

GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

No. 88-1999-ND-CP

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

**DECREE
ON
TENDERING**

**Promulgating
Regulations on Tendering**

The Government

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

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

Decrees:

Article 1

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

Article 2

This Decree shall be of full force and effect from the date of its promulgation.

GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

REGULATIONS ON TENDERING

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

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

CHAPTER I

General Provisions

Article 1 *Objectives, basis and process of tendering*

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

- (c) In the case of projects funded by capital owned by companies or other forms of ownership, the authorized person is the board of management or the authorized head in accordance with law.
9. *The competent authority* is the organization or body delegated or authorized by the authorized person in accordance with law.
10. *A tenderer* is an economic organization having legal entity status and being eligible to participate in a tendering process. A tenderer may be an individual if the tendering is for the selection of consultants. A tenderer shall be a constructor in tendering for construction and installation; a supplier in tendering for procurement of goods; a consultant in tendering for selection of consultants; or an investor in tendering for selection of investment partners. Domestic tenderers are tenderers having Vietnamese legal entity status and operating legally in Vietnam.
11. *A tender package* is the whole of an investment project or a part thereof divided according to the technical characteristics or order of implementation of the project, having reasonable scale and ensuring the unity of the project. In the case of procurement, a tender package may be in respect of one, or one type of, tool, equipment or facility. A tender package may be carried out pursuant to one or more contracts (where the tender package is divided into several parts).
12. *Small scale tender package* means a tender package having a value of under two billion Vietnamese dong for procurement of (procurement) services for the
11. *Small tender package* (in terms of value) means a tender package having a value of under two billion Vietnamese dong for procurement of (procurement) services for the

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

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

Article 4

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

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

Article 7 *Adjustments to the value of contracts*

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

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

Article 8 *Plans for project tendering*

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

Article 9 *Conditions for conducting tendering*

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

In the case of tendering to select consultants for the preparation of a project or tendering for selectioe3 sch008 ca ;

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

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

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

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

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

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

Article 11 *Clarification of tenders*

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

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

1. The deadline for tender closing and the period of validity of tenders shall be clearly stated in the tender invitation documents. Depend3cum3cu4.3(d)2.s8(ents)-7.8(. D8(ents)9747ers3ion docum)182

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

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

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

1. Tender opening:

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

The minutes of the tender opening shall

2. Tender consideration:

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

2. Standards of members of an expert group:
 - (a) Having professional qualifications relating to the tender package;
 - (b) Having knowledge of the specific contents of the tender package;
 - (c) Having experience in practical management or doing research;
 - (d) Having knowledge of tendering procedures.
3. An expert group shall have the following responsibilities and powers:
 - (a) To prepare legal documents and draft tender invitation documents;
 - (b) To receive and retain tenders;
 - (c) To analyse, assess, compare and classify tenders in accordance with the criteria for assessment referred to in the tender invitation documents and the criteria for detailed assessment approved prior to the tender opening;
 - (d) To compile documents relating to the assessment, consideration and selection of tenderers and prepare a report on the tender consideration;
 - (dd) To be responsible for expressing honestly and objectively their opinions in writing to the party calling for tenders during the analysis, assessment and classification of tenders and be liable before the law for their opinions. To be entitled to reserve their opinions for consideration by the superior authority;
 - (e) To be responsible for keeping information concerning the tendering process confidential.

CHAPTER II

Tendering for Selection of Consultants

Article 17 *Content of consultancy*

1. Consultancy in respect of project preparation:
 - (a) Preparation of planning and

Article 18 *Forms of consultancy*

Forms of consultancy shall include:

(d) Contingencies:

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

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

CHAPTER III

Tendering for Procurement of Goods

Article 22 *Tendering procedures*

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

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

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

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

Article 23 *Prequalification of tenderers*

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

Article 24 *Tender invitation documents*

Tender invitation documents shall include the following:

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

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

Article 25 *Tender invitation letter or notice*

A tender invitation letter or notice shall include the following:

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

Article 28 *Tender guarantees*

1. Tenderers must pay a tender guarantee when submitting their tenders. Where the method of two-phase tendering is applied, the tender guarantee shall be paid in the second phase.
2. The value of a tender guarantee shall be between one and three per cent of the tender price. The same tender guarantee amount may be fixed by the party calling for tenders for all tenderers in order to ensure the confidentiality of

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

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

Article 32 *Performance guarantees*

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

CHAPTER IV

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

Article 35 *Tender invitation documents*

Tender invitation documents shall include the following:

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

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and

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

Article 39 *Tender guarantees*

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

Article 40 *Criteria for assessment of tenders*

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

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

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

Article 41 *Assessment of tenders*

Tenders shall be assessed in accordance with the following order:

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

2. Detailed assessment:

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

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

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

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

Assessment of financial and commercial aspects of shortlisted tenderers shall be carried out

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

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

Article 45 *Organization of tendering*

1. Tendering procedures:

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

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- (a) Tender application; copy of the certificate of business registration; tender guarantee;
 - (b) Technical proposals and implementation schedules;
 - (c) Tender price.
4. Assessment of tenders:
- (a) Only proper tenders in which the tender price does not exceed the approved limit of the tender package after error rectification shall be assessed;
 - (b) Assessment shall be carried out on the basis of the criteria set out in the tender invitation documents in order to determine which tenders satisfy the requirements set out in the tender invitation documents. Any tenderer which satisfies the requirements set out in the tender invitation documents and technical requirements and which has the lowest tender price (after error rectification and discrepancy adjustment in accordance with the requirements set out in the tender invitation documents) shall be proposed for the award of the contract.
5. Tendering results:
- (a) Tendering results shall be approved by the authorized person or the competent authority;

CHAPTER VI

Tendering for Selection of Partners for Implementation of Projects

Article 46 *Applicable principles*

Based on the list of investments published annually by the Government or proposed by investors, where two or more partners are interested in the implementation of a

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

2. Tender invitation:

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

3. Receipt and retention of tenders:

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

4. Tender opening.

5. Assessment of tenders:

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

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

(a) Preliminary assessment:

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

(b) Detailed assessment and classification:

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

Error rectification;

Detailed assessment of technical, commercial and financial aspects and technology transfer (if any);

Classification of tenderers.

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

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

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

Article 48 *Tender guarantees and performance guarantees*

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

CHAPTER VI

State Administration of Tendering

Article 49 *Bodies assuming State administration of tendering*

1. The Government shall assume unified administration of tendering throughout the country.
2. The Ministry of Planning and Investment shall be the focal body to assist the Government in administration of tendering.
3. Ministers and heads of ministerial equivalent bodies and Government bodies shall assume State administration of tendering within the scope of their reswithin the scope ofe hin th3 Tibilitta

Article 50 *State administration of tendering*

State administration of tendering shall include:

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

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

Article 52 *Delegation of responsibility for tendering*

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

The person authorized to approve projects shall have the duty of, and the responsibility for, approving plans for project tendering and tendering results of tender packages having a high value.

Delegating the power to or authorizing an authority at a lower level to approve the tendering results of tender packages having a low value.

Bodies and individuals taking part in the evaluation shall be responsible for their opinions regarding the evaluation.

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

1. The Prime Minister of the Government shall approve, or delegate approval of, the following:
 - (a) Tendering plans for Group A projects and equivalent;

- (d) Decisions on inspection and dealing with breaches of the *Regulations on Tendering*.
2. The Minister of Planning and Investment shall be responsible for the following:
- (a) Evaluating and submitting the following to the Prime Minister of the Government for approval:

Tendering plans for Group A projects and equivalent;

Tendering results of tender packages of Group A projects and equivalent on the basis of the value listed in Table 1 in article 53 of these Regulations;

Proposals for appointment of tenderer, direct procurement or self-management in respect of tender packages set out in clauses 3, 5 and 6 of article 4 of these Regulations;

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

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

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

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

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

Notes:

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

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

1. The time-limit for assessment of tenders calculated from the time of tender opening to the time of submission of the tendering results to the authorized

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3. The fee for evaluation of tendering results shall be incl

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CHAPTER VIII

Implementing Provisions

Article 61 *Organization of implementation*

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

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

On behalf of the Government
The Prime Minister

PHAN VAN KHAI