulation of dossiers of request for approval of investment policy (for projects subject to investment policy approval), dossiers of project proposals (for projects not subject to investment policy approval), except for projects proposed by the investors;

b) Contractors providing consultancy for formulation of prefeasibility study reports or feasibility study reports, if specialized laws require the formulation of prefeasibility study reports or feasibility study reports before organizing the invitation for expression of interest, except for projects proposed

by the investors;

c) Contractors providing consultancy for formulation or appraisal of bidding dossiers; evaluation of bid dossiers; appraisal of investor selection results.

3. From the date of distributing dossiers of invitation for expression of interest, bidding dossiers, investors submitting dossiers of registration for project implementation and investors participating in the bidding shall be evaluated as legally and financially independent from competent agencies, bid solicitors, parties inviting the expression of interest if they do not hold more than 50% of capital or total voting shares or contributed capital of each other. In case the joint-name investor submits a dossier of registration for project implementation, the holding rate shall be determined according to the following formula:

$$\text{Holding rate} = \sum_{i=1}^n X_i \times Y_i$$

In which:

$X_i$ : is the rate of holding capitals, shares or voting shares of the competent agency, the bid solicitor and the party inviting the expression of interest in the joint-name member number  $i$ .

$Y_i$ : is the rate of equity contribution of joint-name member number  $i$  as stated in the joint-name agreement.

$n$ : is the number of participants in the joint-name.

4. From the date of distributing the dossiers of invitation for expression of interest, and bidding dossiers, the investors submitting dossiers of registration for project implementation, investors participating in the bidding and consultancy contractors specified in Clauses 1 and 2 of this Article each owns no more than 30% or more of shares, total voting shares or contributed capital amounts of another organization or individual. For joint-name investors and consultancy contractors, the holding rate is prescribed as follows:

a) The holding rate of other organizations and individuals and joint-name investors shall be determined according to the following formula:

$$\text{Holding rate} = \sum_{i=1}^n X_i \times Y_i$$

In which:

$X_i$ : is the rate of holding capitals, shares and voting shares of organizations, individuals in the investor participating the bidding number  $i$ .

$Y_i$ : is the rate of equity of the joint-name investor number  $i$  as stated in the joint-name agreement.

$n$ : is the number of participants in the joint-name.

b) The holding rate of other organizations and individuals and partnership consultancy contractors shall be determined according to the following formula:

$$\text{Holding rate} = \sum_{i=1}^n X_i \times Y_i$$

In which:

$X_i$ : is the rate of holding capitals, shares and voting shares of organizations, individuals in the consultancy contractor number  $i$  as stated in the joint-name agreement.

$Y_i$ : is the rate of responsibility division in the joint-name agreement document number  $i$  as stated in the joint-name agreement.

$n$ : is the number of participants in the joint-name.

5. For the investors organized according to the form of parent company-sub subsidiary model in accordance with the law on enterprises that submit dossiers of registration for project implementation or participate in bidding process for land-using investment projects:

a) The parent company or subsidiary or a joint-name of of parent companies and subsidiaries may participate in only one dossier of registration for project implementation or bid dossier;

b) The investor submitting the dossier of registration for project implementation or participating in bidding and consultancy contractor performing one of the consultancy jobs specified in Clauses 1 and 2 of this Article have no parent company-sub subsidiary relation from the time of distribution of dossiers of invitation for expression of interest or bidding dossiers.

6. The determination of holding rate between the parties shall be based on the rate stated in the enterprise registration certificates, establishment decisions and equivalent papers.

## **Article 6. Incentives in selection of investors**

1. Subjects entitled to incentives and incentive levels:

a) Investors having solutions applying advanced technology, high technology, environmentally friendly technology, and the best available techniques to mitigate environmental pollution for projects in the group of projects that are highly likely to exert adverse environmental impacts in accordance with the law on environmental protection are entitled to a 5%

incentive upon the evaluation of bid dossiers;

b) Investors committing to transferring technologies, carrying out high-tech activities for high technologies and high-tech products on the list of high technologies prioritized for investment and the list of hi-tech products encouraged for development as promulgated by the Prime Minister in accordance with the law on high technologies or on the list of technologies encouraged for transfer in accordance with the law on technology transfer are entitled to a 2% incentive upon the evaluation of bid dossiers.

2. When participating in the bidding, investors must submit documents proving their solutions applying advanced technology, high technology, environmentally friendly technology, the best available techniques, and rights to lawfully use technologies in accordance with the law on high technologies, technology transfer, environmental protection and other relevant laws to be entitled to incentives specified in Clause 1 of this Article.

3. Methods of calculation of incentives:

Total score of subjects entitled to incentives shall be calculated by the following formula:

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

In which:

$T'_{TH}$ : is the total score of the investor entitled to incentives, including incentive levels for comparison and ranking.

$T_{TH}$ : is the total score of the investor entitled to incentives, excluding incentive levels.

$M_{UD}$ : is the incentive level enjoyable by the investor under Clause 1 of this Article.

4. Investors entitled to incentives specified in Clause 1 of this Article that are selected to sign contracts must follow commitments in the bid dossiers and land-using investment project contracts.

#### **Article 7. Management of expenses and revenues in investor selection**

1. Expense norms for investor selection applicable to the cases where competent agencies, parties inviting the expression of invitation, bid solicitors or appraising teams directly perform tasks:

a) The expense for formulation of a dossier of invitation for expression of interest, bidding dossier is 0.05% of total investment capital, which must not exceed VND 200,000,000 (two hundred million dong);

b) The expense for appraising each content of a bidding dossier, and investor selection result is 0.02% of the total investment capital, which must not exceed VND 100,000,000 (one hundred million dong);



c) The expense for evaluating a dossier of registration for project implementation, bid dossier is 0.03% of total investment capital, which must not exceed VND 200,000,000 (two hundred million dong);

d) In case of re-organizing the investor selection, the maximum expense for formulating a dossier of invitation for expression of interest, bidding dossier; appraising a bidding dossier is 50% of the expenses specified at Points a and b of this Clause.

2. Competent agencies, parties inviting the expression of invitation, bid solicitors or appraising teams may hire consultants to perform tasks specified in Clause 1 of this Article, in case where their personnel are not qualified to perform such tasks. In such cases, expenses for selection of investors shall be as follows:

a) Expenses shall be determined based on contents and scope of tasks, performance duration, capacity and experience of consultants, their salary norms as prescribed by law, and other factors;

b) If there are no regulations on salary norms of consultants, the expense for consultants' salaries shall be determined based on expenses paid to consultants under similar projects performed in a certain period or included in the total investment capital.

3. Expenditures applicable to the cases where competent agencies, parties inviting the expression of invitation, bid solicitors or appraising teams directly perform tasks:

a) The expense for survey and collection of project information as a basis for preparing the dossier of invitation for expression of interest, and bidding dossier, including the expense for preparing a project proposal for investment projects that are not subject to investment policy approval or dossier of request for approval of investment policy for projects subject to investment policy approval (if any);

b) The expense for office supplies, translation, and propaganda and communication;

c) The expense for conferences serving the invitation of expression of interest, invitation to bids, and opening bids;

d) The expense relating to posting information on investor selection on the Vietnam National E-Procurement System;

dd) Other expenses for preparing the dossier of invitation for expression of interest; preparing and evaluating the bidding dossier; evaluating the dossier of registration for project implementation, bid dossier, appraising investor selection results; opening bids, and resolving complaints.

4. Expenses for investor selection on the Vietnam National E-Procurement System shall be applied according to the corresponding provisions of Point a

Clause 11 Article 12 of the Government's Decree No. 24/2024/ND-CP dated February 27, 2024, detailing a number of articles of and measures to implement the Law on Bidding regarding contractor selection. Expenses for submitting bid dossiers, expenses for bid-winning investors, and expenses for connecting the bid security function on the Vietnam National E-Procurement System shall comply with the roadmap for application of online investor selection specified in Article 62 of this Decree.

5. Funding for payment of expenses specified in Clauses 1, 2 and 3 of this Article shall be covered from the regular expenditures of competent agencies, parties inviting the expression of interest, bid solicitors and appraising teams.

6. Grounds for making estimates of expenses include: Decisions on approval of investment policy or written approval of land-using investment project information; policies and regimes under the applicable laws.

7. The formulation, approval and implementation of estimates of expenses for investor selection specified in Clauses 1, 2 and 3 of this Article shall comply with the law on formulation, approval and implementation of estimates of regular expenditures from the state budget, including:

a) Pursuant to the Law on the State Budget and Clause 6 of this Article, the party inviting the expression of interest, the bid solicitor and appraising team shall make expense estimates for each spending content specified in Clause 3 of this Article, include them in the annual budget estimate of its agency or unit, and submit to the competent authority for approval in accordance with the law on the state budget;

b) After the annual budget estimate is approved, the competent agency shall allocate regular expenditure estimate for assigned units to implement in accordance with the law on the state budget;

c) In case of arising a project that needs to be organized a bidding within the year, the party inviting the expression of interest, the bid solicitor and appraising team shall supplement the estimate, and submit it to the competent authority for approval in accordance with the law on the state budget.

8. Management of expenses for selection of investors:

a) The management, use and final settlement of expenses for selection of investors shall comply with the law on the state budget. In case where the party inviting the expression of interest or the bid solicitor or the appraising team is a public non-business unit that organizes the implementation of investor selection, the management, use and final settlement of expenses for selection of investors shall comply with the law on the financial autonomy mechanism applicable to public non-business units;

b) In case of hiring a consultant to perform a part or entire of the tasks specified in Clause 1 of this Article, the total expenses for selection of investors

(inclusive of taxes) must not exceed the estimates approved for the tasks with hired consultant. The value of payment for the consultancy unit shall comply with the contract between the competent agency, the bid solicitor, the party inviting the expression of interest and the consultancy unit. The management, use, payment and final settlement of expenses for payment for the consultancy unit shall comply with the law on the state budget.

9. Management of revenues from selection of investors:

a) For international bidding, the selling price (inclusive of taxes) of an electronic bidding dossier must not exceed VND 30,000,000 (thirty million dong);

b) Revenues from selling electronic bidding dossiers specified at Point a of this Clause, after being used to perform tax obligations, shall be paid by the bid solicitor to the state budget within 3 working days, from the bid closing date.

#### **Article 8. Expenses for settlement of investors' petitions on results of investor selection**

1. In case there is a petition on investor selection results that are settled by the competent person, the investor shall make payment for the petition settlement to the permanent assisting body of the consultancy council for petition settlement (hereinafter referred to as the consultancy council) in accordance with Point dd Clause 2 Article 90 of the Bidding Law.

2. The amount the investor paid for the consultancy council as specified in Clause 1 of this Article is 0.02% of the total investment capital of the petition-filing investor but must not exceed VND 200,000,000 (two hundred million dong). During the petition, the investor withdrawing the petition shall only receive 50% of the paid amount if the consultancy council has not yet been established, or the consultancy council has been established but the council's meeting has not yet been held. In case the consultancy council has held a meeting, the investor shall not be refunded the paid amount for petition settlement.

For the investor's remaining paid amount, the permanent assisting body of the consultancy council shall remit to the state budget within 7 working days from the date the investor withdraws its/his/her petition.

3. The permanent assisting body of the consultancy council shall make an estimate of expenses for investor's petition settlement on a case by case basis and submit it to the chairperson of the consultancy council for approval.

4. The expense estimate approved by the chairperson of the consultancy council as specified in Clause 3 of this Article must not exceed the expenses payable by the petition-filing investor as prescribed in Clause 2 of this Article.

5. The consultancy council's chairperson shall decide on the expense levels according to the approved estimate assigned to the consultancy council's

members, permanent assisting body of the consultancy council and other expenses for petition settlement. Expenses for remuneration for the consultancy council's members who are civil servants and public employees shall comply with the law.

6. The permanent assisting body of the consultancy council shall make payment for petition settlement according to the estimates approved by the chairperson of the consultancy council.

7. At the end of the petition settlement process, the chairperson of the consultancy council shall confirm the actual paid amount. In case the actual paid amount is less than the amount paid by the investor to the consultancy council, the permanent assisting body of the consultancy council shall refund to the petition-filing investor within 7 days from the date on which the chairperson of the consultancy council confirms the actual paid amount.

8. In case the investor's petition is concluded to be correct, the document on settlement of the investor's petition regarding investor selection result must clearly state that the concerned petition-filing investor shall be refunded the petition settlement expenses it/he/she has paid. The permanent assisting body of the consultancy council shall issue a document requesting the bid solicitor to refund the investor an amount equal to that paid by the petition-filing investor, minus the amount already refunded by the permanent assisting body of the consultancy council in accordance with Clause 7 of this Article (if any).

9. Funding sources for refunding to the investor according to the document on settlement of the investor's petition regarding investor selection result shall be as follows:

a) In case the bid solicitor is an administrative unit or public non-business unit, the funding sources for refunding to the investor shall be allocated from the unit's regular expenditure estimates;

b) In case the bid solicitor is neither an administrative unit nor a public non-business unit, the funding sources for refunding to the investor shall be allocated from the unit's funding for operations.

10. Violators under the competent authority's decision on settlement of the investor's petition regarding investor selection result shall pay compensation to the bid solicitor in accordance with law.

## **Article 9. Order and procedures for selection of investors**

1. For projects for which open bidding or restricted bidding is organized according to the single-stage single-envelope method as prescribed in Clause 1 Article 35 of the Bidding Law:

a) Announcement of land-using investment projects;

b) Preparation for bidding for investor selection;

- c) Organization of bidding for investor selection;
- d) Evaluation of bid dossiers;
- dd) Submission, appraisal, approval and publicization of investor selection results;
- e) Contract negotiation, finalization and conclusion.

2. For projects requiring valuable architecture works in accordance with the law on architecture, for which open bidding is organized according to the single-stage two-envelope method as prescribed in Clause 2 Article 35 of the Bidding Law:

- a) Announcement of land-using investment projects;
- b) Preparation for bidding for investor selection;
- c) Organization of bidding for investor selection;
- d) Evaluation of dossiers of technical proposals;
- dd) Evaluation of dossiers of financial proposals;
- e) Submission, appraisal, approval and publicization of investor selection results;
- g) Contract negotiation, finalization and conclusion.

3. For projects with special socio-economic development requirements of sectors, regions and localities in which specific technical, social and environmental standards have not been determined, the open bidding shall be organized according to the two-stage single-envelope method in accordance with Clause 3 Article 35 of the Bidding Law:

- a) Announcement of land-using investment projects;
- b) Preparation for bidding for investor selection for the first stage;
- c) Organization of bidding for investor selection for the first stage;
- d) Preparation, organization for bidding for investor selection for the second stage;
- dd) Evaluation of bid dossiers for the second stage;
- e) Submission, appraisal, approval and publicization of investor selection results;
- g) Contract negotiation, finalization and conclusion.

4. For projects for which the determination of the number of investors expressing their interest is required as prescribed in Clause 2 Article 46 of the Bidding Law and Points e, g, h, i and k Clause 2 Article 4 of this Decree:

- a) Announcement of land-using investment projects;

b) Invitation for expression of interest;

c) In case the project has two or more investors meeting requirements for inviting to express interest, the provisions of Points b, c, d, dd and e Clause 1 of this Article (for projects for which open bidding is organized by the single-stage and single-envelope method), or the provisions of Points b, c, d, dd, e and g Clause 2 of this Article (for projects for which open bidding is organized by the single-stage and two-envelope method), or the provisions of Points b, c, d, dd, e and g Clause 3 of this Article (for projects for which open bidding is organized by the two-stage and single-envelope method) shall be complied with.

5. Procedures for selection of investors are detailed in Appendix I to this Decree.

## **Chapter II**

### **PROCESS, PROCEDURES FOR SELECTION OF INVESTORS FOR PROJECTS FOR WHICH OPEN BIDDING OR RESTRICTED BIDDING IS ORGANIZED BY THE SINGLE-STAGE SINGLE-ENVELOPE METHOD OR SINGLE-STAGE TWO-ENVELOPE METHOD**

#### **Section 1. ANNOUNCEMENT OF LAND-USING INVESTMENT PROJECTS**

##### **Article 10. Announcement of land-using investment projects for projects subject to approval of investment policy**

1. Based on the list of land areas put for bidding for land-using investment projects decided by the provincial-level People's Council, the competent state agency as prescribed by the law on investment, or the investor shall compile a dossier of request for approval of investment policy for use as a basis for carrying out procedures for approval of investment policy.

2. The competent agency shall create and assign professional accounts to its affiliated agencies, units and specialized agencies to post decisions on approval of investment policy on the Vietnam National E-Procurement System in accordance with Point a Clause 2 Article 47 of the Bidding Law within 5 working days from the date of approval of the project investment policy.

##### **Article 11. Announcement of land-using investment projects for projects not subject to approval of investment policy**

1. For projects organized and implemented by competent agencies:

Based on the list of land areas put for bidding for land-using investment

projects decided by the provincial-level People's Council, the competent person shall assign agencies and units affiliated to Ministries, ministerial-level agencies; specialized agencies and agencies affiliated to the provincial-level People's Committee, Economic Zone Management Board and other agencies as prescribed by specialized laws; the district-level People's Committee to organize to compile the dossier of project proposal, containing information specified at Points b, c, d, dd and e Clause 2 Article 47 of the Bidding Law, while ensuring to satisfy requirements of Article 4 of this Decree;

b) Agencies and units assigned the tasks specified at Point a of this Clause shall submit to the competent person for approval of the project information. The written approval of land-using investment project information must contain information specified at Points b, c, d, dd and e Clause 2 Article 47 of the Bidding Law;

c) The competent agency shall create and assign professional accounts to its affiliated agencies, units and specialized agencies to post information about land-using investment projects on the Vietnam National E-Procurement System within 5 working days from the date of approval of the project information.

2. The investor may propose to implement land-using investment projects other than those approved and announced under Clause 1 of this Article, unless otherwise not allowed by the specialized law. Contents of dossiers of project proposals, order, procedures for preparing dossiers of project proposals, and approving project information are prescribed as follows:

a) The investor shall prepare a dossier of project proposal, containing information specified at Points b, c, d and e Clause 2 Article 47 of the Bidding Law, and corresponding information specified at Points a, b and c Clause 1 Article 33 of the Investment Law. The investor shall bear all expenses for preparing the dossier of project proposal;

b) For a project under the competence of the provincial-level People's Committee, the investor shall submit 4 sets of dossiers of project proposals directly or via postal office to the provincial-level Department of Planning and Investment. Within 3 working days from the date of receiving the project proposal, the provincial-level Department of Planning and Investment shall report to the provincial-level People's Committee to assign a specialized agency to synthesize and review the investor's dossier of project proposal.

For an investment project under the competence of the Ministry, ministerial-level agency, or the Economic Zone Management Board or another agency as prescribed by the specialized law, the investor shall submit 4 sets of dossiers of project proposals directly or via postal office to the agency or unit assigned the tasks of receiving and reviewing the investor's dossiers of project proposals by the Minister, Head of ministerial-level agency, Head of the Economic Zone Management Board or head of another agency.

In case where the Ministry, ministerial-level agency, or the Economic Zone Management Board or another agency has issued a decision on assigning an agency or unit to receive dossiers of project proposals, the investor shall submit dossiers to such agency or unit.

c) Within 25 days from the date of assigning the tasks, the agency or unit specified at Point b of this Clause shall coordinate with concerned agencies to consider the conformity of the dossiers of project proposals compared to the provisions of Article 4 of this Decree, and plans, master plans as prescribed by the planning law and specialized laws, and submit them to the competent person to approve the land-using investment project information. The written approval of land-using investment project information must contain information specified at Points b, c, d, dd and e Clause 2 Article 47 of the Bidding Law;

d) The competent agency shall disclose the land-using investment project information in accordance with Point c Clause 1 of this Article.

## **Section 2. PREPARATION FOR BIDDING FOR INVESTOR SELECTION**

### **Article 12. Preparation, approval of the table for monitoring the progress of investor selection activities**

1. The competent person shall assign affiliated agencies or units, specialized agencies to make a table for monitoring the progress of investor selection activities according to Appendix II to this Decree.

2. The competent person shall approve the table for monitoring the progress of investor selection activities, including decision on the bid solicitor, form and method of bidding for selection of investors, starting time of selection of investors for implementation of the land-using investment project.

3. For a land-using investment project subject to investment policy approval in accordance with the investment law, the table for monitoring the progress of investor selection activities shall be approved independently or concurrently with the decision on investment policy approval.

4. For a land-using investment project not subject to investment policy approval, the table for monitoring the progress of investor selection activities shall be approved concurrently with the information on land-using investment project.

5. The competent agency shall create and assign professional accounts to its affiliated agencies, units and specialized agencies to post the approved table for monitoring the progress of investor selection activities on the Vietnam National E-Procurement System within 5 working days from the date on which



the written approval is issued.

### **Article 13. Grounds for approval of bidding dossiers**

1. Master plans, plans and programs include:

a) Relevant master plans and plans in accordance with the planning law, specialized law and relevant laws, in case of changes to relevant master plans and plans from the time of approval of investment policy, or approval of the project information;

a) Detailed master plans or zoning master plans of 1:2,000 scale approved by the competent agency. In case a land-using investment project has many functions, the project shall be determined based on the main works of the project or the main works with the highest level in case the project has many main works in accordance with the construction law.

2. The list of land areas put for bidding for land-using investment projects decided by the provincial-level People's Council; list of works and projects subject to land recovery approved by the competent authority; district-level land use plan (for projects not subject investment policy) in accordance with the land law.

3. The decision on investment policy approval (for projects subject to investment policy approval in accordance with the investment law), or a written approval of the land-using investment project information (for projects not subject to investment policy approval).

4. The table for monitoring the progress of investor selection activities that is approved in accordance with Clause 2 Article 12 of this Decree.

5. Other documents as prescribed by specialized law and relevant laws (if any).

### **Article 14. Making, appraisal and approval of bidding dossiers**

1. The bid solicitor shall assign the expert team to prepare a bidding dossier containing contents specified in Article 48 of the Bidding Law for the investors to make bid dossiers. For investment projects on construction of energy works, the bidding dossier also comprises draft power purchase agreement as agreed with the power purchaser in accordance with the electricity law.

The making of bidding dossiers may be carried out before documents specified in Article 13 of this Decree are approved by competent authorities, provided such dossier approval complies with Article 13 of this Decree.

2. Methods and criteria for evaluation of bid dossiers must comply with Articles 45, 46, 47, 48 and 49 of this Decree.

3. Appraisal and approval of bidding dossiers:

a) The bid solicitor shall submit the draft bidding dossier and relevant

documents to a competent person and the appraising team;

b) The appraising team shall appraise bidding dossier under Article 54 of this Decree;

c) The competent person shall approve the bidding dossier, on the basis of the written request for approval and report on appraisal of bidding dossier.

### **Article 15. Selection of the shortlist for the restricted bidding**

1. The bid solicitor shall determine the shortlist, including at least 3 investors satisfying the requirements of the land-using investment project who wish to participate in the bidding, and submit it to the competent person for approval.

2. After being approved, the shortlist shall be publicized by the bid solicitor on the Vietnam National E-Procurement System.

3. Shortlisted investors may not form joint-name among themselves in order to participate in bidding.

## **Section 3. ORGANIZATION OF BIDDING FOR INVESTOR SELECTION**

### **Article 16. Conditions for distribution of bidding dossiers**

The bidding dossier may be distributed for selection of investors when the following conditions are fully satisfied:

1. The project has the investment policy approved, for projects subject to investment policy approval, or the land-using investment project information is approved, for projects not subject to investment policy approval;

2. The land-using investment project is announced in accordance with Article 10 or 11 of this Decree;

3. The bidding dossiers is approved;

4. Other conditions as prescribed by specialized law (if any).

### **Article 17. Invitation for bids, distribution, modification and clarification of bidding dossiers; extension of time limits for submission of bid dossiers**

1. Invitation for bids:

a) A notice of invitation for bid shall be posted in accordance with Clause 2 Article 8 of the Bidding Law. For projects subject to international open bidding under Clause 2 Article 11 of the Bidding Law, a notice of invitation for bids must be posted in English and Vietnamese on the Vietnam National E-Procurement

System and websites of the line ministry, provincial-level People's Committee (if any), or on an English language newspaper published in Vietnam;

b) A letter of invitation for bids shall be sent to shortlisted investors, for restricted bidding.

#### 2. Distribution of bidding dossiers:

a) For domestic open bidding, the bidding dossiers shall be distributed free of charge on the Vietnam National E-Procurement System. The bid solicitor shall fully upload files of bidding dossiers on the National Bidding Network System;

b) For domestic restricted bidding, bidding dossiers shall be distributed free of charge to shortlisted investors;

c) In case of international bidding, the investor shall pay an amount of money equal to the selling price of one set of electronic bidding dossier when submitting the bid dossier.

#### 3. Modification of bidding dossiers:

In case of modifying the bidding dossier after distribution, the bid solicitor must post on the Vietnam National E-Procurement System the decision on modification together with the modifications of bidding dossier, and the modified bidding dossier. The decision on modification of bidding dossier shall be posted for at least 15 days, for domestic bidding, or 25 days, for international bidding, before the bid closing date. In case of failure to ensure the posting duration, the bid closing date shall be extended.

#### 4. Clarification of bidding dossiers:

a) For domestic bidding, the investor shall send a written request for clarification at least 7 working days before the bid closing date to the bid solicitor on the Vietnam National E-Procurement System;

b) For international bidding, the investor shall directly send a written request for clarification to the bid solicitor at least 15 working days before the bid closing date;

c) The bid solicitor shall post the clarifications on the Vietnam National E-Procurement System, or when necessary, hold a pre-bid meeting to discuss contents of the bidding dossier that need to be clarified.

In case of holding a pre-bid meeting, discussions shall be recorded in writing by the bid solicitor. Such a record may be used as a document clarifying bidding dossier and uploaded on the Vietnam National E-Procurement System.

d) Bidding dossier-clarifying contents, which are not in contravention of the contents of the bidding dossier uploaded on the System, must be uploaded on the System at least 2 working days before the bid closing date. If the clarification leads to modification of the bidding dossier, such modification must comply with

Clause 3 of this Article.

5. The decision on modification and the clarifying document constitute an integral part of the bidding dossier.

6. In case of extending the time limit for submission of a bid dossier, the bid solicitor shall upload the notice of time limit extension and the decision on approval of time limit extension on the Vietnam National E-Procurement System, clearly stating the reason for extension and the new bid closing time.

#### **Article 18. Preparation, submission, receipt, management, modification, replacement and withdrawal of bid dossiers**

1. Investors shall prepare and submit bid dossiers as required in the bidding dossier.

2. The bid solicitor shall receive all investors' bid dossiers that are submitted before the time of bid closing and manage bid dossiers submitted according to confidential regime until the investor selection result is disclosed. In no circumstance may information in the bid dossier submitted by an investor participating in bidding be revealed, except information to be disclosed upon bid opening.

3. Any investor that wishes to modify, replace or withdraw the submitted bid dossier shall send a written request to the bid solicitor. The bid solicitor shall only approve the modification, replacement or withdrawal of bid dossier if receiving such request before the bid closing time.

4. Bid dossiers or documents sent by the investors to the bid solicitor after the time of bid closing shall not be opened and shall be considered invalid and rejected, except for documents clarifying bid dossiers at request of the bid solicitor or clarifying, modifying and supplementing documents to prove the investors' eligibility, capacity and experience.

### **Section 4. EVALUATION OF BID DOSSIERS FOR PROJECTS APPLYING THE SINGLE-STAGE SINGLE-ENVELOPE METHOD**

#### **Article 19. Bid opening**

1. Bids shall be opened publicly within 2 hours after the time of bid closing. The bid solicitor shall only open bid dossiers received before the time of bid closing and meeting the requirements of the bidding dossier to the witness of investors' representatives participating in the bid-opening ceremony, regardless of whether or not the investors are present.

2. The bid solicitor shall check the seal, open each bid dossier in the alphabetical order of investors' names and read out the following information:

a) Investor's name;

b) Number of originals and copies of the dossier;

c) Value proposed by the investor in terms of land use efficiency in the bid application form (in case of applying the evaluation criterion of land use efficiency); number of public works without business purposes, or the value of social assistance activities or other social welfare activities for social protection beneficiaries, determined by the value in money or the number of people supported (for projects specified in Clause 1 Article 4 of this Decree, that apply evaluation criteria specified at Point d or Point dd Clause 1 Article 49 of this Decree);

d) Value proposed by the investor in terms of sectoral and local development investment efficiency in the bid application form, including any of the following information: value in money paid to the state budget; proportion of revenue that investors propose to pay to the state budget; prices of goods and services; number of public works without business purposes; the value of social assistance activities or other social welfare activities for social protection beneficiaries, determined by the value in money or the number of people supported; type and level of toxicity and total amount of pollutants discharged into the environment; land use area, land use coefficient; the level of payment to the state budget and the rate of increase that the investor proposes to implement the investment project on construction of aviation service works; electricity price for investment projects on construction of energy works; time of handover of resettlement housing for investment projects on condominium renovation and reconstruction (in cases where the valuation standard on sectoral and local development investment efficiency are applied);

dd) Request for increase or decrease of the value specified at Point c or d of this Clause (if any);

e) The validity period of the bid dossier;

g) Value and validity of the bid security;

h) Other relevant information (if any).

3. The bid opening record, which includes information specified in Clause 2 of this Article, must bear signatures of representatives of the bid solicitor and investors who attend the bid opening ceremony, and shall be sent to the investors that participate in the bidding.

4. A representative of the bid solicitor shall sign the original of the bid application form, the power of attorney of the at-law representative of the investor (if any); joint-name agreement (if any); bid security; contents of the business investment plan and proposals on land use efficiency, sectoral and local development investment efficiency of each bid dossier.

## **Article 20. Principles of evaluating bid dossiers**

1. The evaluation of bid dossiers shall be based on methods, criteria for evaluation of bid dossiers and other requirements stated in bidding dossiers as well as submitted bid dossiers and documents explaining or clarifying bid dossiers of investors so as to select investors that are capable and experienced and have feasible technical and financial plans to implement projects.

2. The evaluation shall be conducted based on copies; investors shall be held responsible for the consistency between originals and their copies. In case there exist disparities between originals and copies which do not change the concerned investor's ranking, the evaluation shall be conducted based on originals. In case there exist disparities between originals and copies, leading to the situation whereby the result of evaluation based on originals differs from that based on copies and consequently changing the concerned investor's ranking, the bid dossier of such investor shall be disqualified.

3. When evaluating a bid dossier, the bid solicitor shall examine technical and financial information in the bid dossier so as to identify that such bid dossier does not contain disparities, impositions of conditions or omissions of basic contents, of which:

a) Disparities are differences with requirements stated in the bidding dossier; Imposition of conditions means the imposition of conditions that restrict or show the refusal to entirely accept the requirements stated in the bidding dossier; Omission of contents means the investor's failure to provide part or the whole of information or documents as required in the bidding dossier;

b) Provided that a bid dossier meets basic requirements stated in the bidding dossier, the bid solicitor may accept errors other than disparities, impositions of conditions or omissions of basic contents of the bid dossier;

c) Provided that a bid dossier is fundamental responsive to requirements of the bidding dossier, the bid solicitor may request the investor to submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial disparities or nonconformities in the bid dossier related to documentation requirements. Requirements for provision of information and documentation to rectify these errors must not affect to the investors' proposals on land use efficiency, sectoral and local development investment efficiency. If the bid solicitor's requirements are not satisfied, the investor's bid dossier shall be rejected.

## **Article 21. Clarification of bid dossiers**

1. After bid opening, if the investor's bid dossier lacks documents on the eligibility, financial statements, and documents proving experience in implementing similar projects, the bid solicitor shall request the investor to clarify and provide additional documents to prove the investor's eligibility, capacity and

experience. The investor shall clarify its/his/her bid dossiers upon request of the bid solicitor. The clarification of contents about the eligibility, capacity and experience must ensure no change in the nature of eligibility, capacity and experience of the investors participating in bidding.

2. After bid closing, if the investor detects that the bid dossier lacks information and documents on its/his/her eligibility, capacity and experience which have not submitted together with the bid dossier. Such documents and information shall be sent for supplementation and clarification. The bid solicitor shall receive additional documents clarifying and proving the investor's eligibility, capacity and experience for review and evaluation. Such documents shall be considered as a part of the bid dossier.

3. The clarification of the proposals on business investment plans, proposals on land use efficiency, sectoral and local development investment efficiency must ensure not to change corresponding proposals in the submitted bid dossiers.

4. The bid dossier clarification shall only be carried out between the bid solicitor and the investor whose bid dossier needs clarifying. Clarified contents shall be expressed in writing and preserved by the bid solicitor as an integral part of the bid dossier.

## **Article 22. Evaluation of bid dossiers**

1. Examining the validity of a bid dossier, covering:

a) Checking the quantities of originals and copies of the bid dossier;

b) Checking the composition of the bid dossier, such as the bid application form, joint-name agreement (if any), power of attorney to sign the bid application form (if any); bid security; documents proving eligibility of the person signing the bid application form (if any); documents proving eligibility, capacity and experience of the investor; contents of proposals on business investment plans; contents of proposals on land use efficiency, sectoral and local development investment efficiency; and other components of the bid dossier;

c) Checking the consistency between originals and copies of the bid dossier to serve the detailed evaluation of the bid dossier.

2. Evaluating the validity of a bid dossier:

An investor's bid dossier shall be evaluated as valid when fully meeting the following conditions:

a) The original bid dossier is available;

b) There are valid bid application forms bearing signatures and seals (if any) of lawful representatives of investors as required by the bidding dossier. For a joint-name, the bid application form must bear the signatures and seals (if any)

of the lawful representative of every joint-name member. An assigned member may sign and seal (if any) on the bid application form on behalf of the joint-name if so agreed in the joint-name agreement;

c) The value stated in the bid application form must be specific and fixed in figures and words, without proposing different values regarding the land use efficiency, sectoral and local development investment efficiency or involving a condition unfavorable to the competent agency and bid solicitor;

d) The bid dossier's validity satisfies the requirements prescribed in the bidding dossier;

dd) There is a valid bid security;

e) The investor must not be named in two or more bid dossiers as an independent investor or a member of the joint-name;

g) There is a joint-name agreement bearing the signatures and seals (if any) of lawful representative of every joint-name member;

h) The investor is eligible as prescribed in Article 5 of the Bidding Law;

i) The investor is eligible for land allocation or lease by the State, and meets conditions for land allocation or lease as prescribed by the land law;

k) The investor is not banned from dealing in real estate or having its operation suspended or terminated under a court judgment or ruling, or a decision of a competent state agency as prescribed by the law on real estate business (for real estate projects).

Investors that have valid bid dossiers may have their dossiers eligible for detailed evaluation in accordance with Clause 3 of this Article.

### 3. Evaluating bid dossiers:

a) The valuation of a bid dossier includes evaluation of capacity and experience of the investor, partners implementing the project (in case the investor uses the partners' experience); evaluation of the business investment plan; and evaluation of land use efficiency, sectoral and local development investment efficiency;

b) A bid dossier shall be evaluated according to the evaluation criteria and methods stated in the bidding dossiers.

4. After evaluating the bid dossier, the expert team shall make a report and send it to the bid solicitor for consideration. Such a report must state the following contents:

a) The investor ranking list;

b) The list of eliminated investors and the reasons for their elimination;

c) Remarks on competition, fairness, transparency and economic efficiency



in the process of investor selection. In case competition, fairness, transparency and economic efficiency are not ensured, reasons shall be identified and remedies proposed.

5. Approval of bid winners:

An investor shall be proposed for selection when fully satisfying the conditions specified in Article 50 of this Decree.

## **Section 5**

### **EVALUATION OF BID DOSSIERS FOR PROJECTS APPLYING THE SINGLE-STAGE TWO-ENVELOP METHOD**

#### **Article 23. Opening dossiers of technical proposals**

1. A dossier of technical proposals shall be publicly opened within 2 hours from the bid closing time. The order of evaluation of dossiers of technical proposals must comply with Article 19 of this Decree. The bid solicitor shall only read information and make a record of bid opening, including information specified at Points a, b, e, g and h Clause 2 Article 19 of this Decree when opening dossiers of technical proposals.

2. Dossiers of financial proposals of all investors shall be sealed by the bid solicitor in separate bags and such seals shall be signed by representatives of the bid solicitor and investors that attend the ceremony of opening of dossiers of technical proposals.

#### **Article 24. Evaluation of dossiers of technical proposals**

1. Checking of the validity of a dossier of technical proposals, covering:

a) Checking the quantity of originals and photocopies of the dossier of technical proposals;

b) Checking the components of the dossier of technical proposals including: Bid application form of the dossier of technical proposals, joint-name agreement form (if any), power of attorney to sign the bid application form (if any); bid security; documents proving the eligibility of the person signing on the bid application form (if any); documents proving the investor's eligibility, capacity and experience; contents of proposals on investment business plans; and other components of the dossier of technical proposals;

c) Checking the consistency between the originals and photocopies to serve the detailed evaluation of the dossier of technical proposals.

2. Evaluation of validity of the dossier of technical proposals:

An investor's dossier of technical proposals shall be evaluated as valid

when all of the following conditions are satisfied:

- a) The original dossier of technical proposals is available;
- b) The bid application form in the valid dossier of technical proposals bears the signature and seal (if any) of the lawful representative of the investor as required in the bidding dossier. For a joint-name, the bid application form must bear the signatures and seals (if any) of the lawful representative of every joint-name member. An assigned member may sign and seal (if any) on the bid application form on behalf of the joint-name if so agreed in the joint-name agreement;
- c) The validity of the dossier of technical proposals satisfies requirements in the bidding dossier;
- d) There is a valid bid security;
- dd) The investor's name is not present in more than one dossier of technical proposals as an independent investor or joint-name member;
- e) There is a valid joint-name agreement in case of joint-name;
- g) The investor is eligible as prescribed in Article 5 of the Bidding Law;
- h) The investor is eligible for land allocation or lease by the State, and meets conditions for land allocation or lease as prescribed by the land law;
- i) The investor is not banned from dealing in real estate or having its operation suspended or terminated under a court judgment or ruling, or a decision of a competent state agency as prescribed by the law on real estate business (for real estate projects).

3. The order and procedures for clarification of dossiers of technical proposals must comply with Article 21 of this Decree.

4. Evaluation of dossiers of technical proposals:

- a) The principles for evaluation of dossiers of technical proposals must comply with Article 20 of this Decree;
- b) Investors that have valid dossiers of technical proposals and meet capacity and experience requirements, and business investment plan requirements shall be considered and have their dossiers of technical proposals opened.

#### **Article 25. Approval of the list of investors satisfying technical requirements**

1. The list of investors satisfying technical requirements shall be approved in writing by the bid solicitor, based on the written request for approval of the list of investors satisfying technical requirements on the expert team.

2. The bid solicitor shall notify the list of investors satisfying technical requirements to all investors participating in the bidding, inviting all investors

participating in bidding to open dossiers of financial proposals, clearly stating the time and location of opening the dossiers of financial proposals.

### **Article 26. Opening of dossiers of financial proposals**

1. Dossiers of financial proposals of investors named in the list of investors satisfying technical requirements shall be publicly opened according to the time and location as stated in the notice of the list of investors satisfying technical requirements. The record of bid opening must contain information specified at Points a, b, c, d, dd, e and h Clause 2 Article 19 of this Decree and must be sent to investors participating in the bidding.

2. A representative of the bid solicitor shall sign the original of the bid application form, the power of attorney of the at-law representative of the investor (if any); joint-name agreement (if any); and proposals on land use efficiency, sectoral and local development investment efficiency of each dossier of financial proposals.

### **Article 27. Evaluation of dossiers of financial proposals**

1. Examining the validity of a dossier of financial proposals, including:

a) Checking the quantities of originals and copies of the dossier;

b) Checking the composition of the dossier of financial proposals, such as bid application form of the dossier of financial proposals; contents of proposals on land use efficiency, sectoral and local development investment efficiency; and other components of the dossier of financial proposals;

c) Checking the consistency between originals and copies of the dossier to serve the detailed evaluation of the dossier of financial proposals.

2. Evaluation of the validity of a dossier of financial proposals:

A dossier of financial proposals of an investor shall be evaluated as valid when fully satisfying the following conditions:

a) The original of the dossier of financial proposal is available;

b) The bid application form in the valid dossier of financial proposals bears the signature and seal (if any) of the lawful representative of the investor as required in the bidding dossier. For a joint-name, the bid application form must bear the signatures and seals (if any) of the lawful representative of every joint-name member. An assigned member may sign and seal (if any) on the bid application form on behalf of the joint-name if so agreed in the joint-name agreement;

c) The value stated in the bid application form in the dossier of financial proposals must be specific and fixed in figures and words, without proposing different values regarding the land use efficiency, sectoral and local development investment efficiency or involving a condition unfavorable to the competent

agency and bid solicitor;

d) The validity of the dossier of financial proposals satisfies requirements mentioned in the bidding dossier.

Investors that have valid dossiers of financial proposals may have their dossiers eligible for detailed evaluation in accordance with Clause 4 of this Article.

3. The order and procedures for clarification of dossiers of financial proposals must comply with Article 21 of this Decree.

4. Evaluation of dossiers of financial proposals:

a) The principles for evaluation of dossiers of financial proposals must comply with Article 20 of this Decree;

b) The detailed evaluation of dossiers of financial proposals and ranking of investors shall be conducted according to the evaluation criteria and method mentioned in the bidding dossier.

5. After evaluating the bid dossier, the expert team shall make a report and send it to the bid solicitor for consideration. Such a report must state the following contents:

a) The investor ranking list;

b) The list of eliminated investors and the reasons for their elimination;

c) Remarks on competition, fairness, transparency and economic efficiency in the process of investor selection. In case competition, fairness, transparency and economic efficiency are not ensured, reasons shall be identified and remedies proposed.

6. The approval of bid winners must comply with Article 50 of this Decree.

## **Section 6**

### **SUBMISSION, APPRAISAL, APPROVAL AND PUBLICIZATION OF INVESTOR SELECTION RESULTS**

#### **Article 28. Submission, appraisal and approval of the investor selection results**

1. The submission, appraisal and approval of investor selection results shall be as follows:

a) Based on a report on bid dossier evaluation results, the bid solicitor shall submit investor selection results to the competent person and the appraising team for appraisal organization, clearly stating the bid solicitor's opinions on appraisals

of the expert team;

b) The appraising team shall appraise the investor selection results under Article 55 of this Decree before approval;

c) The competent person shall approve the investor selection results in writing on the basis of the written request for approval and report on appraisal of investor selection results.

2. In case a bid-winning investor is selected, a decision approving investor selection results must have the following contents:

a) Name of the project;

b) Name of the bid-winning investor; name of the economic organization established by the bid-winning investor (if any);

c) One or several information as prescribed at Point c and Point d Clause 2 Article 19 of this Decree;

d) Other contents (if any).

3. In case where the bid-winning investor establishes an economic organization after the investor selection result is approved, the investor shall provide information on name of such organization to the competent agency for amendment and supplementation of the economic organization's name in the decision approving investor selection results.

4. In case of bidding cancellation under Point a Clause 2 Article 17 of the Bidding Law, a decision approving investor selection results or a decision on bidding cancellation must clearly state reason(s) for bidding cancellation and responsibilities of related parties upon bidding cancellation.

5. In case of change name of the bid-winning investor or name of the economic organization established by the bid-winning investor as a result of transfer of the investment project, transfer of shares or contributed capital in economic organization established by the bid-winning investor under Clause 2 Article 76 of the Bidding Law, Clause 3 and Clause 4 Article 52 of this Decree, the competent person shall approve the transfer and adjust the decision approving the investor selection result.

#### **Article 29. Publicization of investor selection results**

1. Within 5 working days from the date on which the competent person decides on approving investor selection results, the bid solicitor shall disclose the information about investor selection results on the Vietnam National E-Procurement System in accordance with Point d Clause 2 Article 7 and Clause 4 Article 8 of the Bidding Law, at the same time, send the written notice of investor selection results to the investors participating in the bidding.

2. Such notice must contain the following contents:

- a) Information as prescribed in Clause 2 Article 28 of this Decree;
- b) The list of unselected investors and reasons for non-selection;
- c) Plan on contract negotiation, finalization and signing with the selected investor.

## **Section 7**

### **CONTRACT NEGOTIATION, FINALIZATION AND CONCLUSION**

#### **Article 30. Contract negotiation and finalization**

1. Based on investor selection results, the first-ranked investor shall be invited to contract negotiation and finalization. In case the invited investor fails to come or refuses to participate in the contract negotiation and finalization, it/he/she may not have bid security refunded.

2. Contract negotiation and finalization shall be carried out on the following bases:

- a) The report on evaluation of the bid dossier;
- b) The bid dossier and its clarifying and modifying documents (if any) provided by the investor;
- c) The bidding dossier.

3. Principles of contract negotiation and finalization:

- a) Contract negotiation and finalization shall not be carried out on the contents offered by the investor according to requirements set in the bidding dossier;
- b) Contract negotiation and finalization must not change the basic contents of the bid dossier.

4. Contents of contract negotiation and finalization:

- a) Contents proposed in the bid dossier that remain unspecific, unclear, or different; contents inconsistent between the bidding dossier and bid dossier, which might lead to disputes or affect rights and obligations of parties during the contract performance;
- b) Matters that arise in the investor selection process (if any) for the purpose of finalizing details of the contract;
- c) Other contents relating to the project for use as a basis for regulating provisions on rights, obligations and responsibilities in the contract;
- d) Other necessary contents.

5. The investor may not change, withdraw or refuse to perform basic contents proposed in the bid dossier which has been evaluated as meeting requirements of the bidding dossier by the bid solicitor, except for changes proposed by the investor that bring higher efficiency for the project.

6. In case the contract negotiation and finalization is unsuccessful, the bid solicitor shall propose a competent person to consider and decide on cancellation of investor selection results and invite the next-ranked investor to contract negotiation and finalization. In case of successful contract negotiation and finalization with the next-ranked investor, the bid solicitor shall submit, appraise, approve and publicize investor selection results in accordance with Articles 28 and 29 of the Bidding Law. In case the contract negotiation and finalization with the next-ranked investor also fails, the bid solicitor shall propose a competent person to consider and decide on bidding cancellation under Point a Clause 2 Article 17 of the Bidding Law.

### **Article 31. Conclusion of contracts and disclosure of principal information of land-using investment project contracts**

1. The conclusion of land-using investment project contracts must comply with Articles 71, 72, 74 and 75 of the Bidding Law.

2. A land-using investment project contract (hereinafter referred to as the project contract) must contain principal information specified in Article 73 of the Bidding Law, Appendix III to this Decree and the law on land, real estate, construction, and specialized laws (if any).

3. Within 5 working days from the effective date of the project contract, the bid solicitor shall disclose principal information of the contract on the Vietnam National E-Procurement System. Information to be disclosed includes:

- a) Name of the project; identification number of the contract; time of contract signing;
- b) Name and address of the competent agency;
- c) Name address of the bid-winning investor; name address of the economic organization established by the bid-winning investor (if any);
- d) Objectives and scale of the project;
- dd) Expected project implementation schedule; land area and land use term;
- e) Project implementation location;
- g) Expected total investment capital;
- h) One or several information as prescribed at Point c and Point d Clause 2 Article 19 of this Decree;
- i) Other contents (if any).

## **Chapter III**

### **PROCESS, PROCEDURES FOR SELECTION OF INVESTORS FOR PROJECTS FOR WHICH OPEN BIDDING IS ORGANIZED BY THE TWO-STAGE SINGLE-ENVELOPE METHOD**

#### **Article 32. Preparation for first-stage bidding**

1. The two-stage single-envelope method shall be applied to open bidding for selection of investors to implement land-using investment projects with special socio-economic development requirements of sectors, regions and localities in which specific technical, economic, social and environmental standards have not been determined in accordance with Clause 3 Article 35 of the Bidding Law.

2. Procedures for preparation for first-stage bidding include:

a) The formulation and approval of the table for monitoring the progress of investor selection activities shall comply with Article 12 of this Decree, in which the specific progress for each stage shall be defined;

b) The land-using investment project information shall be disclosed in accordance with Article 10 or 11 of this Decree;

c) First-stage bidding dossiers shall be made in accordance with Clause 3 of this Article;

d) First-stage bidding dossier appraisal and approval must comply with Clause 3 Article 14 of this Decree.

3. The first-stage bidding dossier, which must comprise the following principal information, shall be made in compliant with grounds specified in Article 13 of this Decree:

a) General information about the project, including the project's name; objectives; investment scale; investment capital; project implementation location; current status of land use, land area for project implementation; land use purposes; approved planning norms; time limit and project implementation schedule;

b) Instructions for preparation and submission of first-stage bid dossiers;

c) Requirements on eligibility of investors as specified in Article 5 of the Bidding Law;

d) Requirements for subjects and conditions eligible for land allocation or lease by the State in accordance with the land law;

dd) Requirements regarding the investor not being banned from dealing in real estate or having its operation suspended or terminated under a court judgment



or ruling, or a decision of a competent state agency as prescribed by the law on real estate business (for real estate projects);

e) Requirements on the investors' declaration of the history of disputes, complaints and lawsuits related to contracts already or being performed;

g) Preliminary requirements on the business investment plan; land use efficiency, sectoral and local development investment efficiency for the investor to discuss with the bid solicitor;

h) Other necessary contents (if any).

For the first-stage bidding dossier, the investor is not required to make proposals on land use efficiency, sectoral and local development investment efficiency, or take bid security.

### **Article 33. Organization of first-stage bidding**

1. First-stage bid invitation must comply with Clause 1 Article 17 of this Decree.

2. The distribution, modification and clarification of bidding dossiers must comply with Clauses 2, 3 and 4 Article 17 of this Decree.

3. The preparation, submission, receipt, management, modification, replacement and withdrawal of bid dossiers must comply with Article 18 of this Decree.

4. Bid opening:

a) Bid opening shall be publicly carried out within 2 hours after the time of bid closing. The order of opening bid dossiers must comply with Article 19 of this Decree. The bid solicitor shall only read information and make a record of bid opening, including information specified at Points a, b, e and h Clause 2 Article 19 of this Decree;

b) A representative of the bid solicitor shall sign the original of the bid application form, the power of attorney of the at-law representative of the investor (if any); joint-name agreement (if any); and important contents of each bid dossier.

5. Exchange of opinions on first-stage bid dossiers:

a) Based on the requirements specified in bidding dossiers and investors' proposals in first-stage bid dossiers, the bid solicitor shall exchange opinions with every investor to confirm the requirements on business investment plan, land use efficiency, sectoral and local development investment efficiency of the projects to serve the finalization of second-stage bidding dossiers;

b) The exchange of opinions on first-stage bid dossiers must not change the contents of decisions on approval of investment policy (for projects subject to investment policy approval), or contents of the document approving the land-

using investment project information (for projects not subject to investment policy approval);

c) Results of exchanging shall be made in a record with signatures and certification of representatives of the bid solicitor and investors participating in the bidding, and shall be sent directly to such investors.

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

1. The second-stage bidding dossiers shall be made in compliant with grounds specified in Article 13 of this Decree, and results of exchange of opinions on first-stage bid dossiers.

2. Contents of second-stage bid dossiers must comply with Clauses 1 and 2 Article 14 of this Decree.

3. Second-stage bidding dossier appraisal and approval must comply with Clause 3 Article 14 of this Decree.

4. Organization of bidding:

a) The bid solicitor shall invite investors that have submitted first-stage bid dossiers to receive second-stage bidding dossiers. The modification and clarification of second-stage bidding dossiers must comply with Clauses 3 and 4 Article 17 of this Decree;

b) The preparation, submission, receipt, management, modification, replacement and withdrawal of bid dossiers must comply with Article 18 of this Decree;

c) Bid opening must comply with Article 19 of this Decree.

#### **Article 35. Evaluation of second-stage bid dossiers**

1. Principles of evaluation of bid dossiers must comply with Article 20 of this Decree.

2. The clarification of bid dossiers must comply with Article 21 of this Decree.

3. The evaluation of second-stage bid dossiers must comply with Article 22 of this Decree.

#### **Article 36. Submission, appraisal, approval and publicization of investor selection results; contract negotiation, finalization and signing, disclosure of project contract information**

1. The submission, appraisal, approval and publicization of investor selection results must comply with Articles 28 and 29 of this Decree.

2. The contract negotiation, finalization and signing; and disclosure of information on project contracts must comply with Articles 30 and 31 of this Decree.

## **Chapter IV**

### **ORDER AND PROCEDURES FOR SELECTION OF INVESTORS FOR PROJECTS FOR WHICH THE NUMBER OF INVESTORS EXPRESSING INTEREST MUST BE DETERMINED**

#### **Article 37. Application of procedures for invitation for expression of interest**

1. The procedures for invitation for expression of interest applied to projects for which the number of investors expressing interest must be determined under specialized laws are prescribed at Points e, g, h, i and k Clause 2 Article 4 of this Decree.

2. Invitation for international interest expression shall be applied to land-using investment projects specified in Clause 1 of this Article, except for the cases specified at Points a, b, c and d Clause 2 Article 11 of the Bidding Law, and other cases as prescribed by specialized laws.

3. The competent person shall assign an agency or unit under a ministry or ministerial-level agency; specialized agency or agency under the provincial-level People's Committee, Economic Zone Management Board; or the district-level People's Committee to act as the party inviting the expression of interest.

4. The party inviting the expression of interest shall follow the order and procedures specified in Articles 38, 39, 40, 41, 42 and 43 of this Decree.

5. The competent agency shall create and assign professional accounts to the party inviting the expression of interest to post information and invite the expression of interest on the Vietnam National E-Procurement System.

#### **Article 38. Preparation for invitation for expression of interest**

Before inviting the expression of interest, the competent agency shall disclose the project information on the Vietnam National E-Procurement System by one of the two followings:

1. For projects within the competence of investment policy approval, the competent agency shall post the decision on approval of investment policy.

2. For projects falling outside the competence of investment policy approval, the competent agency shall, based on the dossiers for project proposals made and approved under Article 11 of this Decree, post information specified at Points b, c, d and e Clause 2 Article 47 of the Bidding Law.

#### **Article 39. Preparation and approval of dossiers of invitation for expression of interest**

1. The party inviting the expression of interest shall assign the expert team to make dossiers of invitation for expression of interest according to information

specified in Clause 2 of this Article so as the investors can make dossiers of registration for implementation of the project. Dossiers of invitation for expression of interest shall be made on the basis of provisions of Clauses 1, 2, 3 and 5 Article 13 of this Decree.

The making of dossiers of invitation for expression of interest may be carried out before documents specified in Clauses 1, 2, 3 and 5 Article 13 of this Decree are approved by competent authorities, provided such dossier approval complies with these provisions.

2. A dossier of invitation for expression of interest must comprise:

a) Instructions for investors;

b) Requirements on eligibility of investors specified in Article 5 of the Bidding Law;

c) Requirements for subjects and conditions eligible for land allocation or lease by the State in accordance with the land law;

d) Requirements regarding the investor not being banned from dealing in real estate or having its operation suspended or terminated under a court judgment or ruling, or a decision of a competent state agency as prescribed by the law on real estate business (for real estate projects);

dd) The method and criteria for preliminary evaluation of the investors' capacity and experience must comply with Clauses 3 and 4 of this Article;

e) Forms for expression of interest;

g) Information and requirements for implementing a land-using investment;

h) Other relevant contents (if any).

3. The "pass" and "fail" methods shall be applied for preliminary evaluation of the investors' capacity and experience. The investor shall be considered satisfying preliminary requirements on capacity and experience if all criteria are considered passed.

4. Criteria for preliminary evaluation of investors' capacity and experience include:

a) Requirements on equity as prescribed at Point a Clause 1 Article 46 of this Decree;

b) The investor's experience in performing similar projects in accordance with Points a and b Clause 2, Clause 3 and Clause 4 Article 46 of this Decree;

c) For investment projects on condominium renovation and reconstruction, in addition to criteria specified at Points a and b of this Clause, criteria for preliminary evaluation of capacity and experience also include preliminary

requirements on compensation, support and resettlement plans as prescribed by the housing law.

5. In case the project applies domestic invitation for expression of interest, and the application of advanced techniques, technologies and international management experience needs to be promoted, the dossier of invitation for expression of interest may comply with Clause 5 Article 46 of this Decree.

6. A dossier of invitation for expression of interest must state requirements only for the purpose of selecting the qualified investor for the project implementation. It must not contain any condition that restricts the participation of investors or creates advantages for one or more than one investor, thus causing an unfair competition.

7. The dossier of invitation for expression of interest shall be prepared and approved concurrently during the decision of approval of investment policy (for projects subject to investment policy approval as prescribed by the law on investment), or during the formulation and approval of the land-using investment project information (for projects not subject to investment policy approval), or after such decisions are approved by competent authorities.

**Article 40. Notices of invitation for expression of interest, distribution, modification and clarification of dossiers of invitation for expression of interest; extension of time limits for submission of dossiers of registration for project implementation**

1. Notices of invitation for expression of interest shall be posted on the Vietnam National E-Procurement System in accordance with Clause 2 Article 8 of the Bidding Law. For projects subject to international invitation for expression of interest under Clause 2 Article 37 of this Decree, a notice of invitation for expression of interest must be posted in English and Vietnamese on the Vietnam National E-Procurement System and websites of the line ministry, provincial-level People's Committee (if any), or on an English newspaper published in Vietnam.

2. Dossiers of invitation for expression of interest shall be distributed on the Vietnam National E-Procurement System. The party inviting the expression of interest shall upload free of charge complete files of dossiers of invitation for expression of interest on the Vietnam National E-Procurement System.

3. In case of modifying the dossiers of invitation for expression of interest after distribution, the party inviting the expression of interest must post on the Vietnam National E-Procurement System the decision on modification together with the modifications of dossiers of invitation for expression of interest, and the modified dossiers of invitation for expression of interest. The modification decisions shall be posted on the Vietnam National E-Procurement System at least 10 days before the deadline for submission of dossiers of registration for project

implementation.

4. Clarification of dossiers of invitation for expression of interest:

a) If wishing to have the dossier of invitation for expression of interest clarified, the investor shall send a written request to the party inviting the expression of interest via the Vietnam National E-Procurement System at least 5 working days before the deadline for submitting dossier of registration for project implementation;

b) Documents clarifying the dossier of invitation for expression of interest shall be posted on the Vietnam National E-Procurement System at least 2 working days before the deadline for submitting dossier of registration for project implementation;

c) The clarification of the dossier of invitation for expression of interest must not contravene contents of the dossier of invitation for expression of interest posted on the Vietnam National E-Procurement System. If the clarification leads to modification of the dossier of invitation for expression of interest, such modification must comply with Clause 3 of this Article;

d) The decision on modification and documents clarifying the dossier of invitation for expression of interest constitute an integral part of the dossier of invitation for expression of interest.

5. In case of extending the time limit for submission of a dossier of registration for project implementation, the party inviting the expression of interest shall upload the notice of time limit extension and the decision on approval of time limit extension on the Vietnam National E-Procurement System, clearly stating the reason for extension and the new bid closing time.

**Article 41. Preparation, submission, receipt, modification, withdrawal and clarification of dossiers of registration for project implementation**

1. The investor shall prepare and submit a dossier of registration for implementation of the project on the Vietnam National E-Procurement System as required by the dossier of invitation for expression of interest. The time limit for preparing a dossier of registration for project implementation is at least 30 days from the first date of distributing the dossier of invitation for expression of interest to the bid closing date.

2. The dossier of registration for project implementation of an investor must comprise: a written registration for implementing the project, a dossier about the investor's eligibility, capacity and experience; other relevant documents (if any).

3. The modification and withdrawal of the dossier of registration for project implementation shall only be carried out before the deadline for submission of the dossier of registration for project implementation.

4. The investor shall clarify its/her/his dossier of registration for project implementation at requests of the party inviting the expression of interest, or self-clarify or supplement documents proving the eligibility, capacity and experience when the investor detects that the dossier of registration for project implementation lacks of information or documents on its/her/his eligibility, capacity and experience which have not yet been submitted together with the dossier of registration for project implementation. The dossier clarification shall be carried out on the Vietnam National E-Procurement System.

**Article 42. Bid opening and evaluation of dossiers of registration for implementation of land-using investment projects**

1. The bid opening shall be carried out on the Vietnam National E-Procurement System within 2 hours after the deadline for submission of dossiers of registration for implementation of the land-using investment project.

2. The party inviting the expression of interest shall organize the evaluation of dossiers of registration for implementation of the land-using investment project submitted by investors. The dossier of registration for project implementation shall be evaluated based on the method, criteria for evaluation and other requirements stated in the dossier of invitation for expression of interest, submitted dossiers of registration for project implementation and documents clarifying dossiers of registration for project implementation.

**Article 43. Submission, approval and publicization of results of invitation for expression of interest**

1. Based on results of evaluation of the dossier of registration for implementation of the land-using investment project, the party inviting the expression of interest shall submit to the competent person for review and approval of the result of invitation for expression of interest and organization of investor selection as follows:

a) In case there are two or more investors satisfying conditions of invitation of expression of interest, the open bidding for selection of investors shall be organized;

b) In case there is only one investor registering and satisfying the conditions of invitation for expression of interest, or there is more than one investor registering but only one satisfying conditions of invitation for expression of interest, the approval of investor shall comply with the law on investment;

c) In case no one shows the interest, or no investor satisfies conditions of invitation for expression of interest, a written notice of ending of the procedures for invitation for expression of interest shall be issued.

2. For projects specified at Point a Clause 1 of this Article, the competent person shall approve the table for monitoring the progress of investor selection activities in accordance with Article 12 of this Decree, including decision on the

bid solicitor, form and method of bidding for selection of investors, starting time of selection of investors for implementation of the land-using investment project. The form of bidding for investor selection shall be determined according to the following provisions:

a) Domestic open bidding, if the number of foreign investors submitting the dossier of registration for project implementation or satisfying conditions of invitation for expression of interest under Point dd Clause 2 Article 11 of the Bidding Law is 0;

b) International open bidding, if there is at least one foreign investor satisfying conditions of invitation for expression of interest.

3. For the cases specified at Point c Clause 1 of this Article, the competent person shall issue a written notice on ending of the procedures for invitation for expression of interest, and consider to decide on carrying out one of the two procedures as follows:

a) Re-carrying out the procedures for invitation for expression of interest within a period decided by the competent person;

b) Reviewing and modifying the dossier of invitation for expression of interest, while ensuring the compliance with the decision of investment policy approval, or written approval of the project information, and re-carrying out the procedures for invitation for expression of interest.

4. Based on the competent person's decision as specified in Clause 1 of this Article, the party inviting the expression of interest shall upload the result of invitation for expression of interest and the table for monitoring the progress of investor selection activities, or written notice of ending the procedures for invitation for expression of interest on the Vietnam National E-Procurement System.

#### **Article 44. Order and procedures of bidding for selection of investors**

The order and procedures for open bidding for selection of investors shall comply with regulations of Section 2 thru Section 7 of Chapter II or Chapter III of this Decree.

### **Chapter V**

#### **METHODS AND STANDARDS FOR EVALUATION OF BID DOSSIERS**

##### **Article 45. Evaluation methods**

1. Investors' bid dossiers shall be evaluated based on methods and standards specified in Article 62 of the Bidding Law, detailed standards and criteria specified in Articles 46, 47, 48 and 49 of this Decree. A scale of 100 or



1,000 points shall be used to evaluate a bid dossier.

2. For projects specified in Clause 1 Article 4 of this Decree, general scores shall be developed on the basis of combination of scores of capacity, experience, business investment plan, land use efficiency, sectoral and local development investment efficiency, provided the total score ratio must be 100%. In which:

a) Score of capacity and experience accounts for from 20% to 30% of the total scores;

b) Score of business investment plan accounts for from 20% to 30% of the total scores;

c) Score of land use efficiency accounts for from 40% to 60% of the total scores.

3. For projects specified in Clause 2 Article 4 of this Decree (except for projects specified in Clauses 4 and 7 of this Article), general scores shall be developed on the basis of combination of scores of capacity, experience, business investment plan, sectoral and local development investment efficiency, provided the total score ratio must be 100%. In which:

a) Score of capacity and experience accounts for from 30% to 40% of the total scores;

b) Score of business investment plan accounts for from 30% to 50% of the total scores;

c) Score of sectoral and local development investment efficiency accounts for from 10% to 40% of the total scores.

4. For investment projects on construction of energy works specified at Point i Clause 2 Article 4 of this Decree, general scores shall be developed on the basis of combination of scores of capacity, experience, business investment plan, sectoral and local development investment efficiency, provided the total score ratio must be 100%. In which:

a) Score of capacity and experience accounts for from 5% to 10% of the total scores;

b) Score of business investment plan accounts for from 5% to 10% of the total scores;

c) Score of sectoral and local development investment efficiency accounts for from 80% to 90% of the total scores.

5. The investor must obtain the following minimum scores to be evaluated and ranked:

a) The minimum general score must not be lower than 70% of the total score;

b) The minimum score of a standard or detailed standard must not be lower than 60% of the maximum score of such standard. For a project applying the single-stage two-envelope method, the minimum score of a standard or detailed standard specified in Articles 46 and 47 of this Decree must not be lower than 70% of the maximum score of such standard;

c) The minimum score of each criterion must not be lower than 50% of the maximum score of such criterion.

The investor with the minimum score of each standard or criterion specified in this Clause and the highest general score shall be ranked first.

6. For a land-using investment project with specific requirements on conditions for business investment, management and sectoral development as prescribed by the law on investment and specialized laws, the bidding dossier may provide a fixed regulation on one or several criteria for evaluation of the business investment plan of the investor, or land use efficiency, sectoral and local development investment efficiency without developing a point scale for such fixed criteria.

7. For social housing projects and projects on construction of houses for the people's armed forces, the point scale, score and criteria for evaluation shall comply with the housing law.

#### **Article 46. Standards for capacity and experience evaluation**

1. Standards for evaluation of capacity in term of finance, capital arrangement ability include the following criteria:

a) Requirements on equity, determined based on the total investment capital of the project;

Requirements on the minimum equity for real estate projects and projects specified at Points d, dd, h and k Clause 2 Article 4 of this Decree shall be determined in accordance with the law on real estate business.

In case of joint-name, the joint-name investor's equity must be equal to total equity of joint-name members, each joint-name member must satisfy the requirement corresponding to the equity contribution according to the joint-name agreement. The investor leading a joint-name must have an equity holding rate of at least 30%, while each joint-name member must have an equity holding rate of at least 15%.

b) Requirements on capital arrangement ability of the investor; in case of joint-name, the loan capital of the joint-name investor is equal to total loan capital of joint-name members;

c) Requirements on financial criteria (if any).

2. Standards for evaluation of experience in implementing similar projects

based on sectors; investment scale; duration and level of completion of works and projects, including the following criteria:

- a) Experience in investment and construction of similar works and projects;
- b) Experience in operating and conducting business in similar projects and works (applicable to projects requiring operations and conducting business to provide products and services, suitable for the purpose, nature and management requirements of each project);
- c) Experience of key personnel, specialized equipment as required by specialized laws;
- d) History of disputes, complaints and lawsuits related to projects already or being performed;
- dd) History of suspension or termination of investment activities of the investor in the province or centrally run city where the project is implemented (if any).

3. In case of joint-name, the joint-name investor's experience in performing similar projects specified in Clause 2 of this Article shall be equal to total projects implemented by joint-name members.

4. The investor may use its/his/her partners' experience to prove the experience in performing similar projects specified in Clause 2 of this Article. The partner shall be an organization signing a contract with the investor or be the investor's subsidiary that is proposed in the bid dossier by the investor for jointly implementing the land-using investment project. In such case, the partner's experience and ability to meet the work to be jointly implemented by the partner must be evaluated based on the requirements specified in the bidding dossier.

5. In case the project applies domestic bidding form, but the application of advanced techniques, technologies and international management experience needs to be promoted, the bidding dossier may provide regulations to allow the domestic investors to use a partner that is a foreign contractor.

6. For a land-using investment project of which the procedures of invitation for expression of interest have been carried out, and two or more investors satisfy requirements of the dossier of invitation for expression of interest under Point a Clause 1 Article 43 of this Decree, standards for capacity and experience evaluation in the bidding dossier must be updated and supplemented on the basis of the approved dossier of invitation for expression of interest, provisions of Clauses 1, 1, 2, 3, 4 and 5 of this Article, and documents specified in Article 13 of this Decree.

#### **Article 47. Standards for evaluation of investors' business investment plans**

1. Standard for technical evaluation:

a) Requirements on the conformity of the investment plan proposed by the investor (including scope, scale and preliminary total costs for project implementation, duration, progress and construction investment phasing, diagram of spatial organization and architecture, landscape, ensuring synchronization with the overall project) with the master plan approved by competent authorities in accordance with the law on planning, construction, specialized law and relevant laws;

b) Requirements on feasibility of technology application solutions proposed by the investor; technology transfer requirements (if any);

c) Requirements on conformity with investment and business conditions in accordance with the investment law and specialized laws (if any); requirements on plans for operation and business organization;

d) For investment projects on construction of urban areas with mixed-use functions, standards for technical evaluation include the criteria specified at Points a, b, c of this Clause and requirements on the synchronization of technical infrastructure systems, social infrastructure with housing in accordance with the law on construction, urban management, housing for new construction or urban renovation and embellishment; requirements on the conformity of the investment plan proposed by the investor with the housing development program and plan;

dd) For projects on condominium renovation and reconstruction, standards for technical evaluation include criteria specified at Points a, b and c of this Clause, and requirements on duration for project implementation, deadline for completing compensation, support, resettlement and temporary accommodation arrangement, requirements on the conformity of the investment plan proposed by the investor with the housing development program and plan, condominium renovation and reconstruction plan as prescribed by the housing law;

e) For investment projects to build domestic solid waste treatment works, standards for technical evaluation include criteria specified at Points a, b and c of this Clause, and requirements on the conformity of the technology proposed by the investor with regulations on criteria for domestic solid waste treatment technology, requirements on solid waste treatment quality provided by the investor in accordance with the law on environmental protection;

g) For horse or greyhound racecourse investment projects covering horse racing or greyhound racing betting business, standards for technical evaluation include criteria specified at Points a, b and c of this Clause, and requirements on the conformity of the plans on investing in betting system, betting business plans with the law on horse racing, greyhound racing and international football betting business;

h) For investment projects to build water supply works, standards for technical evaluation include criteria specified at Points a, b and c of this Clause,

and requirements on clean water quality, reducing water loss rate and ensuring safe, continuous and stable water supply as prescribed by the law on production, supply and consumption of clean water;

i) For investment projects for construction of aviation service works at airports and airfields, standards for technical evaluation include criteria specified at Points a, b and c of this Clause, and requirements on the main functions of the works, technical infrastructure, landscape to ensure synchronization with the overall works, requirements on continuity of service provision (if any);

k) For projects in the field of socialization encouragement, standards for technical evaluation include criteria specified at Points a, b and c of this Clause, and requirements on the quality of goods and services provided by investors; requirements on the conformity of the investment plan proposed by investors with regulations on types, criteria, scale, and standards of socialized facilities; requirements on solutions for applying advanced, modern, and high-tech medical examination and treatment equipment (for projects in the medical sector);

l) For market investment and construction projects, standards for technical evaluation include criteria specified at Points a, b and c of this Clause, and requirements on the conformity of the investment plan proposed by the investor, with criteria, standards, regulations on markets, technical requirements, solutions to ensure security and order, fire prevention and fighting, food safety, and environmental sanitation;

n) For investment projects on construction of energy works, standards for technical evaluation include criteria specified at Points a, b and c of this Clause, and other standards as instructed by the Ministry of Industry and Trade (if any).

## 2. Social evaluation standard:

a) Requirements on plans, expenses for compensation, support and resettlement in accordance with the land law (if any);

In case where the project contains requirement for the investor's advance payment for compensation, support and resettlement, the bidding dossier must regulate principle of payment of expenses for compensation, support and resettlement in accordance with the land law. The investor must make commitments in the bid dossier to advance capital for the performance of compensation, support and resettlement according to the requirements in the bidding dossier of the competent agency on the basis of the compensation and resettlement support plan approved in accordance with the land law;

b) Requirements on the ability to contribute to social welfare for local workers through the use of local workers, human resource training, average income level and average income growth rate; social assistance activities for social protection beneficiaries or other social welfare activities that the investor contributes to the locality, in conformity with demands of the locality where the

project is implemented;

c) For projects that encourage socialization in the fields of health and education, social evaluation standard includes criteria specified at Points a and b of this Clause, and requirements on meeting the needs and benefits of health care, education and training benefits for people;

d) For market investment and construction projects, social evaluation standard includes the criteria specified at Point a of this Clause and requirements for contributions to social welfare and social security in accordance with local needs (meeting the needs of local people for buying and selling goods; creating jobs for local people; financial contributions, commitments to market development in ethnic minority and mountainous areas when selected); requirements for plans to improve the quality of services at the market (training for workers and businesses at market, and market business households on food safety, commercial civilization, sales skills, application of digital skills in sales to improve the quality of services at the market);

dd) For projects on condominium renovation and reconstruction, social evaluation standard includes the criteria specified at Point b of this Clause and requirements on plans for compensation and resettlement, including contents proposed by the investor in accordance with the housing law, on the basis of every specific project, in compliant with the plan approved in the dossier of invitation for expression of interest.

### 3. Environmental evaluation standard:

The bid solicitor and the expert team shall determine one or more of the following criteria to develop environmental evaluation standards in the bidding dossier in accordance with the project implementation requirements:

a) Requirements on the conformity of goods and services provided with the law on environment; prioritizing waste reduction, promoting environmentally friendly products and services;

b) Requirements on environmental protection, clean production, energy saving;

c) Requirements on land use indicators, land use coefficients in accordance with the land law and construction law; requirements on natural resource use as prescribed by law; ability to preserve biodiversity, improve land, natural resources, natural ecosystems in the project implementation area in accordance with the law on environmental protection;

d) Requirements on applying solutions to minimize negative impacts on the environment, prioritizing the transfer and application of advanced technology, high technology, environmentally friendly technology, the best available techniques (for projects in the group with high risk of negative impacts on the environment as prescribed by the law on environmental protection).

## **Article 48. Evaluation standard for land use efficiency**

1. Evaluation standard for land use efficiency shall be applied for projects specified in Clause 1 Article 4 of this Decree and shall be identified in the bidding dossier on the basis of the minimum rate of payment to the State budget (m) specified in Clause 3 of this Article.

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

3. The minimum rate of payment to the State budget is the average increase rate after the auction of land use rights calculated on a unit area of all land areas, land funds, and reference land parcels as prescribed in Clause 4 of this Article and is determined according to the following formula:

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

In which:

$X_i$ : the winning bids in auctions of land use rights of the  $i^{\text{th}}$  reference land area, land fund, or land parcel.

$Y_i$ : the reserve price in auctions of land use rights of the  $i^{\text{th}}$  reference land area, land fund, or land parcel.

$n$ : The number of the reference land area, land fund, or land parcel.

4. The land area, land fund, or land parcel used for reference must meet the following conditions:

a) All land areas, land funds, and land parcels auctioned to implement the project must have the same land use purpose as the land fund planned to implement the project of which the bidding is organized. In case the land fund where the project is planned to be implemented has multiple land use purposes, all land areas, land funds, and land parcels auctioned to implement the project with the same land use purpose as one of the land use purposes of the land fund planned to implement the project of which the bidding is organized shall be referenced;

b) There is a successful auction result in which the winning organization has fulfilled its financial obligations to the State in accordance with the land law within the 3 consecutive years immediately preceding the date of the decision approving the investment policy or the document approving the project information of the project of which the bidding is being organized;

c) Similar in location to the land area, land fund, or land parcel used for implementing the project of which the bidding is organized in accordance with Clause 5 of this Article.

5. Land area, land fund or land parcel with similar location shall be determined as follows:

a) Being located in the same district-level administrative unit implementing the project of which the bidding is being organized. In case the project belongs to two or more district-level administrative units, the reference land area, land fund, or land parcel shall be determined in the area of all these administrative units;

b) In case the district-level administrative unit where the project is implemented does not have a land area, land fund, or land parcel that meets the conditions specified at Point b Clause 4 of this Article, the land area, land fund, or land parcel belonging to another district-level administrative unit of the province or centrally run city that is adjacent to the district-level administrative unit where the project is implemented shall be used as reference. In case of being adjacent to many district-level administrative units, the determination of the other district-level administrative unit shall be considered and specifically decided by the competent person.

In case the bordering district-level administrative unit does not have a reference land area, land fund, or land parcel, the land area, land fund, or land parcel of the remaining district-level administrative units of the province or centrally run city shall be used;

c) In case the provincial-level administrative unit where the project is implemented does not have a land area, land fund, or land parcel that meets the conditions specified at Point b Clause 4 and Point b of this Clause, the land area, land fund, or land parcel with auction results for the implementation of the project within the period of 04 to 07 consecutive years immediately preceding the date of the decision approving the investment policy, or the document approving the project information of the project of which the bidding is being organized, ensuring the similarity in location as prescribed at Point a or Point b of this Clause, shall be used for reference. The reference period shall be considered and specifically decided by the competent person.

6. In case where the auctioned land area, land fund or land parcel for reference as prescribed in Clauses 4 and 5 of this Article is unavailable, the average increase rate of the payment value to the State budget of all land-using investment projects with bidding result in the provincial-level administrative unit for 5 consecutive years immediately before the date of the decision approving the investment policy, or the document approving the project information of the project of which the bidding is being organized, shall be used.

7. In case of inability to determine the reference land area, land fund, or land plot under Clauses 4, 5, and 6 of this Article to calculate the minimum rate of payment to the state budget (m), the bidding dossiers shall not specify this rate. The investor shall propose the rate of payment to the state budget in the bid



dossier (M) as a basis for evaluating the investor's bid dossier, and make payment to the state budget in accordance with Clause 8 of this Article.

8. The payment of M value to the state budget shall be carried out as follows:

a) The value paid to the state budget shall be determined based on the rate M proposed by the investor in the bid dossier and the land use levy and land rental payable by the bid-winning investor in accordance with the land law, based on the following formula:

**Value paid to the state budget at the time of payment of land use levy and land rental = M x Land use levy and land rental payable by the investor at the time of payment of land use levy and land rental**

b) The value specified at Point a of this Clause shall be paid to the state budget in the form, order, procedures and deadline for payment of land use levy and land rental in accordance with the land law. This value is independent of the obligation to pay land use levy and land rental and other financial obligations of the investor to the state budget as prescribed by law;

c) The form, progress and deadline for payment of the value specified at Point a of this Clause must be specifically stipulated in the contract.

9. Based on the functions, tasks and powers of specialized agencies under competent agencies as prescribed by law and specific conditions of each locality, the Chairpersons of provincial-level People's Committee shall assign specialized land agencies and units to assume the prime responsibility for, and coordinate with the bid solicitor in, compiling statistics on reference land areas, land funds and land parcels specified in Clauses 4 and 5 of this Article as a basis for determining the value of m in the bidding dossiers.

In case of authorization to approve the bidding dossiers, the Chairperson of the district-level People's Committee or the head of a specialized agency, an agency under the provincial-level People's Committee, or the Head of the Economic Zone Management Board shall assign the unit with land management function to preside over the statistics of the reference land area and land fund specified in Clause 4 and Clause 5 of this Article as the basis for determining the value of m in the bidding dossiers.

#### **Article 49. Standards for evaluation of sectoral and local development investment efficiency**

1. Standard for evaluation of sectoral and local development investment efficiency shall be applied to projects specified in Clause 2 Article 4 of this Decree. Based on requirements for development of sectors, fields and localities, except for projects specified in Clauses 2, 3 and 4 of this Article, standards for evaluation of sectoral and local development investment efficiency shall be developed on the basis of one of the following standards:

- a) Minimum value in cash paid to the state budget;
- b) Minimum proportion of revenue paid to the state budget;
- c) Price frame, maximum price as prescribed by the law on price, specialized laws;
- d) Minimum number of public works without business purpose based on the list of projects and works requiring investment of the locality where the project is implemented;
- dd) Minimum value of social assistance activities or other social welfare activities for social protection beneficiaries, determined by the value in cash or the number of people supported based on the list of social protection beneficiaries or social assistance activities of the locality where the project is implemented;
- e) Maximum threshold of type, level of toxicity and total amount of pollutants discharged into the environment in accordance with the law on environmental protection;
- g) Land use area, maximum land use coefficient.

2. For investment projects in the construction of energy works, standard for evaluation of sectoral and local development investment efficiency is the ceiling price of electricity below the ceiling price frame issued by the Ministry of Industry and Trade and the price principle as agreed with the power purchaser as prescribed by the law on electricity in the bidding dossiers.

3. For investment projects on construction of aviation service works at airports, standard for evaluation of sectoral and local development investment efficiency is the minimum level of payment to the state budget specified in the bidding dossier and determined as follows:

a) Within the first 05 years from the date the project is put into operation and provides aviation services, the bidding dossier shall not specify the minimum level of payment to the state budget, the investor shall propose the level of payment to the state budget according to the unit of calculation specified in the cost frame for the franchise of aviation service operation rights corresponding to each service.

The value of payment to the state budget in cash shall be determined based on the level proposed by the investor in the bid dossier specified at this Point;

b) From the 6<sup>th</sup> year onwards, the bidding dossier shall stipulate that the minimum amount paid to the state budget is determined by the average value of the minimum and maximum levels in the cost frame for the franchise of aviation service operation rights corresponding to each service announced in accordance with the law on civil aviation. The investor shall propose an increase in the minimum amount paid to the state budget.

The value paid to the state budget in cash shall be determined based on the minimum amount specified in the bidding dossier plus the increase rate proposed by the investor in the bid dossier specified at this Point;

c) The bid solicitor shall determine the percentage of points corresponding to the criteria specified at Points a and b of this Clause;

d) During the implementation of the contract, in case the State changes the cost frame for the franchise of aviation service operation rights, the minimum amount specified at Point b of this Clause shall be changed accordingly according to the new franchise cost frame; the increase rate proposed by the investor in the bid dossier shall remain unchanged.

4. For investment projects on condominium renovation and reconstruction, standards for evaluation of sectoral and local development investment efficiency is the maximum period of time for the investor to hand over the houses for resettlement in accordance with the housing law as prescribed in the bidding dossier.

5. The values and ratios specified at Points a and b Clause 1 and Point a, Point b Clause 3 of this Article are independent of the investor's obligations to the state budget as prescribed by law.

6. The payment to the state budget of the values specified at Points a, b Clause 1 and Points a, b Clause 3 of this Article shall be as follows:

a) The value paid to the state budget shall be determined based on the value proposed by the investor in the bid dossier;

b) The form, progress and deadline for payment of the value specified at Point a of this Clause must be specifically stipulated in the contract.

7. For projects specified in Clause 1 Article 4 of this Decree, in addition to standards specified in Article 48 of this Decree, the bidding dossier may additionally stipulate standards specified at Point d or dd Clause 1 of this Article. In such case, the bidding dossier must define the corresponding proportion of the standards specified at Point d or Point dd Clause 1 of this Article, but not more than 10% of the points specified at Point c Clause 2 Article 45 of this Decree.

8. The investor shall propose the value in terms of sectoral and local development investment efficiency in the bid dossier, which must be between the minimum level and maximum or ceiling level based on the evaluation standards specified in the bidding dossier.

#### **Article 50. Principles of approval of winning investors**

1. An investor shall be considered and proposed to be the bid winner if meeting the following conditions:

a) Having a valid bid dossier;

- b) Satisfying the requirements on capacity and experience;
  - c) Satisfying the requirements on business investment plan;
  - d) Satisfying the requirements on land use efficiency (in case of applying the evaluation standard for land use efficiency);
  - dd) Satisfying the requirements on sectoral and local development investment efficiency (in case of applying standards for evaluation of sectoral and local development investment efficiency);
  - e) Having the highest general scores on capacity, experience, business investment plan, land use efficiency and sectoral and local development investment efficiency.
2. For investors that are not selected, notices of investor selection results must clearly state the reason for not winning.

## **Chapter VI**

### **ORGANIZATION OF IMPLEMENTATION OF LAND-USING INVESTMENT PROJECTS**

#### **Article 51. Establishment of economic organizations for implementation of land-using investment projects of bid-winning investors**

1. The bid-winning investor shall continue to implement the project or establish an economic organization for implementation of the land-using investment project. The bid-winning foreign investor shall establish an economic organization for being allocated or leased land for implementing the project in accordance with the land law.

The establishment, management organization, operation, dissolution of an economic organization established by the bid-winning investor to implement a land-using investment project shall comply with the law applicable to each type of economic organization, the law on investment, enterprises, land, real estate business and specialized laws.

2. In case of establishing an economic enterprise to implement a land-using investment project in accordance with Clause 1 of this Article, the investor must propose such in the bid dossier.

3. An economic organization established by the bid-winning organization under Clauses 1 and 2 of this Article must have 100% of its charter capital held by the bid-winning investor, while satisfying the conditions for being allocated or leased land in accordance with the land law, and conditions for establishment, management organization, operation and dissolution according to the corresponding law applicable to each type of economic organization, the law on

investment, enterprises, land, real estate business and specialized laws.

4. An economic organization established by the bid-winning investor has the following rights and obligations:

a) Being allocated or leased land by the State to perform the land-using investment project in accordance with the land law;

b) Inheriting the rights and obligations of the bid-winning investor according to the commitments in the bid dossier and terms set out in the project contract;

c) Performing its financial obligations regarding payment of land use levy or land rental in accordance with the land law.

**Article 52. Implementation of land-using investment projects by bid-winning investors and economic organizations established by bid-winning investors**

1. The bid-winning investor or economic organization established by the bid-winning investor shall implement the land-using investment project in accordance with the contract, and the law on enterprises, investment, construction, land, real estate business and other relevant laws.

2. The bid-winning investor or economic organization established by the bid-winning investor shall provide capital to carry out compensation, support and resettlement in accordance with the law on land. If the investor fails to advance the capital within the time limit from the date of receiving the competent state agency' request, he/she/it shall not be refunded the contract performance security in accordance with Point b Clause 4 Article 75 of the Bidding Law. In this case, the refund of expenses for compensation, support and resettlement paid in advance by the bid-winning investor shall comply with the land law.

3. During the course of implementation of the land-using investment project, the bid-winning investor or economic organization established by the bid-winning investor may partially or wholly transfer the project when satisfying the following conditions:

a) Conditions as prescribed by the law on investment; the law on real estate business (applicable to real estate projects); specialized law and other relevant laws;

b) Conditions specified in Clause 2 Article 76 of the Bidding Law.

4. The transfer of shares and contributed capital by members or shareholders in an economic organization established by the bid-winning before the project is exploited or operated must meet the following conditions:

a) Being approved by the competent person;

b) The transferee must have legal status and meet conditions for operation

under the law applicable to each type of economic organization, the law on investment, enterprises, land, real estate business and specialized laws; have capacity and experience corresponding to the share and capital contributions expected to be transferred (in case of partial transfer), or must have capacity and experience equivalent or higher than that of the transferor (in case of wholly transfer); must inherit the rights and obligations of implementation of the investment project that the transferor committed in the bid dossier and project contract;

c) In addition to the conditions specified at Points a and b of this Clause, the investor to whom the transfer of shares and capital contributions from the joint-name members is made must ensure the minimum equity holding rate of each member in accordance with Point a Clause 1 Article 46 of this Decree.

From the date the project is exploited or operated, the transfer of shares and capital contributions shall comply with the law on enterprises and the law applicable to each type of economic organization without satisfying the conditions specified in this Clause.

5. The transfer of a land-using investment project, transfer of shares or capital contributions within an economic organization specified in Clauses 3 and 4 of this Article must be prescribed in the contract.

Based on the contractual terms and the bid solicitor's assessment on the expected transferee, the competent person shall consider and approve the proposal for transfer a land-using investment project, transfer of shares or capital contributions within the economic organization.

In case of approval, the competent person shall assign the bid solicitor to review and modify the contract.

6. In case where the transfer of a project, transfer of shares or capital contributions specified in Clauses 3 and 4 of this Article results in the adjustment of the investment project, after obtaining approval from the competent person specified in Clause 5 of this Article, the transferor or economic organization shall carry out procedures for adjustment of the investment project in accordance with the investment law and relevant laws before modifying the project contract.

7. In case where the transfer of a project, transfer of shares or capital contributions specified in Clauses 3 and 4 of this Article gives rise to financial obligations toward the State as prescribed by law, the bid-winning investor or economic organization established by the bid-winning investor must fulfill financial obligations towards the State.

8. The bid-winning investor or economic organization established by the bid-winning investor may contribute capital, or increase charter capital to implement other business investment projects (if any) without affecting rights and obligations committed in the bid dossier and project contract.

9. In the course of implementing the land-using investment project, if there is a requirement to adjust the investment project subject to investment policy approval as prescribed at Point a Clause 1 Article 76 of the Bidding Law (except for the cases specified in Clauses 3 and 4 of this Article), or adjust the investment project not subject to investment policy approval, which leads to the changes to the project contract, the competent person shall assign the bid solicitor to review and evaluate the investor's technical and financial capacity.

In such case, the investor must ensure to have technical and financial capacity to implement the adjusted project. If the investor meets requirements on technical and financial capacity, the competent person shall assign the bid solicitor to provide instructions to the investor or economic organization established by the bid-winning investor to carry out procedures for adjusting the investment project in accordance with the law on investment, at the same time, assign the bid solicitor to review the contract for modification after the project contract is adjusted completely.

### **Article 53. Implementation of land-using investment projects by investors approved under the law on investment**

1. The approved investor shall implement the land-using investment project according to the decision on investor approval, the law on enterprises, investment, construction, land, real estate business, specialized law and other relevant laws.

2. The approved investor shall directly implement the project or establish an economic organization for implementation of the land-using investment project. The establishment, management organization, operation, dissolution of an economic organization established by the approved investor to implement a land-using investment project shall comply with the law applicable to each type of economic organization, the law on investment, enterprises, land, real estate business and specialized laws.

3. The approved investor shall be allocated or leased land, and fulfill he/she/its financial obligations regarding payment of land use levy or land rental in accordance with the land law.

## **Chapter VII**

### **CONTENTS OF APPRAISAL, APPRAISAL AND APPROVAL RESPONSIBILITIES IN THE PROCESS OF INVESTOR SELECTION**

#### **Article 54. Appraisal of a bidding dossier**

1. A dossier submitted for appraisal and approval must comprise:

- a) The bid solicitor's written request for approval of the bidding dossier;
- b) The draft bidding dossier;
- c) The copy of the decision on investment policy approval (for projects subject to investment policy approval in accordance with the investment law), or a written approval of the land-using investment project information (for projects not subject to investment policy approval);
- d) Other documents as prescribed by specialized law and relevant laws.

2. Appraisal contents include:

- a) Checking legal bases and documents serving as grounds for making the bidding dossier;
- b) Checking the conformity of the bidding dossier with the size, objectives, scope of work and implementation period of the project; and the bidding dossier's compliance with the bidding law and other relevant laws;
- c) Considering other divergent opinions (if any) of organizations and individuals involved in making the bidding dossier;
- d) Other related contents.

3. Appraisal report contents include:

- a) An overview of the project information, and legal bases for making the bidding dossier;
- b) Summary opinions of relevant agencies and units (if any);
- c) Remarks and opinions of the appraising team on contents specified in Clause 2 of this Article; opinions agreeing or disagreeing with contents of the draft bidding dossier;
- d) Recommendations and petitions of the appraising team about the approval of the bidding dossier; proposals on handling measures for cases in which the bidding dossier is non-compliant with the bidding law and other relevant laws; petitions in cases where there are insufficient grounds for approval of the bidding dossier;
- dd) Other opinions (if any).

4. Before signing in the appraisal report, the appraising team shall hold a meeting between the parties to discuss and resolve issues with different opinions of the bidding dossier (if any).

**Article 55. Appraisal of investor selection results**

1. A dossier submitted for appraisal and approval must comprise:

- a) The bid solicitor's written request for approval of contractor selection results;



- b) The expert team's report on results of evaluation of bid dossiers;
- c) Copies of the bidding dossier, record of bid closing and opening, bid dossiers of investors and other relevant documents.

2. Appraisal contents include:

a) Checking documents used as the basis for organizing the bidding for investor selection;

b) Examining the compliance with time-related regulations during the organization of bidding for investor selection;

c) Examining the evaluation of bid dossiers; the observance of the bidding law and other relevant laws in the course of evaluation of bid dossiers;

d) Considering divergent opinions (if any) between the bid solicitor and expert team; among individuals in the expert team;

dd) Other relevant contents.

3. Appraisal report contents include:

a) Summary of the project information, legal bases for organizing the bidding for investor selection;

b) Summary of implementation organization and proposals of the bid solicitor on investor selection results;

c) Summary opinions of relevant agencies and units (if any);

d) Remarks and opinions of the appraising team on contents specified in Clause 2 of this Article; ensuring competitiveness, fairness, transparency and economic efficiency, and responsibility for explanation during the bidding process for investor selection; opinions agreeing or disagreeing with investor selection results;

dd) Recommendations and petitions of the appraising team about the approval of investor selection results; proposals on handling measures in cases of noncompliance with the bidding law and other relevant laws during the bidding for investor selection; petitions in cases where there are insufficient grounds for approval of investor selection results;

e) Other opinions (if any).

**Article 56. Responsibilities of Ministers, Heads of ministerial-level agencies, Chairpersons of provincial-level People's Committees and Heads of the Economic Zone Management Boards**

1. To approve results of invitation for expression of interest, results of investor selection.

2. To approve dossiers of invitation for expression of interest.

3. To approve bidding dossiers or authorize the head of an agency under a ministry, ministerial-level agency; specialized agency or agency under the provincial-level People's Committee, Economic Zone Management Board; or the district-level People's Committee to approve bidding dossiers.

4. To perform other tasks under the responsibility of competent persons prescribed in Article 77 of the Bidding Law.

**Article 57. Responsibilities of heads of agencies under ministries, ministerial-level agencies; specialized agencies and agencies under provincial-level People's Committees, Economic Zone Management Boards; or district-level People's Committees**

1. To perform the tasks under the responsibility of bid solicitors as prescribed in Article 79 of the Bidding Law; to approval of the list of investors satisfying technical requirements.

2. To perform the tasks under the responsibility of the party inviting the expression of interest as prescribed in Clause 4 Article 37 of this Decree.

3. To perform other tasks related to investor selection as authorized by the competent authorities.

**Article 58. Responsibilities of appraising teams**

1. Provincial-level Departments of Planning and Investment shall appraise:

a) Bidding dossiers for projects for which chairpersons of provincial-level People's Committees act as competent persons, except for the cases prescribed in Clause 3 of this Article;

b) Investor selection results, for projects for which chairpersons of provincial-level People's Committees act as competent persons.

2. Agencies and units assigned the appraisal tasks by the ministers, heads of ministerial-level agencies or heads of Economic Zone Management Boards shall organize the appraisal of the following contents:

a) Bidding dossiers, for projects for which ministers, heads of ministerial-level agencies or heads of Economic Zone Management Boards act as competent persons, except for the cases prescribed in Clause 3 of this Article;

b) Investor selection results, for projects for which ministers or heads of ministerial-level agencies or heads of Economic Zone Management Boards act as competent persons.

3. In case the bid solicitor is authorized to approve bidding dossiers in accordance with Point d Clause 2 Article 79 of the Bidding Law, and Clause 3 Article 56 of this Decree, the bid solicitor shall establish an appraising team or assign tasks to an affiliated unit to organize the appraisal of the contents of bidding dossiers.

4. When organizations or individuals assigned to perform the appraisal task are incapable, a capable and experienced consultancy organization shall be selected to conduct the appraisal.

## **Chapter VIII**

### **HANDLING OF CASES AND INSPECTION, SUPERVISION OF BIDDING ACTIVITIES IN INVESTOR SELECTION**

#### **Article 59. Handling of cases in the investor selection process**

1. In case where no investor submits a dossier of registration for project implementation or a bid dossier by the bid closing time, the party inviting the expression of interest or the bid solicitor shall report such to a competent person for him/her to consider and:

a) Permit the extension of the deadline for bid closing for no more than 30 days; or

b) Decide to cancel the notice of invitation for expression of interest, notice of invitation for bids, and at the same time request the party inviting the expression of interest or bid solicitor to modify the dossier of invitation for expression of interest or bidding dossier and organize the investor selection again.

2. In case fewer than 3 investors submit dossiers of registration for project implementation or bid dossiers by the bid closing time, the party inviting the expression of interest or the bid solicitor shall report such to a competent person for him/her to consider and settle within 24 hours after the time of bid closing in either of the following ways:

a) Permitting the extension of the deadline for bid closing, at the same time, reviewing and modifying dossiers of invitation for expression of interest or bidding dossiers (if necessary) in order to allow more investors to register to implement the project or participate in the bidding. In this case, the new time of bid closing and corresponding deadlines shall be clearly specified for investors to modify or supplement their submitted dossiers of registration for project implementation or bid dossiers. In case of modification of dossiers of invitation for expression of interest or bidding dossiers, the investors that have submitted dossiers of registration for project implementation or bid dossiers may modify, replace or withdraw their submitted dossiers;

b) Permitting the immediate opening of bids for evaluation.

3. If detecting that a bidding dossier contains contents leading to unclear or different understandings in the course of evaluation of bid dossiers, or causing falsification of investor selection results, the bid solicitor shall report such to a

competent person for consideration and handling according to the following steps:

a) Modifying or clarifying the bidding dossier, ensuring not contravention of the decision on approval of investment policy (for projects subject to investment policy approval as prescribed by the law on investment), documents approving the project information (for projects not subject to investment policy approval), the bidding law and specialized laws;

b) Notifying all investors that have submitted bid dossiers of the modification of the bidding dossier and requesting them to additionally submit their bid dossiers with respect to modified contents or other contents of the bid dossiers if such contents are impacted by the modified contents of the bidding dossier (if necessary);

c) Organizing reevaluation of bid dossiers.

4. In case after selecting a shortlist for a land-using investment project applying restricted bidding, if fewer than 3 investors are qualified, the bid solicitor shall report such to the competent person for consideration and approval of the shortlist with fewer than 3 investors.

5. In case after evaluating the bidding dossier, two or more investors have the highest and equal total score, the investor with the higher score in terms of land use efficiency for the project specified in Clause 1 Article 4 of this Decree or the investor with the higher score in terms of capacity and experience for the project specified at Points a, b, c, d, dd, e, g, h and k Clause 2 Article 4 of this Decree or the investor with the higher score in terms of sectoral and local development investment efficiency, for the project specified at Point i Clause 2 Article 4 of this Decree shall be considered and proposed to win the bid.

6. At the time of contract signing, if the bid-winning investor fails to satisfy the requirements on technical and financial capacity to implement the land-using investment project as required by the bidding dossier, the investor ranked next shall be invited to contract negotiation and finalization. In this case, the invited investor shall restore the validity of the bid dossier and bid security if the bid dossier has become invalid and the bid security has been refunded or released.

7. In case a joint-name investor wins the bid but has not yet signed a project contract or the project contract has been signed but not yet taken effect, when there is any change to the equity contribution ratio in the joint-name, the bid solicitor shall evaluate and update information about the investor's capacity in accordance with Article 46 of this Decree, ensuring that the investor is qualified and ensuring the minimum equity holding rate of each member in accordance with Article 46 of this Decree. After updating the capacity information, the bid solicitor shall report such to the competent person for consideration and decision for further procedures as prescribed in this Decree.

8. In case there is an incident leading to the Vietnam National E-Procurement System not being able to operate and the troubleshooting is expected to take place in a long time, the Ministry of Planning and Investment shall notify on the System the method of organizing investor selection during such period, including organizing the offline investor selection.

9. In case the party inviting the expression of interest, the bid solicitor upload information other than that approved before the time of bid closing on the Vietnam National E-Procurement System, the party inviting the expression of interest or the bid solicitor shall report such to the competent person for cancellation of the uploaded information for re-posting.

10. In case a branch, enterprise or representative office is separated from a legal entity as prescribed by the civil law, the receiving investor or the investor formed from the branch, enterprise or representative office shall inherit the capacity and experience in bidding that such branch, enterprise or representative office has performed.

11. If the partner proposed by the investor in the bid dossier cannot participate in the contract performance process due to force majeure reason, the investor may change to another partner with capacity and experience equivalent to, or higher than, the partner proposed by the investor in the bid dossier, but must ensure that it does not affect other proposals in the bid dossier. In such case, the bid solicitor shall consider and evaluate the capacity and experience of the partner based on the requirements of the bidding dossier, and report to the competent person for consideration and decision.

12. For a project that does not have similar projects in terms of total investment capital, the party inviting the expression of interest, the bid solicitor shall, based on data on the Vietnam National E-Procurement System on projects of which the investors have been selected, report to the competent person for considering and stipulating in the dossier of invitation for expression of interest, bidding dossier requirements on experience in implementing similar projects equal to or not lower than 90% of the level required in the dossiers of invitation for expression of interest, bidding dossiers of projects in the same industry or field with the closest total investment capital to the project under consideration. In such case, the competent person may stipulate the contract performance security value as 3% of the total investment capital of the project.

13. For projects requiring the application of advanced technology, high technology, environmentally friendly technology, and the best available techniques to minimize environmental pollution, investors are allowed to use projects and works in which they contribute capital and directly implement the technology that has been successfully put into trial operation to demonstrate experience in similar projects and works. Similar projects must have documents proving that the technology and techniques are recognized in accordance with

specialized law and other relevant laws. In such case, the competent person shall stipulate the contract performance security value as 3% of the total investment capital of the project.

14. In case the decision approving the investment policy of a project with a phased progress, the bid solicitor shall report to the competent person to stipulate in the bidding dossier the content of the contract performance security to be returned for each phase based on the agreement in the project contract, except in cases where it is not returned.

15. In addition to the cases specified from Clause 1 thru Clause 14 of this Article, the party inviting the expression of interest or bid solicitor shall report any circumstances arising in the investor selection process to a competent person for consideration and decision in adherence to the bidding's objectives of competition, fairness, transparency, economic efficiency, and explanation responsibility.

### **Article 60. Inspection of bidding for investor selection**

#### 1. Competence to inspect the bidding for investor selection:

a) The Ministry of Planning and Investment shall assume the prime responsibility for periodically inspecting bidding activities and investor selection nationwide;

b) Ministers, heads of ministerial-level agencies, heads of Economic Zone Management Boards shall assume the prime responsibility for organizing the inspection of bidding for investor selection for projects under their competence;

c) Chairpersons of provincial-level People's Committees shall assume the prime responsibility for organizing the inspection of bidding for investor selection for projects under their competence. The provincial-level Departments of Planning and Investment shall assist Chairpersons of provincial-level People's Committees to organize the inspection of bidding for investor selection in localities.

#### 2. Contents of the inspection of bidding for investor selection:

a) The issuance of documents guiding and directing the selection of investors;

b) Announcement of land-using investment projects (for projects subject to investment policy approval); formulation, approval and disclosure of information on land-using investment projects (for projects not subject to investment policy approval);

c) Preparation and approval of dossiers of invitation for expression of interest; evaluation of dossiers of registration for project implementation, and approval of results of invitation for expression of interest;

d) Formulation, appraisal and approval of bidding dossiers; evaluation of bid dossiers, appraisal and approval of investor selection results;

dd) Contents of the signed contracts and compliance with legal bases during the contract signing and performance;

e) Other necessary contents.

3. Responsibilities of inspection teams and their members, inspected organizations, individuals and units, principles of organization, forms, methods, time, funding, process and procedures for inspection shall comply with corresponding regulations of Articles 115, 116, 117, 118, 119, 120, 121 and 122 of the Government's Decree No. 24/2024/ND-CP dated February 27, 2024, detailing a number of articles of and measures to implement the Law on Bidding regarding contractor selection.

### **Article 61. Supervision of bidding for investor selection**

1. The supervision of investor selection as prescribed at Point a Clause 3 Article 86 of the Bidding Law shall be integrated with the supervision of investment projects or general investment supervision of the state agency managing the investment or registration agency in charge of investment in accordance with the law on investment.

2. Competence to supervise the bidding for investor selection:

a) Ministers, heads of ministerial-level agencies, heads of Economic Zone Management Boards shall assume the prime responsibility for organizing the supervision of bidding for investor selection for projects under their competence or management;

b) Chairpersons of provincial-level People's Committees shall assume the prime responsibility for organizing the supervision of bidding for investor selection for projects under their competence in localities. The provincial-level Departments of Planning and Investment shall assist Chairpersons of provincial-level People's Committees to organize the supervision of bidding for investor selection in their localities.

3. Contents of supervision of investor selection:

a) Announcement of land-using investment projects (for projects subject to approval of investment policy); formulation, approval and disclosure of information on land-using investment projects (for projects not subject to investment policy approval);

b) Formulation, appraisal and approval of bidding dossiers;

c) Evaluation of bid dossiers;

d) Appraisal of investor selection results;

dd) Contract negotiation, finalization and signing results.

4. After the contract term, the agency competent to perform the state management of investment shall supervise the investment project, or carry out overall investment supervision in accordance with the law on investment, ensuring that the investors fully follow commitments in the implementation of the investment project.

## **Chapter IX**

### **ONLINE SELECTION OF INVESTORS**

#### **Article 62. Roadmap for application of online investor selection method**

1. From September 1, 2025: Carry out the procedures for invitation for expression of interest in the country in accordance with Article 63 of this Decree on the Vietnam National E-Procurement System (hereinafter referred to as the System).

2. From January 1, 2026: Carry out online selection of investors for land-using investment projects for which domestic open bidding or restricted bidding is organized by the single-stage single-envelope method or single-stage two-envelope method in accordance with Article 64 of this Decree on the System.

3. For land-using investment projects subject to international bidding, online selection of investors shall not be applied, and the investor selection information shall be disclosed on the System in accordance with Clause 2 Article 7 of the Bidding Law.

#### **Article 63. Procedures for online invitation for expression of interest**

1. Electronic notices of invitation for expression of interest, distribution of electronic dossiers of invitation for expression of interest:

a) Electronic notices of invitation for expression of interest (hereinafter referred to as E-NIEIs) shall be posted on the System in accordance with Clause 2 Article 8 of the Bidding Law;

b) Electronic dossiers of invitation for expression of interest (hereinafter referred to as E-DIEIs) shall be distributed at the same time as E-NIEIs on the System. The party inviting the expression of interest shall upload free of charge and complete files of E-DIEIs on the System;

c) The modification, cancellation of E-NIEIs shall only be carried out before the deadline for online submission of electronic dossiers of registration for project implementation, except for the case there is no investor submitting electronic dossiers of registration for project implementation.

2. Modification and clarification of E-DIEIs; extension of the time limits



for submission of electronic dossiers of registration for project implementation:

a) In case of modifying the E-DIEIs after distribution, the party inviting the expression of interest must post on the System the decision on modification together with the modifications of E-DIEIs, and the modified E-DIEIs.

b) Clarification of E-DIEIs:

If needing clarification of an E-DIEI, at least 5 working days before the deadline for submission of electronic dossiers of registration for project implementation, the investor shall send a request for clarification to the party inviting the expression of interest via the System for consideration and settlement.

Documents clarifying an E-DIEI shall be posted on the System at least 2 working days before the deadline for submission of electronic dossiers of registration for project implementation. Clarification of an E-DIEI must not be contravention of the contents of an E-DIEI already posted on the System.

If the clarification of an E-DIEI leads to modification of the E-DIEI, such modification must comply with Point a of this Clause.

c) In case of extending the time limit for submission of an electronic dossier of registration for project implementation on the System, the party inviting the expression of interest shall upload the notice of extension and the decision on approval of extension on the System, clearly stating the reason for extension and the new bid closing time.

3. Submission, modification, replacement and withdrawal of an electronic dossier of registration for project implementation:

a) Submission of an electronic dossier of registration for project implementation:

The investor shall create and attach an electronic dossier of registration for project implementation on the System. In case of joint-name, the head of the joint-name shall submit an electronic dossier of registration for project implementation, and concurrently attach a joint-name agreement on the System.

The System shall notify the investor the status of submission of the electronic dossier of registration for project implementation (successful or unsuccessful) via the email address registered by the investor. Information recorded on the System shall be used as a basis for settlement of petitions or disputes (if any), including information about the sender, the receiver, sending time, sending status, the number of files attached on the System when the investor submits its/his/her electronic dossier of registration for project implementation.

b) Clarification of an electronic dossier of registration for project implementation:

The investor shall clarify its/her/his electronic dossier of registration for

project implementation at requests of the party inviting the expression of interest, or self-clarify or supplement documents proving the eligibility, capacity and experience when the investor detects that the electronic dossier of registration for project implementation lacks of information or documents on its/her/his eligibility, capacity and experience which have not yet been submitted together with the dossier. The clarification of an electronic dossier of registration for project implementation shall be carried out on the System.

c) Modification, replacement and withdrawal of an electronic dossier of registration for project implementation:

After submission, the investor may modify, replace or withdraw its/her/his electronic dossiers of registration for project implementation. The investor is not allowed to withdraw dossiers that have been submitted after the deadline for submission of electronic dossiers of registration for project implementation.

#### 4. Bid opening:

Electronic dossiers of registration for project implementation shall be opened for evaluation. The records of opening electronic dossiers of registration for project implementation shall be publicized on the System within 2 hours after the time of bid closing.

5. Evaluation of electronic dossiers of registration for project implementation:

After the deadline for submission of electronic dossiers of registration for project implementation, the party inviting the expression of interest shall access in the System and evaluate electronic dossiers of registration for project implementation submitted by investors.

6. After obtaining results of evaluation of electronic dossiers of registration for project implementation, the approved results of invitation for expression of interest, including the list of investors satisfying requirements of E-DIEIs shall be posted on the System.

7. For online selection of investors, in case of having any petitions regarding the investor selection, the investors shall file petitions on the Vietnam National E-Procurement System according to the roadmap specified in Article 62 of this Decree. During the period on which online selection of investors has not yet been applied, investors shall file petitions to the administrative departments of the persons competent to resolve petitions.

### **Article 64. Procedures for online investor selection**

1. Online bid invitation and distribution of online bidding dossiers:

a) Electronic notices of invitation for bids (hereinafter referred to as E-NIBs) shall be posted on the System in accordance with Clause 2 Article 8 of the Bidding Law.

b) Electronic bidding dossiers (hereinafter referred to as E-BiDs) shall be distributed on the System at the same time as E-NIBs. The bid solicitor shall upload free of charge and complete files of E-BiDs on the System.

c) The modification or cancellation of E-NIEs shall be carried out only before the time of bid closing, unless no investor submits E-BDs.

## 2. Modification and clarification of E-BiDs:

a) In case of modifying the E-BiDs after distribution, the bid solicitor must post on the System the decision on modification together with the modifications of E-BiDs, and the modified E-BiDs.

### b) Clarification of E-BiDs:

If needing clarification of E-BiDs, the investor shall send a request for clarification to the bid solicitor via the System within the time limit specified in the E-BiDs for consideration and settlement.

Clarifying documents shall be posted on the System at least 2 working days before the time of bid closing. Clarification of E-BiDs must not be contravention of the contents of E-BiDs already posted on the System.

If the receipt of the request for clarification of E-BiDs leads to modification of these E-BiDs, such modification must comply with Point a of this Clause.

c) In case of extending the time limit for submission of E-BDs on the System, the bid solicitor shall upload the notice of extension on the System, clearly stating the reason for extension and the new bid closing time.

## 3. Submission, modification, replacement and withdrawal of E-BDs:

### a) Submission of E-BDs:

The investor shall create and attach E-BDs on the System, implement electronic bid security (if any) on the System.

In case of joint-name, the head of the joint-name shall submit an E-BD, and concurrently attach a joint-name agreement on the System.

The System shall notify the investor the status of submission of the E-BD (successful or unsuccessful) via the email address registered by the investor. Information recorded on the System shall be used as a basis for settlement of petitions or disputes (if any), including information about the sender, the receiver, sending time, sending status, the number of files attached on the System when the investor submits its/his/her E-BD.

### b) Clarification of E-BDs:

The investor shall clarify its/her/his E-BD at requests of the bid solicitor, or self-clarify or supplement documents proving the legal status, capacity and experience when the investor detects that the E-BD lacks of information or

documents on its/her/his eligibility, capacity and experience which have not yet been submitted together with the dossier. The clarification of an E-BD shall be carried out on the System.

c) Modification, replacement and withdrawal of an E-BD:

After submission, the investor may modify, replace or withdraw its/her/his E-BD. The investor is not allowed to withdraw dossiers that have been submitted after the time of bid closing.

4. Bid opening:

The bid solicitor shall open and decode E-BDs for evaluation. The records of opening E-BDs shall be publicized on the System within 2 hours after the time of bid closing.

5. Evaluation of E-BDs:

After the deadline for submission of E-BDs, the bid solicitor shall access in the System and evaluate E-BDs submitted by investors.

6. After evaluating E-BDs, the investor selection results shall be approved and publicized on the System within the time limit prescribed in Clause 4 Article 8 of the Bidding Law.

**Article 65. National database on investors**

1. National database on investors on the System includes:

- a) Information about investors' legal status;
- b) Information on capacity and experience of investors;
- c) Information about handling of investors' violations against bidding laws;
- d) Other information about investors.

2. The investors shall register on the System in accordance with Point d Clause 1 Article 5 of the Bidding Law before the investor selection results are approved, and regularly update and take responsibility for the accuracy of the information specified at Points a and b Clause 1 of this Article. The order for registration and updating of the investors' information on the System shall comply with corresponding regulations in the Government's Decree No. 24/2024/ND-CP dated February 27, 2024, detailing a number of articles and measures to implement the Bidding Law regarding investor selection.

3. Information specified at Point c Clause 1 of this Article shall be uploaded by the competent agencies on the System in accordance with Point a Clause 2 and Clause 4 Article 8 of the Bidding Law.

**Chapter X**

## IMPLEMENTATION PROVISIONS

**Article 66. Amending, supplementing and annulling a number of articles of the Government’s Decree No. 23/2024/ND-CP dated February 27, 2024, detailing a number of articles and measures for implementation of the Bidding Law regarding selection of investors, to implement projects subject to organization of bidding in accordance with specialized laws**

1. To amend Clauses 4 and 5 Article 1 as follows:

a) To amend Clause 4 as follows:

“4. Projects subject to bidding organizations as prescribed in Clause 1 of this Article, which do not use land and are not subject to land recovery as prescribed by the land law, including

a) International football betting business projects in accordance with the law on horse racing, greyhound racing and international football betting business;

b) Projects on dredging combined with product recovery for maritime infrastructure, inland waterway infrastructure in seaport waters, inland waterway waters as prescribed by the law on maritime traffic and inland waterways;

c) Projects subject to bidding organization when there are 02 or more interested investors registering for implementation, including: projects in the fields of education, health, culture, sports, and environment as prescribed by the law on socialization encouragement.”;

a) To amend Clause 5 as follows:

“5. Projects not using land that are subject to bidding organization as prescribed by specialized laws must satisfy the conditions of not being subject to public asset auction as prescribed by the law on management and use of public property.”.

2. To amend Clause 5 Article 3 as follows:

“5. Total investment capital includes preliminary total project implementation costs and other costs in accordance with specialized laws (if any)”.

3. To amend Point b Clauses 1 and 2 Article 5 as follows:

a) To amend Point b Clause 1 as follows:

“b) Investors committing to transferring technologies, carrying out high-tech activities for high technologies and high-tech products on the list of high technologies prioritized for investment and the list of hi-tech products encouraged for development as promulgated by the Prime Minister in accordance with the law on high technologies or on the list of technologies encouraged for transfer in

accordance with the law on technology transfer are entitled to a 2% incentive upon the evaluation of bid dossiers.”;

a) To amend Clause 2 as follows:

“2. When participating in the bidding, investors must submit documents proving their solutions applying advanced technology, high technology, environmentally friendly technology, the best available techniques, and rights to lawfully use technologies in accordance with the law on high technologies, technology transfer, environmental protection and other relevant laws to be entitled to incentives specified in Clause 1 of this Article.”.

4. To amend Point d, Point dd Clause 3, Clause 4 and Clause 5 Article 6 as follows:

a) To amend Point d Clause 3 as follows:

“d) The expense relating to posting information on investor selection on the Vietnam National E-Procurement System;”;

b) To amend Point dd Clause 3 as follows:

“dd) Other expenses for preparing the dossier of invitation for expression of interest; preparing and evaluating the bidding dossier; evaluating the dossier of registration for project implementation, bid dossier, appraising investor selection results; opening bids, and resolving complaints.”;

c) To amend Clause 4 as follows:

“4. Expenses for investor selection on the Vietnam National E-Procurement System shall be applied according to the corresponding provisions of Point a Clause 11 Article 12 of the Government's Decree No. 24/2024/ND-CP dated February 27, 2024, detailing a number of articles of and measures to implement the Law on Bidding regarding contractor selection. Expenses for submitting bid dossiers, expenses for bid-winning investors, and expenses for connecting the bid security function on the Vietnam National E-Procurement System shall comply with the roadmap for application of online investor selection specified in Article 60 of this Decree.”;

d) To amend Clause 5 as follows:

“5. Funding for payment of expenses specified in Clauses 1, 2 and 3 of this Article shall be covered from the regular expenditures of competent agencies, parties inviting the expression of interest, bid solicitors and appraising teams.”.

5. To amend the first paragraph of Clause 3 Article 8 as follows:

“3. For projects for which the determination of the number of investors expressing their interest is required under Clause 2 Article 46 of the Bidding Law and Point c Clause 4 Article 1 of this Decree.”.

6. To amend Article 9 as follows:

**“Article 9. Announcement of business investment projects for projects subject to approval of investment policy**

The competent agency shall create and assign professional accounts to its affiliated agencies, units and specialized agencies to post decisions on approval of investment policy on the Vietnam National E-Procurement System in accordance with Point a Clause 2 Article 47 of the Bidding Law within 5 working days from the date of approval of the project investment policy.”.

7. To amend Article 10 as follows:

**“Article 10. Announcement of business investment projects for projects not subject to approval of investment policy**

1. For projects organized and implemented by competent agencies:

a) The competent persons shall assign agencies and units affiliated to Ministries, ministerial-level agencies; specialized agencies and agencies affiliated to the provincial-level People’s Committees, Economic Zone Management Boards and other agencies as prescribed by specialized laws; the district-level People's Committees to organize to compile the dossiers of project proposal, containing information specified at Points b, c, d, dd and e Clause 2 Article 47 of the Bidding Law, while ensuring to satisfy requirements of Article 1 of this Decree;

b) Agencies and units assigned the tasks specified at Point a of this Clause shall submit to the competent persons for approval of the project information. The written approval of the project information must contain information specified at Points b, c, d, dd and e Clause 2 Article 47 of the Bidding Law;

c) Competent agencies shall create and assign professional accounts to their affiliated agencies, units and specialized agencies to post information about the projects on the Vietnam National E-Procurement System within 5 working days from the date of approval of the project information.

2. Investors may propose to implement business investment projects other than those approved and announced under Clause 1 of this Article, unless otherwise not allowed by the specialized law. Contents of dossiers of project proposals, order, procedures for preparing dossiers of project proposals, and approving project information are prescribed as follows:

a) The investor shall prepare a dossier of project proposal, containing information specified at Points b, c, d and e Clause 2 Article 47 of the Bidding Law, and corresponding information specified at Points a, b and c Clause 1 Article 33 of the Investment Law. The investor shall bear all expenses for preparing the dossier of project proposal;

b) For a project under the competence of the provincial-level People’s Committee, the investor shall submit 4 sets of dossiers of project proposals

directly or via postal office to the provincial-level Department of Planning and Investment. Within 3 working days from the date of receiving the project proposal, the provincial-level People's Committee shall report to the provincial-level People's Committee to assign a specialized to synthesize and review the investor's dossier of project proposal.

For an investment project under the competence of the Ministry, ministerial-level agency, or the Economic Zone Management Board or another agency as prescribed by the specialized law, the investor shall submit 4 sets of dossiers of project proposals directly or via postal office to the agency or unit assigned the tasks of receiving and reviewing the investor's dossiers of project proposals by the Minister, Head of ministerial-level agency, Head of the Economic Zone Management Board or head of another agency.

In case where the Ministry, ministerial-level agency, or the Economic Zone Management Board or another agency has issued a decision on assigning an agency or unit to receive dossiers of project proposals, the investor shall submit dossiers to such agency or unit.

c) Within 25 days from the date of assigning the tasks, the agency or unit specified at Point b of this Clause shall coordinate with concerned agencies to consider the conformity of the dossiers of project proposals compared to the provisions of Clauses 4 and 5 Article 1 of this Decree, and plans, master plans as prescribed by the planning law and specialized laws, and submit them the competent person to approve the project information. The written approval of the project information must contain information specified at Points b, c, d, dd and e Clause 2 Article 47 of the Bidding Law;

d) The competent agency shall post the land-using investment project information in accordance with Point c Clause 1 of this Article.”.

8. To amend Clause 5 Article 11 as follows:

“5. The competent agency shall create and assign professional accounts to its affiliated agencies, units and specialized agencies to post the approved table for monitoring the progress of investor selection activities on the Vietnam National E-Procurement System within 5 working days from the date on which the written approval is issued.”.

9. To amend Clause 1 Article 13 as follows:

“1. The bid solicitor shall assign the expert team to prepare a bidding dossier according to the contents specified in Article 48 of the Bidding Law for the investors to make bid dossiers.

The making of bidding dossiers may be carried out before documents specified in Article 12 of this Decree are approved by competent authorities, provided such dossier approval complies with grounds specified in Article 12 of this Decree.”.



10. To amend and supplement Clauses 1 and 2 Article 12 as follows:

a) To replace the title of Article 12 - “Grounds for compilation of bidding dossiers” with “Grounds for approval of bidding dossiers”;

b) To amend Clause 1 as follows:

“1. Master plans and plans include:

a) Relevant master plans and plans in accordance with the planning law, specialized law and relevant laws, in case of changes to relevant master plans and plans from the time of approval of investment policy, or approval of the project information;

b) Construction master plans appropriate to the scale and nature of the project in accordance with the construction law, specialized law, which have been approved by competent authorities, for projects containing construction components. In case a business investment project has many functions, the investment project shall be determined based on the main works of the project or the main works with the highest level in case the project has many main works in accordance with the construction law.”;

c) To amend Clause 2 as follows:

“2. Decisions on recovery of public property approved by competent authorities in accordance with the law on management and use of public property (for projects expected to use public property subject to recovery);”.

11. To amend Clauses 2 and 4 Article 16 as follows:

a) To amend Clause 2 as follows:

“2. Distribution of bidding dossiers:

a) For domestic open bidding, the bidding dossiers shall be distributed free of charge on the Vietnam National E-Procurement System. The bid solicitor shall fully upload files of bidding dossiers on the National Bidding Network System;

b) For domestic restricted bidding, bidding dossiers shall be distributed free of charge to shortlisted investors;

c) In case of international bidding, the investor shall pay an amount of money equal to the selling price of one set of electronic bidding dossier when submitting the bid dossier.”;

a) To amend Clause 4 as follows:

“4. Clarification of bidding dossiers:

a) For domestic bidding, the investor shall send a written request for clarification at least 7 working days before the bid closing date to the bid solicitor on the Vietnam National E-Procurement System;

b) For international bidding, the investor shall directly send a written

request for clarification to the bid solicitor at least 15 working days before the bid closing date;

c) The bid solicitor shall post the clarifications on the Vietnam National E-Procurement System, or when necessary, hold a pre-bid meeting to discuss contents of the bidding dossier that need to be clarified.

In case of holding a pre-bid meeting, discussions shall be recorded in writing by the bid solicitor. Such a record may be used as a document clarifying bidding dossier and uploaded on the Vietnam National E-Procurement System.

d) Bidding dossier-clarifying contents, which are not in contravention of the contents of the bidding dossier uploaded on the System, must be uploaded on the System at least 2 working days before the bid closing date. If the clarification leads to modification of the bidding dossier, such modification must comply with Clause 3 of this Article.”.

12. To amend Point c Clause 2 Article 18 as follows:

“c) Value proposed by the investor in terms of sectoral and local development investment efficiency in the bid application form, including any of the following information: value in money paid to the state budget; proportion of revenue that investors propose to pay to the state budget; prices of goods and services; number of public works without business purposes; the value of social assistance activities or other social welfare activities for social protection beneficiaries, determined by the value in money or the number of people supported on the basis of the list of social protection beneficiaries, or social assistance activities of the locality where the project is implemented; type and level of toxicity and total amount of pollutants discharged into the environment;”.

13. To amend Point b, Point c Clause 2 and add Clause 2a, Clause 2b to Article 27 as follows:

a) To amend Point b Clause 2 as follows:

“b) Name of the bid-winning investor; name of the economic organization expected to be established by the bid-winning investor (if any);”;

b) To amend Point c Clause 2 as follows:

“c) One of the information prescribed at Point c Clause 2 Article 18 of this Decree;”;

c) To add Clause 2a as follows:

“2a. In case where the bid-winning investor establishes an economic organization after the investor selection result is approved, the investor shall provide information on name of such organization to the competent agency for amendment and supplementation of the economic organization's name in the decision approving investor selection results.”;

d) To add Clause 2b as follows:

“2b. In case of change name of the bid-winning investor or name of the economic organization established by the bid-winning investor as a result of transfer of the investment project, transfer of shares or contributed capital in the economic organization established by the bid-winning investor under Clause 2 Article 76 of the Bidding Law, Clause 3 and Clause 4 Article 50 of this Decree, the competent person shall approve the transfer and adjust the decision approving the investor selection result.”.

14. To amend Point e and Point h Clause 3 Article 30 as follows:

a) To amend Point e as follows:

“e) Project implementation location;”;

b) To amend Point h as follows:

“h) One of the information prescribed at Point c Clause 2 Article 18 of this Decree;”.

15. To amend Point a Clause 3 Article 31 as follows:

“a) General information about the project, including the project's name; objectives; investment scale; total investment capital; project implementation location; approved planning norms; time limit and project implementation schedule;”.

16. To amend Point a Clause 4 Article 33 as follows:

“a) The bid solicitor shall invite investors that have submitted first-stage bid dossiers to receive second-stage bidding dossiers. The modification and clarification of second-stage bidding dossiers must comply with Clauses 3 and 4 Article 16 of this Decree;”.

17. To amend Clause 1 Article 36 as follows:

“1. The procedures for invitation for expression of interest applied to projects for which the number of investors expressing interest must be determined under specialized laws are prescribed at Point c Clause 4 Article 1 of this Decree.”.

18. To amend Clause 1 Article 38 as follows:

“1. The party inviting the expression of interest shall assign the expert team to make dossiers of invitation for expression of interest according to information specified in Clause 2 of this Article so as the investors can make dossiers of registration for implementation of the project. Dossiers of invitation for expression of interest shall be made on the basis of provisions of Clauses 1, 2, 3 and 5 Article 12 of this Decree.

The making of dossiers of invitation for expression of interest may be

carried out before documents specified in Clauses 1, 2, 3 and 5 Article 12 of this Decree are approved by competent authorities, provided such dossier approval complies with these provisions.”.

19. To amend Clause 2, Article 44 as follows:

“2. A scale of 100 or 1,000 points shall be used to evaluate a bid dossier, in which general scores shall be developed on the basis of combination of scores of capacity, experience, business investment plan, sectoral and local development investment efficiency, provided the total score ratio must be 100%. In which:

a) Score of capacity and experience accounts for from 30% to 40% of the total scores;

b) Score of business investment plan accounts for from 30% to 50% of the total scores;

c) Score of sectoral and local development investment efficiency accounts for from 10% to 40% of the total scores.”.

20. To amend and supplement Article 45 as follows:

**“Article 45. Standards for capacity and experience evaluation**

1. Standards for evaluation of capacity in term of finance, capital arrangement ability include the following criteria:

a) Requirements on equity, determined based on the total investment capital of the project;

Requirements on minimum equity, determined according to specialized laws. In case specialized laws do not provide any regulations, the the minimum equity must not be lower than 15% of the total investment capital.

In case of joint-name, the join-name investor's equity must be equal to total equity of joint-name members, each joint-name member must satisfy the requirement corresponding to the equity contribution according to the joint-name agreement. The investor leading a joint-name must have an equity holding rate of at least 30%, while each joint-name member must have an equity holding rate of at least 15%.

b) Requirements on capital arrangement ability of the investor; in case of joint-name, the loan capital of the joint-name investor is equal to total loan capital of joint-name members;

c) Requirements on financial criteria (if any).

2. Standards for evaluation of experience in implementing similar projects based on sectors; investment scale; duration and level of completion of works and projects, including the following criteria:

a) Experience in investing and building similar works and projects (for

projects with construction components); experience in investing in similar projects (for projects without construction components);

b) Experience in operating and conducting business in similar projects and works (applicable to projects requiring operations and conducting business to provide products and services, suitable for the purpose, nature and management requirements of each project);

c) Experience of key personnel, specialized equipment as required by specialized laws;

d) History of disputes, complaints and lawsuits related to projects already or being performed;

dd) History of suspension or termination of investment activities of the investor in the province or centrally run city where the project is implemented (if any).

3. In case of joint-name, the joint-name investor's experience in performing similar projects specified in Clause 2 of this Article shall be equal to total projects implemented by joint-name members.

4. The investor may use its/his/her partners' experience to prove the experience in performing similar projects specified in Clause 2 of this Article. The partner shall be an organization signing a contract with the investor or be the investor's subsidiary that is proposed in the bid dossier by the investor for jointly implementing the business investment project. In such case, the partner's experience and ability to meet the work to be jointly implemented by the partner must be evaluated based on the requirements specified in the bidding dossier.

5. In case the project applies domestic bidding form, but the application of advanced techniques, technologies and international management experience needs to be promoted, the bidding dossier may provide regulations to allow the domestic investors to use a partner that is a foreign contractor.

6. For a business investment project of which the procedures of invitation for expression of interest have been carried out, and two or more investors satisfy requirements of the dossier of invitation for expression of interest under Point a Clause 1 Article 42 of this Decree, standards for capacity and experience evaluation in the bidding dossier must be updated and supplemented on the basis of the approved dossier of invitation for expression of interest, provisions of Clauses 1, 2, 3, 4 and 5 of this Article, and documents specified in Article 12 of this Decree.”.

21. To amend Article 46 as follows:

**“Article 46. Standards for evaluation of investors’ business investment plans**

1. Standard for technical evaluation:

a) Requirements on the conformity of the investment plan proposed by the investor (including scope, scale and preliminary total costs for project implementation, duration, progress and construction investment phasing) with the master plan approved by competent authorities in accordance with the law on planning, construction, specialized law and relevant laws;

b) Requirements on feasibility of technology application solutions proposed by the investor; technology transfer requirements (if any);

c) Requirements on conformity with investment and business conditions in accordance with the investment law and specialized laws (if any); requirements on plans for operation and business organization;

d) For international football betting business, standards for technical evaluation include criteria specified at Points a, b and c of this Clause, and requirements on the conformity of the plans on investing in betting system, betting business plans with the law on horse racing, greyhound racing and international football betting business;

dd) For projects on dredging combined with product recovery for maritime infrastructure, inland waterway infrastructure in seaport waters, inland waterway waters as prescribed by the law on maritime traffic and inland waterways, standards for technical evaluation include criteria specified at Points a, b and c of this Clause, and specialized technical requirements, requirements on scope and size of dredging, volume of salvaged products;

e) For projects in the field of socialization encouragement, standards for technical evaluation include criteria specified at Points a, b and c of this Clause, and requirements on the quality of goods and services provided by investors; requirements on the conformity of the investment plan proposed by investors with regulations on types, criteria, scale, and standards of socialized facilities; requirements on solutions for applying advanced, modern, and high-tech medical examination and treatment equipment (for projects in the medical sector).

## 2. Social evaluation standard:

a) Requirements on the ability to contribute to social welfare for local workers through the use of local workers, human resource training, average income level and average income growth rate; social assistance activities for social protection beneficiaries or other social welfare activities that the investor contributes to the locality, in conformity with demands of the locality where the project is implemented;

b) For projects that encourage socialization in the fields of health and education, social evaluation standard includes criteria specified at Point a of this Clause, and requirements on meeting the needs and benefits of health care, education and training benefits for people.

## 3. Environmental evaluation standard:

The bid solicitor and the expert team shall determine one or more of the following criteria to develop environmental evaluation standards in the bidding dossier in accordance with the project implementation requirements:

a) Requirements on the conformity of goods and services provided with the law on environment; prioritizing waste reduction, promoting environmentally friendly products and services;

b) Requirements on environmental protection, clean production, energy saving;

c) Requirements on natural resource use as prescribed by law, ability to preserve biodiversity, or improve natural resources, natural ecosystems in the project implementation area in accordance with the law on environmental protection;

d) For projects on dredging combined with product recovery for maritime infrastructure, inland waterway infrastructure in seaport waters, inland waterway waters, environmental evaluation standard includes criteria specified at Points a, b and c of this Clause and requirements on the conformity of provided goods and services with environmental laws; requirements on dredging solutions for seaport waters, inland waterway waters to limit product recovery affecting seaport waters, inland waterway waters;

dd) Requirements on applying solutions to minimize negative impacts on the environment, prioritizing the transfer and application of advanced technology, high technology, environmentally friendly technology, the best available techniques (for projects in the group with high risk of negative impacts on the environment as prescribed by the law on environmental protection).”.

22. To amend Article 47 as follows:

**“Article 47. Standards for evaluation of sectoral and local development investment efficiency**

1. Based on requirements for sectoral and local development, except for projects specified in Clause 2 of this Article, standards for evaluation of sectoral and local development investment efficiency shall be developed on the basis of one of the following standards:

a) Minimum value in cash paid to the state budget;

b) Minimum proportion of revenue paid to the state budget;

c) Price frame, maximum price as prescribed by the law on price, specialized laws;

d) Minimum number of public works without business purpose based on the list of projects and works requiring investment of the locality where the project is implemented;

dd) Minimum value of social assistance activities or other social welfare activities for social protection beneficiaries, determined by the value in cash or the number of people supported based on the list of social protection beneficiaries or social assistance activities of the locality where the project is implemented;

e) Maximum threshold of type, level of toxicity and total amount of pollutants discharged into the environment in accordance with the law on environmental protection.

2. Projects on dredging combined with product recovery for maritime infrastructure, inland waterway infrastructure in seaport waters, inland waterway waters shall apply the standard of value in cash paid to the state budget as follows:

a) Minimum value of the difference between dredging costs and the value of salvaged products in case the project's dredging costs are less than or equal to the value of salvaged products;

b) Maximum value of the difference between dredging costs and the value of salvaged products in case the project's dredging costs are greater than the value of salvaged products.

3. The values and ratios specified at Points a and b Clause 1 and Clause 2 of this Article are independent of the investor's obligations to the state budget as prescribed by law.

4. The payment to the state budget of the values specified at Points a, b Clause 1 and Clause 2 of this Article shall be as follows:

a) The value paid to the state budget shall be determined based on the value proposed by the investor in the bid dossier;

b) The form, progress and deadline for payment of the value specified at Point a of this Clause must be specifically stipulated in the contract.

5. The investor shall propose the value in terms of sectoral and local development investment efficiency in the bid dossier, which must be between the minimum level and maximum level based on the evaluation standards specified in the bidding dossier.”.

23. To amend Clauses 1, 2 and 3; to add Clause 3a to Article 49 as follows:

a) To amend Clause 1 as follows:

“1. The bid-winning investor shall continue to implement the project or establish an economic organization for implementation of the business investment project.

The establishment, management organization, operation, dissolution of an economic organization established by the bid-winning investor to implement a business investment project shall comply with the law applicable to each type of economic organization, the law on investment, enterprises and specialized laws.”;



a) To amend Clause 2 as follows:

“2. In case of establishing an economic enterprise to implement a business investment project in accordance with Clause 1 of this Article, the investor must propose such in the bid dossier.”;

c) To amend Clause 3 as follows:

“3. An economic organization established by the bid-winning organization under Clause 1 of this Article must have 100% of its charter capital held by the bid-winning investor, while satisfying the conditions for establishment, management organization, operation and dissolution according to the corresponding law applicable to each type of economic organization, the law on investment, enterprises and specialized laws.”;

d) To add Clause 3a as follows:

“3a. An economic organization established by the bid-winning investor shall inherit the rights and obligations of the bid-winning investor according to the commitments in the bid dossier and terms set out in the project contract.”.

24. To amend Clause 2, and add Clauses 3, 4, 5, 6, 7, 8 and 9 Article 50 as follows:

a) To amend Clause 2 as follows:

“2. The bid-winning investor and economic organization established by the bid-winning investor shall implement the business investment project in accordance with the contract, law on enterprises, investment, construction and other relevant laws.”;

b) To add Clause 3 as follows:

“3. During the course of implementation of the business investment project, the bid-winning investor or economic organization established by the bid-winning investor may partially or wholly transfer the project when satisfying the following conditions:

a) Conditions as prescribed by the investment law, specialized law and other relevant laws;

b) Conditions specified in Clause 2 Article 76 of the Bidding Law.”;

c) To add Clause 4 as follows:

“4. The transfer of shares and contributed capital by members or shareholders in an economic organization established by the bid-winning before the project is exploited or operated must meet the following conditions:

a) Being approved by the competent person;

b) The transferee must have legal status and meet conditions for operation under the law applicable to each type of economic organization, the law on

investment, enterprises and specialized laws; have capacity and experience corresponding to the share and capital contributions expected to be transferred (in case of partial transfer), or must have capacity and experience equivalent or higher than that of the transferor (in case of wholly transfer); must inherit the rights and obligations of implementation of the investment project that the transferor committed in the bid dossier and project contract;

c) In addition to the conditions specified at Points a and b of this Clause, the investor to whom the transfer of shares and capital contributions from the joint-name members is made must ensure the minimum equity holding rate of each member in accordance with Point a Clause 1 Article 45 of this Decree.

From the date the project is exploited or operated, the transfer of shares and capital contributions shall comply with the law on enterprises and the law applicable to each type of economic organization without satisfying the conditions specified in this Clause.”;

d) To add Clause 5 as follows:

“5. The transfer of a business investment project, transfer of shares or capital contributions within an economic organization specified in Clauses 3 and 4 of this Article must be prescribed in the contract.

Based on the contractual terms and the bid solicitor’s assessment on the expected transferee, the competent person shall consider and approve the proposal for transfer a business investment project, transfer of shares or capital contributions within the economic organization.

In case of approval, the competent person shall assign the bid solicitor to review and modify the contract.”;

dd) To add Clause 6 as follows:

“6. In case where the transfer of a project, transfer of shares or capital contributions specified in Clauses 3 and 4 of this Article results in the adjustment of the investment project, after obtaining approval from the competent person specified in Clause 5 of this Article, the transferor or economic organization shall carry out procedures for adjustment of the investment project in accordance with the investment law and relevant laws before modifying the project contract.”;

e) To add Clause 7 as follows:

“7. In case where the transfer of a project, transfer of shares or capital contributions gives rise to financial obligations toward the State as prescribed by law, the bid-winning investor or economic organization established by the bid-winning investor must fulfill financial obligations towards the State.”;

g) To add Clause 8 as follows:

“8. The bid-winning investor or economic organization established by the

bid-winning investor may contribute capital, or increase charter capital to implement other business investment projects (if any) without affecting rights and obligations committed in the bid dossier and project contract.”;

h) To add Clause 9 as follows:

“9. In the course of implementing the business investment project, if there is a requirement to adjust the investment project subject to investment policy approval as prescribed at Point a Clause 1 Article 76 of the Bidding Law (except for the cases specified in Clauses 3 and 4 of this Article), or adjust the investment project not subject to investment policy approval, which leads to the changes to the project contract, the competent person shall assign the bid solicitor to review and evaluate the investor's technical and financial capacity.

In such case, the investor must ensure to have technical and financial capacity to implement the adjusted project. If the investor meets requirements on technical and financial capacity, the competent person shall assign the bid solicitor to provide instructions to the investor or economic organization established by the bid-winning investor to carry out procedures for adjusting the investment project in accordance with the law on investment, at the same time, assign the bid solicitor to review the contract for modification after the project contract is adjusted completely.”.

25. To amend Article 51 as follows:

**“Article 51. Implementation of business investment projects by investors approved under the law on investment**

1. The approved investor shall implement the business investment project according to the decision on investor approval, the law on enterprises, investment, construction, specialized law and other relevant laws.

2. The approved investor shall directly implement the project or establish an economic organization for implementation of the business investment project. The establishment, management organization, operation, dissolution of an economic organization established by the approved investor to implement a business investment project shall comply with the law applicable to each type of economic organization, the law on investment, enterprises and specialized laws.”.

26. To amend Clause 2, and add Clauses 9a, 9b, 9c, 9d, 9dd, and amend Clause 10 Article 57 as follows:

a) To amend the first paragraph of Clause 2 as follows:

“2. In case fewer than 3 investors submit dossiers of registration for project implementation or bid dossiers by the bid closing time, the party inviting the expression of interest or the bid solicitor shall report such to a competent person for him/her to consider and settle within 24 hours after the time of bid closing in either of the following ways:

a) Permitting the extension of the time of bid closing, at the same time, reviewing and modifying dossiers of invitation for expression of interest or bidding dossiers (if necessary) in order to allow more investors to register to implement the project or participate in the bidding. In this case, the new time of bid closing and corresponding deadlines shall be clearly specified for investors to modify or supplement their submitted dossiers of registration for project implementation or bid dossiers. In case of modification of dossiers of invitation for expression of interest or bid dossiers, the investors that have submitted such dossiers may modify, replace or withdraw their submitted dossiers;

b) Permitting the immediate opening of bids for evaluation.”;

b) To add Clause 9a as follows:

“9a. In case a branch, enterprise or representative office is separated from a legal entity as prescribed by the civil law, the receiving investor or the investor formed from the branch, enterprise or representative office shall inherit the capacity and experience in bidding that such branch, enterprise or representative office has performed.”;

c) To add Clause 9b as follows:

“9b. If the partner proposed by the investor in the bid dossier cannot participate in the contract performance process due to force majeure reason, the investor may change to another partner with capacity and experience equivalent to, or higher than, the partner proposed by the investor in the bid dossier, but must ensure that it does not affect other proposals in the bid dossier. In such case, the bid solicitor shall consider and evaluate the capacity and experience of the partner based on the requirements of the bidding dossier, and report to the competent person for consideration and decision.”;

d) To add Clause 9c as follows:

“9c. For a project that does not have similar projects in terms of total investment capital, the party inviting the expression of interest, the bid solicitor shall, based on data on the Vietnam National E-Procurement System on projects of which the investors have been selected, report to the competent person for considering and stipulating in the dossier of invitation for expression of interest, bidding dossier requirements on experience in implementing similar projects equal to or not lower than 90% of the level required in the dossiers of invitation for expression of interest, bidding dossiers of projects in the same industry or field with the closest total investment capital to the project under consideration. In such case, the competent person may stipulate the contract performance security value as 3% of the total investment capital of the project.”;

dd) To add Clause 9d as follows:

“9d. For projects requiring the application of advanced technology, high technology, environmentally friendly technology, and the best available

techniques to minimize environmental pollution, investors are allowed to use projects and works in which they contribute capital and directly implement the technology that has been successfully put into trial operation to demonstrate experience in similar projects and works. Similar projects must have documents proving that the technology and techniques are recognized in accordance with specialized law and other relevant laws. In such case, the competent person shall stipulate the contract performance security value as 3% of the total investment capital of the project.”

e) To add Clause 9dd as follows:

“9dd. In case the decision approving the investment policy of a project with a phased progress, the bid solicitor shall report to the competent person to stipulate in the bidding dossier the content of the contract performance security to be returned for each phase based on the agreement in the project contract, except in cases where it is not returned.”;

g) To amend Clause 10 as follows:

“10. In addition to the cases specified from Clause 1 thru Clause 9dd of this Article, the party inviting the expression of interest or bid solicitor shall report any circumstances arising in the investor selection process to a competent person for consideration and decision in adherence to the bidding’s objectives of competition, fairness, transparency, economic efficiency, and explanation responsibility.”.

27. To amend Article 60 as follows:

**“Article 60. Roadmap for application of online investor selection**

1. From September 1, 2025: Carry out the procedures for invitation for expression of interest in the country in accordance with Article 61 of this Decree on the Vietnam National E-Procurement System (hereinafter referred to as the System).”

2. From January 1, 2026: Carry out online selection of investors for business investment projects for which open bidding or restricted bidding is organized according to the single-stage single-envelope method or single-stage two-envelope method in accordance with Article 62 of this Decree on the System.

3. For business investment projects subject to international bidding, online selection of investors shall not be applied, and the investor selection information shall be disclosed on the System in accordance with Clause 2 Article 7 of the Bidding Law.”.

28. To amend Clauses 3, 4 and add Clause 7 to Article 61 as follows:

a) To amend Point a Clause 3 as follows:

“a) Submission of an electronic dossier of registration for project

implementation:

The investor shall create and attach an electronic dossier of registration for project implementation on the System. In case of joint-name, the head of the joint-name shall submit an electronic dossier of registration for project implementation, and concurrently attach a joint-name agreement on the System.

The System shall notify the investor the status of submission of the electronic dossier of registration for project implementation (successful or unsuccessful) via the email address registered by the investor. Information recorded on the System shall be used as a basis for settlement of petitions or disputes (if any), including information about the sender, the receiver, sending time, sending status, the number of files attached on the System when the investor submits its/his/her electronic dossier of registration for project implementation.”;

a) To amend Clause 4 as follows:

“4. Electronic dossiers of registration for project implementation shall be opened for evaluation. The records of opening electronic dossiers of registration for project implementation shall be publicized on the System within 2 hours after the time of bid closing.”;

c) To add Clause 7 as follows:

“7. For online selection of investors, if the investors make petitions on investor selection, they shall submit a petition on the Vietnam National E-Procurement System according to the roadmap specified in Article 60 of this Decree. During the period on which online selection of investors has not yet been applied, investors shall file petitions to the administrative departments of the persons competent to resolve petitions.”;

29. To amend Point a Clause 3 Article 62 as follows:

“a) Submission of E-BDs:

The investor shall create and attach E-BDs on the System, implement electronic bid security (if any) on the System.

In case of joint-name, the head of the joint-name, or a joint-name member who is assigned in the joint-name agreement shall submit an E-BD, and concurrently attach a joint-name agreement on the System.

The System shall notify the investor the status of submission of the E-BD (successful or unsuccessful) via the email address registered by the investor. Information recorded on the System shall be used as a basis for settlement of petitions or disputes (if any), including information about the sender, the receiver, sending time, sending status, the number of files attached on the System when the investor submits its/his/her E-BD.”.

30. To amend Clause 3 Article 66 as follows:

“3. In case where the legal documents, that take effect after the effective date of this Decree, supplement or annul regulations on projects subject to bidding organization for investor selection, and requirements for sectoral management corresponding to the criteria specified in Article 46 and Article 47 of this Decree:

a) In case where the specialized laws stipulate more projects subject to bidding organization as prescribed in Clause 4 Article 1 of this Decree, the selection of investors to implement business investment projects shall be carried out according to the order and procedures specified in the Bidding Law and this Decree; methods and standards for evaluating dossiers of registration for project implementation, bidding dossiers, and other contents (if any) shall comply with the specialized laws, ensuring competition, fairness, transparency, economic efficiency and explanation responsibility;

b) In case where the specialized laws annul regulations on bidding for investor selection for projects specified in Clause 4 Article 1 of this Decree, such specialized laws shall be applied;

c) Legal documents supplementing or annulling regulations on projects subject to bidding organization for investor selection specified at Points a and b of this Clause, and requirements, must be informed to the Ministry of Planning and Investment by line ministries within 5 working days from the date on which such legal documents are issued for posting on the Vietnam National E-Procurement System.”.

31. To amend Point b Clause 2 Article 67 as follows:

“b) Provide guidance on applying one or more than one standard for evaluation of sectoral and local development investment efficiency specified in Clause 1 Article 47 of this Decree, and method for determining such standard(s) in accordance with specific conditions of sectors and fields under the management, if necessary.”.

32. To add Clause 2a to Article 67 as follows:

“2a. On an annual basis, ministries, ministerial-level agencies, government-attached agencies, other central agencies, provincial-level People’s Committees and other agencies and organizations stipulated by Clause 3 Article 2 of the Bidding Law No. 22/2023/QH15 shall send reports on the bidding for investor selection to the Ministry of Planning and Investment for summarization and reporting to the Prime Minister.”.

33. To amend Appendix II to the Decree as follows:

a) To amend Clause 3 Section II as follows:

“3. Project implementation location:

Project implementation location includes specific location, location and related works (if any).”;

b) To amend Point d Clause 4 Section II as follows:

“d) Schedule for project implementation includes the following milestones: construction time of the project, infrastructure system (if any); time for operation, management and business of the project, infrastructure system.”;

a) To amend Clause 5 Section II as follows:

“5. Conditions for using water surface, other natural resources and related works:

a) Conditions for using water surface, other natural resources or related works as prescribed by law;

b) Regulations on excavation and handling of fossils, antiquities, architectural works or other artifacts in the project area and the rights and obligations of the parties with respect to these artifacts;

c) Responsibilities of either party in case of violation of the above obligations.”;

d) To add Clause 5a Section II as follows:

“5a. Implement plans on sectoral and local development investment efficiency proposed by the investor in the bid dossier:

a) Investor’s proposals: Include one or more than one of the followings: value in money paid to the state budget; proportion of revenue that the investor proposes to pay to the state budget; prices of goods and services; number of public works without business purposes; the value of social assistance activities or other social welfare activities for social protection beneficiaries, determined by the value in money or the number of people supported on the basis of the list of social protection beneficiaries, or social assistance activities of the locality where the project is implemented; type and level of toxicity and total amount of pollutants discharged into the environment;

b) Value proposed by the investor: Information about the value in money or proportion of revenue or the number of supported persons corresponding to the plans proposed by the investor;

c) Forms and progress of payment to the state budget (in case of payment to the state budget);

d) Specific plans, implementation methods, construction investment progress, principles for compliance with relevant laws (in case the investor proposes to build public works); rights and obligations of each party in this case;

dd) Specific plans, implementation methods, support progress, principles for compliance with relevant laws (in case the investor proposes to perform social assistance activities or social welfare activities); rights and obligations of each party in this case.”;



dd) To amend Clause 6 Section II as follows:

“6. Economic organization established by the investor to manage the business investment project:

a) In case the economic organization has already been established: Models of organization and operation of the economic organization; its charter capital; commitments that the economic organization established by the investor shall inherit rights and obligations of investment project implementation committed by the investor in Clause 7 of this Section.

b) In case the economic organization has not yet been established: Requirements that the economic organization established by the investor shall inherit rights and obligations of investment project implementation committed by the investor in Clause 7 of this Section; order to modify the contract to supplement name, right, obligation and responsibility of the economic organization established by the investor.”;

e) To amend Point c Clause 7 Section II as follows:

“c) Implement plans on sectoral and local development investment efficiency proposed by the investor according to contents specified in Clause 5a of this Section;”;

g) To amend Point dd Clause 7 Section II as follows:

“dd) Implement the project according to master plans approved by competent state agencies, meeting the committed schedule, ensuring safety and environmental protection, complying with relevant laws on investment, construction, environment, tax and specialized laws;”;

h) To amend Point e Clause 7 Section II as follows:

“e) Fulfill commitments on the best available technological and technical solutions to minimize environmental pollution, commitments on technology transfer, and carry out high-tech activities proposed in the bid dossier to enjoy incentives in bidding;”;

i) To amend Point b Clause 9 Section II as follows:

“b) Cases considered for modification of business investment project contracts as prescribed in Article 76 of the Bidding Law; cases of transfer of business investment projects as prescribed by the law on investment, specialized law and other relevant laws; cases of transfer of shares and capital contributions as prescribed by the law on investment, specialized law and relevant laws; dossiers, order and procedures for transfer of projects, shares and capital contributions; addition of names, rights, obligations and responsibilities of economic organizations established by investors as prescribed at Point b Clause 6 of this Section; cases of adjustment of investment projects without leading to adjustment of investment policies as prescribed by the law on investment;”;

k) To annul the following provisions: Point b Clause 7, Point b Clause 8 of Section II.

34. To annul the following provisions: Clause 6 Article 1, Clauses 4 and 5 Article 49, Clause 1 Article 50.

**Article 67. Amending and supplementing a number of articles of the Government's Decree No. 24/2024/ND-CP dated February 27, 2024, detailing a number of articles of and measures to implement the Law on Bidding regarding contractor selection**

1. To add Point dd to Clause 2 Article 91 as follows:

“dd) For procurement of goods and services other than those specified at Point a, b and d of this Clause, with the bidding value and procurement content of more than VND 200 million, the head of central agency, provincial-level People's Council shall decide or prescribe the competence to decide on procurement at its agencies and units.”.

2. To add Point c to Clause 4 Article 131 as follows:

“c) The response to arising eventualities in cases specified in this Clause, for selection of land valuation consultancy contractors, shall comply with the Government's regulation on land price.”.

**Article 68. Amending and supplementing a number of articles of the Government's Decree No. 31/2021/ND-CP dated March 26, 2021, detailing and guiding the implementation of a number of articles of the Law on Investment**

1. To amend Point b Clause 2 Article 29 as follows:

“b) Bidding for investor selection for investment projects subject to bidding for investor selection in accordance with the land law and specialized laws. The investment policy-approving agency shall assign a competent agency to organize bidding for investor selection for project implementation in accordance with the bidding law;”.

2. To amend and supplement Points a and b Clause 3 and Clause 7 Article 29 as follows:

a) To amend and supplement Points a and b Clause 3 as follows:

“3. The approval of investors under Clause 3 Article 29 of the Law on Investment (amended and supplemented under Article 250 of the Land Law No. 31/2024/QH15) shall be carried out in the following cases:

a) Auction of land use rights has been organized twice but there is only one investor registering for participation in the auction, or there is an investor requesting for project implementation after the auction is organized twice but there is no one participating in accordance with the land law;

b) Procedures for invitation for expression of interest have been carried out but there is only one investor registering and satisfying the conditions for invitation for expression of interest, or there are more than one investor registering but only one of them satisfies the conditions for invitation for expression of interest in accordance with the bidding law.”;

b) To amend Point c Clause 7 as follows:

“c) Based on a request of the Ministry of Planning and Investment or investment registration agency, the investment policy-approving agency shall consider and approve investment policy and assign a competent state agency to choose to apply the bidding law in organizing selection of investors from among those having submitted valid dossiers. In such cases, bidding dossiers shall be distributed to all investors who have submitted valid dossiers without carrying procedures for invitation for expression of interest. The bid-winning investor shall implement the project in accordance with the decision on approval of investment policy, contract, the law on investment, land law and other relevant laws;”;

c) To amend Point d Clause 7 as follows:

“d) In case during the process of carrying out the procedures for approval of investment policy as prescribed at Point b of this Clause, there is only one investor submitting valid dossiers, the investment policy-approving agency shall consider approving the investment policy, and at the same time, assign the competent state agency to carry out procedures for approval of investment policy according to the corresponding order and procedures specified at Points a, b, c, d and dd Clause 2 or Points a, b, c and d Clause 4 Article 30 of this Decree, without carrying out procedures specified at Point c of this Clause and making reports on results of invitation for expression of interest;”;

d) To add Point dd to Clause 7 as follows:

“dd) In case after the project has its investment policy approved under Point b of this Clause, there is only one investor submitting valid dossiers, the competent state agency shall carry out procedures for approval of investment policy according to the corresponding order and procedures specified at Points a, b, c, d and dd Clause 2 or Points a, b, c and d Clause 4 Article 30 of this Decree, without carrying out procedures specified at Point c of this Clause and making reports on results of invitation for expression of interest.”;

dd) To add Point e to Clause 7 as follows:

“e) The investor approved under Point d and Point dd of this Clause shall implement the project in accordance with the decision on approval of investment policy, decision on investor approval, the law on investment, land law and other relevant laws.”;

3. To amend Clause 1, Point b Clause 2 and Clause 3 Article 30 as follows:

a) To amend the first paragraph of Clause 1 as follows:

“1. The investor specified at Point a Clause 3 Article 29 of this Decree shall be considered and approved according to the following procedures:”;

b) To amend Point b Clause 1 as follows:

“b) Within 3 working days from the date on which the valid dossier is received, the investment registration agency shall send a dossier to collect opinions from relevant state agencies of the satisfaction of requirements specified at Points b, c and d Clause 4 Article 33 of the Law on Investment.”;

c) To amend Point b Clause 2 as follows:

“b) Within 3 working days from the date on which the valid dossier is received, the investment registration agency shall send reports on results of invitation for expression of interest and dossiers specified at Point a of this Clause to consult relevant state agencies on the satisfaction of requirements specified at Points b, c and d Clause 4 Article 33 of the Law on Investment.”;

d) To amend Clause 3 as follows:

“3. In case a ministry, ministerial-level agency or government-attached agency organizes a bidding, it shall make a report on results of invitation for expression of interest and approve an investor that satisfies the requirements specified at Points b, c and d Clause 4 Article 33 of the Law on Investment. The investor approval decision shall be sent to the Ministry of Planning and Investment (for projects for which investment policy has been approved by the National Assembly or Prime Minister), the investment registration agency, and the investor.”.

4. To amend and supplement Points a, b and dd Clause 2 Article 31 as follows:

a) To amend Point a as follows:

“a) A copy of the list of works and projects involving land recovery approved by the provincial-level People’s Council (if any); papers proving that land plots have been cleared (if any) and other explanatory documents (if any) in case of a proposed form of investor selection through auction of land use rights in accordance with the land law;”;

b) To amend Point h as follows:

“A copy of the list of works and projects involving land recovery approved by the provincial-level People’s Council (if any); papers proving that land plots have not been cleared (if any) and other explanatory documents (if any) in case of a proposed form of investor selection through bidding for land-using projects. In this case, total expenses for project implementation in the investment project proposal shall be preliminarily determined based on the total investment of the

project in accordance with the construction law, excluding expenses for compensation, support and resettlement”;

c) To replace the phrase “A valid copy of a document of the competent People’s Committee approving receipt of land use rights transferred, contributed as capital or leased for implementation of the investment project” at Point d Clause 2 Article 31 with “A valid copy of a document of the competent People’s Committee approving agreement on receipt of land use rights for implementation of the investment project”.

5. To amend Point c Clause 7 Article 31 as follows:

“c) For an urban master plan, appraisal contents must include evaluation of conformity of the investment project with the zoning plan. In case the project proposed in the area is not subject to making of zoning plan as prescribed by the law on urban planning or the zoning plan is modified and has not yet been approved by a competent authority, the evaluation of conformity of the investment project with the general master plan shall be carried out;”.

6. To amend and supplement Point b Clause 3 Article 32 as follows:

“b) For a project proposing change of forest use purpose, the Ministry of Planning and Investment shall solicit appraisal opinions of the Ministry of Agriculture and Rural Development, Ministry of Natural Resources and Environment, related ministries and agencies, and the provincial-level People’s Committee of the locality where the project is to be implemented, on the proposal for change of the forest use purpose to another purpose in accordance with the forestry law;”.

7. To amend Clause 8 Article 32 as follows:

“8. A decision on investment policy approval for an investment project shall be sent to the Ministry of Planning and Investment, the investor or competent state agency that has submitted the dossier specified in Clause 2 of this Article, the provincial-level People’s Committee of the locality where the project is to be implemented for organization of auction (in case of selection of investors for project implementation in the form of auction of land use rights), or the competent agency as prescribed by the bidding law for announcement of the investment project information (in case of selection of investors for project implementation in the form of bidding), investment registration agency, and ministries and agencies involved in the investment project implementation.”.

8. To amend Clause 6 Article 33 as follows:

“6. A decision on investment policy approval for an investment project shall be sent to the investor or competent state agency that has submitted the dossier specified at Point a Clause 4 of this Article, the agency assigned to organize the auction (in case of selection of investors for project implementation in the form of auction of land use rights), or the competent agency as prescribed

by the bidding law for announcement of the investment project information (in case of selection of investors for project implementation in the form of bidding), investment registration agency, and departments and agencies involved in the investment project implementation.”.

9. To annul Article 108.

**Article 69. Supplementing the Government’s Decree No. 60/2024/ND-CP dated June 5, 2024, on marketplace development and management**

To add Clause 8 to Article 6 as follows:

“8. The organization of investor selection for projects on marketplace construction investment using non-state budget capital shall be carried out as follows:

a) Approval of investment policy concurrently with approval of investors, for projects falling in to the cases, and meeting the conditions as prescribed by the law on investment;

b) Bidding for investor selection in accordance with the bidding law, for projects implemented on land fund where marketplace infrastructure assets have not yet been formed, that are invested and managed by the State as prescribed in Chapter IV of this Decree and falling into the cases specified in Clause 2 Article 126 of the Land Law;

c) Auction of land use rights, for projects using land fund managed by the State agencies or organizations in accordance with the land law, except for the cases specified at Points a and b of this Clause.”.

**Article 70. Amending and supplementing the Government’s Decree No. 137/2013/ND-CP dated October 21, 2013, detailing a number of articles of the Electricity Law and the Law Amending and Supplementing a Number of Articles of the Electricity Law**

1. To add Clause 6 to Article 3 as follows:

“6. Conduct bidding to select investors in accordance with the bidding law for energy construction projects using non-state budget capital to develop renewable energy sources, power sources using natural gas, LNG, including or excluding synchronously connected power grids when there are 2 or more interested investors registering to implement, except in the following cases:

a) Projects subject to State monopoly as prescribed by the law on electricity;

b) Projects invested under the public-private partnership and public investment method;

c) Projects in the list of 5-year production, business and investment development plans of enterprises established under the Prime Minister's decision;

d) Expansion hydropower projects, offshore wind power projects, self-consumption electricity sources (self-production and self-consumption);

dd) Emergency power projects as prescribed by the law on electricity.”;

2. To add Clause 7 to Article 3 as follows:

“7. Bidding dossiers shall be made in accordance with the bidding law and decisions on investment policy approval, prefeasibility study reports or feasibility study reports (if any), draft power purchase agreements with the power purchaser. Expenses for investor selection for projects specified in Clause 6 of this Article shall comply with the bidding law.

Competent agencies or agencies deciding on organization of bidding as prescribed by the bidding law shall determine whether the power purchaser signs the power purchase agreement with the investor. The signed power purchase agreement shall be used as a basis for conclusion of the business investment project contract.”;

3. To add Clause 8 to Article 3 as follows:

“8. The power purchaser shall:

a) Coordinate to make bidding dossiers, reach an agreement on draft power purchase agreement upon request of the competent agency, agency deciding on organization of bidding as prescribed by the bidding law;

b) Finalize and sign the power purchase agreement based on the investor selection result;

c) Make advanced payment for the cases specified at Point c Clause 9 of this Article.”;

4. To add Clause 9 to Article 3 as follows:

“9. Responsibility for paying expenses for making prefeasibility study reports and feasibility study reports:

a) The investor shall make payment in case where the project is proposed by such itself/himself/herself;

b) The competent agency or agency deciding on organization of bidding as prescribed by the bidding law shall make payment from its regular expenditures, except for the cases specified at Point a of this Clause;

c) The power purchaser shall make advanced payment when the competent agency or the agency deciding on organization of bidding as prescribed at Point b of this Clause cannot arrange the implementation budget;

d) The investor may select to take responsibility for payment expenses specified at Points a, b and c of this Clause;

dd) In case where such expenses are fully paid as prescribed at Point a of

this Clause, but the project's investment policy is not approved, or the bid-winning investor for the project cannot be selected, the investor that has proposed the project shall bear all costs and risks;

E) In case where the expenses have been paid under Point b or Point c of this Clause, but the bid-winning investor for the project cannot be selected, or the project is suspended from implementation at the competent authority's request, such expenses shall be settled as reasonable costs of the competent agency, the agency deciding on organization of bidding or the power purchaser.”.

**Article 71. Amending the Government's Decree No. 05/2021/ND-CP dated January 25, 2021, on management and operation of airports and airfields**

To amend Clause 4 Article 48 as follows:

“4. The Ministry of Transport shall organize investor selection in accordance with the bidding law, for the following aviation service works:

a) Passenger terminal service works; cargo terminal service works, cargo warehouses that airport enterprises are not able to invest in according to the airport development plan approved by competent state agencies;

b) Ground technical commercial service works;

c) Aviation means and equipment repair and maintenance service works;

d) Aviation technical service works, including aircraft, propeller and aircraft equipment maintenance service works;

dd) Aviation catering service works;

e) Aviation fuel supply service works.

In case the works specified in this Clause are exempted from land rental for the entire lease term as prescribed by the land law, bidding for investor selection shall be conducted according to the bidding law when there are 2 or more interested investors registering to implement the project”.

**Article 72. Effect**

1. This Decree takes effect from the date of its signing.

2. From the effective date of this Decree, the following regulations shall cease to be effective:

a) The Government's Decree No. 25/2020/ND-CP dated February 28, 2020, detailing a number of articles of the Bidding Law regarding investor selection;

b) Article 89 of the Government's Decree No. 35/2021/ND-CP dated March 29, 2021, detailing and guiding the implementation of the Law on Investment in the Form of Public-Private Partnership.



3. In case where the legal documents, that take effect after the effective date of this Decree, supplement or annul regulations on projects subject to bidding organization for investor selection, and requirements for sectoral management corresponding to the criteria specified in Article 45, 46, 47, 48 and Article 49 of this Decree:

a) In case where the specialized laws stipulate more projects subject to bidding organization as prescribed at Point k Clause 2 Article 4 of this Decree, the selection of investors to implement land-using investment projects shall be carried out according to the order and procedures specified in the Bidding Law and this Decree; methods and standards for evaluating dossiers of registration for project implementation, bidding dossiers, and other contents (if any) shall comply with the specialized laws, ensuring competition, fairness, transparency, economic efficiency and explanation responsibility;

b) In case where the specialized laws annul regulations on bidding for investor selection for projects specified in Clause 2 Article 4 of this Decree, such specialized laws shall be applied;

c) Legal documents supplementing or annulling regulations on projects subject to bidding organization for investor selection specified at Points a and b of this Clause must be informed to the Ministry of Planning and Investment by line ministries within 5 working days from the date on which such legal documents are issued for posting on the Vietnam National E-Procurement System.

### **Article 73. Transitional provisions**

1. Transitional provisions for land-using investment projects stipulated by the Government's Decree No. 30/2015/ND-CP dated March 17, 2015, detailing a number of articles of the Law on Bidding concerning investor selection (hereinafter referred to as Decree No. 30/2015/ND-CP):

a) For projects of which the prequalification results are available as prescribed by Decree No. 30/2015/ND-CP, if by the effective date of this Decree, bidding dossiers and dossiers of requirements have not yet been distributed, such prequalification results shall be canceled, and the selection of investors shall be suspended;

b) For projects of which bidding dossiers and dossiers of requirements have been distributed under Decree No. 30/2015/ND-CP, if until August 1, 2024, there is no one submitting bid dossiers or dossier of proposals, the selection of investors shall be suspended;

c) For projects of which bidding dossiers and dossiers of requirements have been distributed under Decree No. 30/2015/ND-CP and investors have submitted bid dossiers and dossiers of proposals before August 1, 2024, such bid dossiers and dossiers of proposals shall continue to be appraised according to the

distributed bidding dossiers and dossiers of requirements.

In case where the investor selection results are approved before January 1, 2025, competent agencies shall organize negotiation, conclusion and management of the contract performance based on the investor selection results, bid dossiers, dossiers of proposals, bidding dossiers, and dossiers of requirements that have been distributed under the Bidding Law No. 43/2013/QH13 and its detailing and guiding documents.

If by January 1, 2025, the investor selection result is unavailable, the selection of investors shall be suspended.

d) For projects of which the investor selection results have been approved, if by the effective date of this Decree the contract negotiation and conclusion have not yet been conducted, competent agencies shall organize negotiation, conclusion and management of the contract performance based on the investor selection results, bid dossiers, dossiers of proposals, bidding dossiers, and dossiers of requirements that have been distributed under the Bidding Law No. 43/2013/QH13 and its detailing and guiding documents.

2. Transitional provisions for land-using investment projects stipulated by the Government's Decree No. 25/2020/ND-CP dated February 28, 2020, detailing a number of articles of the Bidding Law regarding investor selection (hereinafter referred to as Decree No. 25/2020/ND-CP), and falling into the cases specified in Article 4 of this Decree as determined as of the effective date of this Decree:

a) For projects of which the investment policy or project list has been approved by the competent authority, if by the effective date of this Decree, preliminary requirements on capacity and experience have not yet been distributed, investors shall be selected in accordance with the Bidding Law No. 22/2023/QH15 and this Decree;

b) For projects of which notices of invitation for expression of interest have been distributed on the Vietnam National E-Procurement System, if by August 1, 2024, there is no one submitting dossiers of registration for project implementation, notices of invitation for expression of interest shall be canceled and the selection of investors shall be suspended;

c) For projects of which notices of invitation for expression of interest have been distributed on the Vietnam National E-Procurement System, and investors have submitted dossiers of registration for project implementation before August 1, 2024, if by the effective date of this Decree, results on evaluation of dossiers of registration for project implementation have not yet been approved, such dossiers shall continue to be implemented according to the distributed preliminary requirements on capacity and experience.

In case where there is only one investor satisfying preliminary

requirements on capacity and experience, procedures for approval of investors shall be carried out according to the law on investment in force at the time of submission of dossiers of registration for project implementation. If the procedures for investor approval have not yet been completed before January 1, 2025, the selection of investors shall be suspended.

In case where there are two or more investors satisfying preliminary requirements on capacity and experience, the selection of investors shall follow the Bidding Law No. 22/2023/QH15 and this Decree;

d) For projects of which results on preliminary capacity and experience evaluation have been approved before the effective date of this Decree, and there is only one investor satisfying preliminary requirements on capacity and experience, procedures for approval of investors shall comply with the law on investment in force at the time of submission of dossiers of registration for project implementation. If the procedures for investor approval have not yet been completed before January 1, 2025, the selection of investors shall be suspended;

dd) For projects of which results on preliminary capacity and experience evaluation have been approved before the effective date of this Decree, and there are two or more investors satisfying preliminary requirements on capacity and experience:

In case where bidding dossiers have not yet been distributed, the selection of investors shall follow the Bidding Law No. 22/2023/QH15 and this Decree.

In case where the bidding dossiers have been distributed but until August 1, 2024, there is no one submitting bid dossiers, notices of invitation for bids shall be canceled and the selection of investors shall be suspended.

In case where the bidding dossiers have been distributed and there is investor submitting bid dossiers before August 1, 2024, but by the effective date of this Decree, investor selection results have not yet been approved, the bid dossiers shall continue to be evaluated according to the distributed bidding dossiers. In case where the investor selection results are approved before January 1, 2025, competent agencies shall organize negotiation, conclusion and management of the contract performance based on the investor selection results, bid dossiers, dossiers of proposals, bidding dossiers, and dossiers of requirements that have been distributed under the Bidding Law No. 43/2013/QH13 and its detailing and guiding documents. If by January 1, 2025, the investor selection result is unavailable, the selection of investors shall be suspended;

e) For projects of which the investor selection results have been approved, if by the effective date of this Decree the contract negotiation and conclusion have not yet been conducted, competent agencies shall organize negotiation, conclusion and management of the contract performance based on the investor selection results, bid dossiers, dossiers of proposals, bidding dossiers, and

dossiers of requirements that have been distributed under the Bidding Law No. 43/2013/QH13 and its detailing and guiding documents;

g) In case the project of which the investment policy has been approved under decision (for projects subject to investment policy approval) or project list has been approved (for projects not subject to investment policy approval) or the bidding dossiers have been distributed or investor selection results are available and the approval document has the content that the winning-bid investor will reimburse investor selection costs in accordance with the Bidding Law No. 43/2013/QH13, the refund principle shall continue to comply with approved documents.

3. For land-using projects regulated by Decree No. 25/2020/ND-CP, which latter are determined no longer belonging to the cases specified in Article 4 of this Decree by the effective date of this Decree, and of which bidding dossiers have not yet been distributed, the selection of investors shall be suspended.

Projects, of which bidding dossiers have been distributed, or investor selection results are available, shall follow the corresponding procedures specified at Point dd or Point e Clause 2 of this Article.

4. Transitional provisions for projects stipulated by the Government's Decree No. 23/2024/ND-CP dated February 27, 2024, detailing a number of articles and measures for implementation of the Bidding Law regarding selection of investors to implement projects subject to bidding organization as prescribed by specialized laws (hereinafter referred to as Decree No. 23/2024/ND-CP), and determined as falling into the cases specified in Clause 2 Article 4 of this Decree by the effective date of this Decree:

a) For projects of which the investment policy or project information has been approved by the competent authority, if by the effective date of this Decree, bidding dossiers or dossiers of invitation for expression of interest have not yet been distributed, investors shall be selected in accordance with the Bidding Law No. 22/2023/QH15 and this Decree;

b) For projects of which dossiers of invitation for expression of interest have been distributed on the Vietnam National E-Procurement System, if by August 1, 2024, there is no one submitting dossiers of registration for project implementation, they shall follow provisions of Point b Clause 2 of this Article;

c) For projects of which dossiers of invitation for expression of interest have been distributed on the Vietnam National E-Procurement System, and investors have submitted dossiers of registration for project implementation before August 1, 2024, if by the effective date of this Decree, results on evaluation of dossiers of registration for project implementation have not yet been approved, they shall follow provisions of Point c Clause 2 of this Article;

d) For projects of the results on expression of interest have been approved

before the effective date of this Decree, and there is only one investor satisfying requirements of dossiers of invitation for expression of interest, they shall follow provisions of Point d Clause 2 of this Article;

dd) For projects of the results on expression of interest have been approved before the effective date of this Decree, and there are two or more investors satisfying requirements of dossiers of invitation for expression of interest, they shall follow provisions of Point dd Clause 2 of this Article;

e) For projects of which the bidding dossiers have been distributed but until August 1, 2024, there is no one submitting bid dossiers, notices of invitation for bids shall be canceled and the selection of investors shall be suspended;

g) For projects of which the bidding dossiers have been distributed and by August 1, 2024, there are investors submitting bid dossiers, bid dossiers shall continue to be evaluated according to the distributed bidding dossiers.

In case where the investor selection results are approved before January 1, 2025, competent agencies shall organize negotiation, conclusion and management of the contract performance based on the investor selection results, bid dossiers and bidding dossiers that have been distributed under the Bidding Law No. 22/2023/QH15 and Decree No. 23/2024/ND-CP. If by January 1, 2025, the investor selection result is unavailable, the selection of investors shall be suspended.

h) For investment project to build roadside service stations of which project information has been disclosed, and bidding dossiers have been compiled under the Bidding Law No. 22/2023/QH15, Decree No. 23/2024/ND-CP and specialized legal documents, if by the effective date of this Decree, bidding dossiers have not yet been distributed, the bidding dossiers shall be compiled, appraised, approved and distributed in accordance with the Bidding Law No. 22/2023/QH15 and this Decree, without the needs to base on annual land use plans;

i) For investment project on construction of aviation service works of which project information has been disclosed, and bidding dossiers have been compiled under the Bidding Law No. 22/2023/QH15 and Decree No. 23/2024/ND-CP, if by the effective date of this Decree, bidding dossiers have not yet been distributed, the bidding dossiers shall be compiled, appraised, approved and distributed in accordance with the Bidding Law No. 22/2023/QH15 and this Decree, without the needs to carry out procedures for invitation for expression of interest.

5. For projects subject to suspension for investor selection as prescribed in Clauses 1, 2, 3 and 4 of this Article, competent agencies shall, based on actual project implementation situation, consider and apply the following process and procedures in accordance with the law on investment, land, bidding and other

relevant laws.

6. For transitional projects specified in Clauses 1, 2, 3 and 4 of this Article, of which the investment policy has been decided by the competent authority, or the project list or project information has been approved by the competent authority as prescribed by law at the time of approving such document, if they are not stipulated by Clause 5 of this Article, the list of land areas where the bidding for implementation of land-using investment projects is organized shall not be used as a basis for organizing investor selection for these projects as prescribed in the Bidding Law No. 22/2023/QH15 and this Decree.

7. For projects not stipulated by the bidding law but selecting bidding law to select investors, they shall follow the corresponding provisions of Clauses 1, 2, 3 and 4 of this Article.

For investment projects on construction of energy works, in case where the suspension from investor selection is determined according to the corresponding provisions of Clauses 1, 2, 3, 4, 5 and 6 of this Article, or by the effective date of this Decree, their bidding dossiers have not yet been distributed, the following steps shall comply with the law on investment, land, bidding, electricity and other relevant laws. In which, the competent agency shall make prefeasibility study reports and feasibility study reports (if any), draft power purchase agreements according to the Ministry of Industry and Trade's instructions, for use as a basis to make bidding dossiers without the need to base on decisions on approval of investment policy (if the approval has not yet been made). Bidding dossiers shall be distributed to investors who have submitted valid dossiers (in case of applying the investment law), or who satisfy the conditions for invitation for expression of interest (in case of applying the bidding law).

8. Contracts signed before the effective date of this Decree may continue to be performed in accordance with their terms. In case at the time of contract conclusion, there is no law prescribing this issue, the provisions of the Bidding Law No. 22/2023/QH15 and this Decree shall be complied with.

9. During the period from August 1, 2024 to the effective date of this Decree, the selection of investors shall comply with the Bidding Law No. 22/2023/QH15, the Land Law No. 31/2024/QH15, the Law Amending and Supplementing a Number of Articles of the Land Law No. 31/2024/QH15, the Housing Law No. 27/2023/QH15, the Law on Real Estate Business No. 29/2023/QH15, the Law on Credit Institutions No. 32/2024/QH15, and provisions of Decree No. 30/2015/ND-CP, Decree No. 25/2020/ND-CP, Decree No. 23/2024/ND-CP, and relevant guiding documents not in contravention of the Bidding Law No. 22/2023/QH15, the Land Law No. 31/2024/QH15, and Law No. 43/2024/QH15.

#### **Article 74. Responsibility for implementation**

1. The Minister of Planning and Investment shall issue document and dossier templates for selection of investors.

2. Line ministers shall:

a) Review legal documents relating to bidding for selection of investors under the competence; timely amend, supplement and replace them to ensure they will not be contrary to the Bidding Law No. 22/2023/QH15 and this Decree;

b) Provide guidance on applying standards for evaluation of sectoral and local development investment efficiency specified in Article 49 of this Decree, and method for determining such standards in accordance with specific conditions of sectors and fields under the management, if necessary;

c) In addition to responsibilities specified at Points a and b of this Clause, the Minister of Industry and Trade shall provide guidance on implementing Point m Clause 1 Article 47 of this Decree, in case of necessity, and issue bidding-related dossier templates, ensuring meeting conditions for implementing projects included in national sectoral master plans approved by competent authorities.

3. On an annual basis, ministries, ministerial-level agencies, government-attached agencies, other central agencies, provincial-level People's Committees and other agencies and organizations stipulated by Clause 3 Article 2 of the Bidding Law No. 22/2023/QH15 shall send reports on the bidding for investor selection to the Ministry of Planning and Investment for summarization and reporting to the Prime Minister.

4. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of People's Committees of provinces and centrally-run cities shall, within their ambit of functions and powers, implement this Decree.

**ON BEHALF OF THE GOVERNMENT  
FOR THE PRIME MINISTER  
THE DEPUTY PRIME MINISTER**

**Tran Hong Ha**

*\* All Appendices are not translated herein.*