

**BIDDING LAW**

*Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001, of the Xth National Assembly, 10th session;*

*This Law provides for bidding.*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1.-** Regulation scope

This Law provides for bidding activities to select suppliers of consultancy services or goods or construction and installation contractors for the following projects:

1. Development investment projects with 30% of its capital originating from the state budget, including:

a/ Projects on investment in construction or expansion of already invested and built works;

b/ Projects on investment in procurement of assets, including equipment and machinery which need not be installed;

c/ Projects on regional development planning, branch development planning or urban or rural construction planning;

d/ Projects on scientific research, technological development or technical assistance;

e/ Other development investment projects.

2. State budget-funded projects for procurement of assets to maintain regular operations of state agencies, political organizations, socio-political organizations, socio-political-professional organizations, social organizations, socio-professional organizations or people's armed forces units.

3. State budget-funded projects for procurement of assets in service of renovation or overhaul of already invested equipment, production chains, works or workshops of state enterprises.

**Article 2.-** Application subjects

1. Domestic and foreign organizations and individuals participating in bidding activities for bidding packages of projects defined in Article 1 of this Law.

2. Organizations and individuals related to bidding activities for bidding packages of projects defined in Article 1 of this Law.

3. Organizations and individuals having projects not governed by this Law but choosing to apply this Law.

**Article 3.-** Application of the Bidding Law, relevant laws, international treaties or agreements

1. Bidding activities must comply with the provisions of this Law and relevant provisions of law.
2. Where particularities on bidding are provided in other laws, the provisions of such laws shall apply.
3. For official development assistance (ODA) projects, the bidding must be based on the contents of treaties to which the Socialist Republic of Vietnam is a contracting party or international agreements which competent agencies or organizations of the Socialist Republic of Vietnam have signed.

**Article 4.-** Interpretation of terms

In this Law, the following terms shall be construed as follows:

1. *State capital* means state budget capital, state-guaranteed credit capital, state development investment credit capital, development investment capital of state enterprises and other capital managed by the State.
2. *Bidding* means the process of selecting contractors that satisfy the requirements of bid solicitors to undertake bidding packages of the projects defined in Article 1 of this Law on the basis of ensuring competitiveness, fairness, transparency and economic efficiency.
3. *Bidding activities* mean activities of concerned parties in the contractor-selecting process.
4. *Bidding order* means the steps of preparing for biddings, organizing biddings, evaluating bids, appraising and approving bidding results, announcing bidding results, negotiating, finalizing and signing contracts.
5. *Domestic bidding* means the process of selecting contractors that satisfy the requirements of bid solicitors, with participation of domestic contractors.
6. *International bidding* means the process of selecting contractors that satisfy the requirements of bid solicitors, with participation of both foreign and domestic contractors.
7. *A project* means a combination of proposals to undertake a part or all of jobs to achieve certain objectives or fulfill certain requirements in a definite period of time, based on definite capital sources.
8. *Competent persons* mean persons empowered to decide on projects under the provisions of law. With regard to projects with 30% or more state capital contributed by state enterprises, except those funded with 100% state capital, competent persons shall be the Managing Boards or competent representatives of capital-contributing parties.
9. *Investors* mean capital owners or persons assigned to represent capital owners or borrowers in directly managing and executing projects defined in Clause 7 of this Article.
10. *Bid solicitors* mean investors or professional organizations which are fully capable and experienced and employed by investors to organize biddings in accordance with the provisions of bidding law.
11. *Contractors* mean organizations or individuals that have full legal capacity under the provisions of Articles 7 and 8 of this Law.
12. *Principal contractors* mean contractors that are responsible for participation in biddings,

named in bids, enter into and perform contracts if selected (hereinafter called bidding-participating contractors). Contractors participating in biddings independently are called independent contractors. Contractors that participate in biddings themselves or jointly with other contractors under the same bids are called partnership contractors.

13. *Consultancy contractors* mean contractors participating in biddings for the supply of products that satisfy the requirements on professional knowledge and experiences specified in Clause 34 of this Article.

14. *Supply contractors* mean contractors participating in biddings for bidding packages on the supply of goods specified in Clause 35 of this Article.

15. *Construction contractors* mean contractors participating in biddings for bidding packages on construction and installation specified in Clause 36 of this Article.

16. *EPC contractors* mean contractors participating in biddings for EPC bidding packages specified in Clause 21 of this Article.

17. *Subcontractors* mean contractors that undertake parts of bidding packages on the basis of agreements or contracts signed with principal contractors. Subcontractors shall not be responsible for participation in biddings.

18. *Domestic contractors* mean contractors established and operating under Vietnamese law.

19. *Foreign contractors* mean contractors established and operating under laws of the countries of their nationality.

20. *Bidding packages* mean parts of a project or a whole project in some special cases; bidding packages may cover the same procurement items under different projects or a package procurement volume in case of regular procurement.

21. *EPC bidding packages* mean bidding packages covering all jobs of engineering, provision of equipment and materials, and construction and installation.

22. *Dossiers of invitation for pre-qualification* mean the entire documentation specifying requirements on capabilities and experiences of contractors, which serve as a legal ground for bid solicitors to select contractors to be invited for participation in biddings.

23. *Pre-qualification responses* mean the entire documentation prepared by contractors based on the requirements of dossiers of invitation for pre-qualification.

24. *Bidding dossiers* mean the entire documentation used for open biddings or restricted biddings, which specify requirements for a bidding package and serve as a legal ground for contractors to prepare bids and for bid solicitors to evaluate bids and select bid-winning contractors; and also serve as a basis for negotiation, finalization and signing of contracts.

25. *Bids* mean the entire documentation prepared by contractors based on the requirements of bidding dossiers and submitted to bid solicitors according to specifications in such dossiers.

26. *Bidding-package price* means the value of a bidding package determined in the bidding plan on the basis of the approved total investment level or total cost estimates or cost estimates and current regulations.

27. *Bidding prices* mean prices offered by contractors in their bids. Where contractors send

letters to decrease prices, bidding prices shall be the post-decrease prices.

28. *Requested bid-winning prices* mean prices requested by bid solicitors on the basis of bidding prices which are offered by contractors selected as bid winners, provided that errors have been corrected and adjustments have been made according to requirements of bidding dossiers.

29. *Bid-winning prices* mean prices approved in the contractor-selecting results, serving as a basis for negotiation, finalization and signing of contracts.

30. *Expenses on the same ground* include bidding prices offered by contractors in order to undertake bidding packages after correcting errors and making adjustments plus necessary operation and maintenance expenses and other expenses related to the tempo, quality or origin of goods or works of bidding packages throughout their use duration. Expenses on the same ground shall be used for comparing and rating bids and shall be referred to as evaluation prices.

31. *Contracts* mean documents concluded between investors and contractors that are selected on the basis of their mutual agreements in accordance with decisions approving contractor-selecting results.

32. *Bid security* means the application by contractors of one of such measures as deposit, collateral or submission of guarantee letters to assure their liability for participation in biddings for a definite period according to requirements of bidding dossiers.

33. *Contract performance security* means the application by contractors of one of such measures as deposit, collateral or submission of guarantee letters to assure their liability for the performance of contracts in case they win bids for a definite period according to requirements of bidding dossiers.

34. *Consultancy services* include:

a/ Consultancy services on project preparation, including elaboration and evaluation of planning, overall development plans, architectural schemes, pre-feasibility study reports and feasibility study reports;

b/ Consultancy services on project execution, including survey, formulation of designs, total cost estimates and cost estimates, compilation of bidding dossiers, evaluation of bids, supervision of construction and equipment installation;

c/ Consultancy services on project administration and management, financial arrangement, training, technology transfer and other consultancy services.

35. *Goods* mean machinery, equipment, raw materials, fuels, materials, consumer goods and services other than consultancy services.

36. *Construction and installation* mean jobs in the process of construction and installation of equipment of works or work items, renovations or overhauls thereof.

37. *Bidding proposals* mean bidding-participating contractors' proposals to reconsider contractor-selecting results and issues related to the bidding process if they deem that their rights or interests are affected.

38. *National bidding network system* means the information technology application system established and managed by the state management agency in charge of bidding, aimed at uniformly managing bidding information in service of bidding activities.

39. *Bidding appraisal* means the inspection and assessment of bidding plans, bidding dossiers and contractor-selecting results by agencies or organizations that have the appraising function, which serves as a basis for competent persons to consider and make decision under the provisions of this Law. The appraisal of contractor-selecting results does not mean the re-evaluation of bids.

**Article 5.- Bidding information**

1. The following bidding information must be published in the bidding bulletin and website of the state management agency in charge of bidding:

- a/ Bidding plans;
- b/ Notices of invitation for pre-qualification and pre-qualification results;
- c/ Notices of invitation for bids, for open bidding;
- d/ Lists of contractors invited to participate in biddings;
- e/ Contractor-selecting results;
- f/ Information on the handling of violations of bidding law;
- g/ Current legal documents on bidding;
- h/ Other relevant information.

2. Information defined in Clause 1 of this Article may, after being published in the bidding bulletin and website, be published in other means of the mass media to facilitate access by organizations and individuals interested in such information.

The Government shall specify bidding information.

**Article 6.- Bidding plans**

1. Bidding plans must be approved in writing by competent persons after or at the same time with investment decisions in cases where such plans meet conditions serving as legal bases for investors to select contractors, except for bidding packages which must be executed before investment decisions are issued. Persons approving bidding plans shall take responsibility before law for their decisions.

2. A bidding plan must be elaborated for an entire project; where conditions are not fully met and it is not really necessary, a bidding plan may be elaborated for several packages to be executed in advance.

3. A bidding plan must state clearly the number of bidding packages and contents of each bidding package, covering:

- a/ The name of the bidding package;
- b/ The bidding package price;
- c/ The capital source(s);
- d/ The form of selecting contractors; the mode of bidding;
- e/ The time for selection of contractors;

f/ The form of contract;

g/ The contract performance duration.

4. The division of a project into bidding packages must be based on its technical specifications and order of execution, ensuring its synchrony and rational size of each bidding package. Each bidding package may have only one bidding dossier and be offered for bidding only once. A bidding package shall be executed under one contract; where a bidding package comprises many independent parts, it may be executed under one or several contracts.

**Article 7.- Valid capacity of contractors being organizations**

Contractors being organizations shall have valid capacity when fully meeting the following conditions:

1. Having business registration certificates, investment certificates granted in accordance with the provisions of law, or establishment decisions, for organizations being domestic contractors without business registration; having registered their operations with competent state agencies of the countries of their nationality, for foreign contractors.
2. Conducting independent business cost-accounting.
3. Being not subject to competent agencies' conclusions on their current unhealthy financial situation, bankruptcy, insolvency or dissolution.

**Article 8.- Valid capacity of contractors being individuals**

Contractors being individuals shall have valid capacity when fully meeting the following conditions:

1. Having full civil act capacity under legal provisions of the countries of which they are citizens.
2. Having lawful operation registrations or appropriate professional certificates granted by competent agencies.
3. Being not subject to examination for penal liabilities.

**Article 9.- Requirements on bid solicitors and teams of bidding experts**

1. Individuals joining bid-soliciting parties shall have to fully meet the following conditions:

a/ Being knowledgeable about bidding law;

b/ Having knowledge about project management;

c/ Having professional qualification suitable to technical, financial, commercial, administrative and legal requirements of bidding packages;

d/ Possessing foreign-language skills suitable to the requirements of bidding packages for which international biddings are organized, or of bidding packages of ODA projects.

2. Depending on the nature and complexity of bidding packages, a team of bidding experts shall be composed of experts in technical, financial, commercial, administrative, legal or relevant domains. Team members must fully meet the following conditions:

a/ Having certificates of participation in training courses on bidding;

b/ Having professional degrees related to bidding packages;

c/ Being knowledgeable about specific contents of bidding packages;

d/ Having worked for at least 3 years in the fields related to economic and technical contents of bidding packages.

Members of a team of bidding experts must not necessarily be bid solicitors and vice versa.

3. Where investors have sufficient staff members who meet the conditions specified in Clause 1 of this Article, they may themselves act as bid solicitors. Where investors do not have enough staff members or their staff members fail to meet the conditions specified in Clause 1 of this Article, they may select, according to the provisions of this Law, a consultancy organization or a professional bidding organization with full capabilities and experiences to act as bid solicitors on their behalf. In all circumstances, investors shall be responsible for the whole process of selecting contractors under the provisions of this Law and signing contracts with bid winners after negotiating and finalizing such contracts.

**Article 10.-** Conditions for participation in bidding for a bidding package

Contractors participating in bidding for a bidding package shall have to fully meet the following conditions:

1. Having valid capacity as provided in Articles 7 and 8 of this Law;

2. Being allowed to submit only one bid for each bidding package in the capacity as an independent contractor or a partnership contractor. In case of partnership, there must be a written agreement between partners, which clearly states the head of the partnership, common responsibilities and individual responsibilities of each partner for the jobs of the bidding package.

3. Meeting the requirements specified in bid solicitors' notices or letters of invitation for bids.

4. Ensuring competitiveness in bidding under the provisions of Article 11 of this Law.

**Article 11.-** Ensuring competitiveness in bidding

1. Contractors, when participating in biddings for bidding packages under the provisions of Article 1 of this Law, shall have to ensure all the following requirements on competitiveness:

a/ Consultancy contractors that elaborate feasibility study reports must not participate in biddings for the supply of consultancy services on formulation of technical designs of projects; consultancy contractors that have participated in formulation of technical designs of projects must not participate in the subsequent bidding steps, except for EPC bidding packages;

b/ Bidding-participating contractors must be organizationally independent, not depend on the same managing agency and be financially independent from consultancy contractors that compile bidding dossiers or evaluate bids;

c/ Consultancy contractors supervising the performance of contracts must be organizationally independent, not depend on the same managing agency and be financially independent from contractors performing contracts;

d/ Contractors participating in biddings for bidding packages of projects must be organizationally independent, not depend on the same managing agency and be financially independent from project investors;

2. The provisions of Clause 1 of this Article must be implemented within three years according to the roadmap set by the Government, counting from the effective date of this Law.

The Government shall specify the assurance of competitiveness in bidding.

**Article 12.- Prohibited acts in bidding**

1. Giving, taking or asking for anything valuable from individuals and organizations related to the process of selecting contractors or performing contracts, which leads to dishonest acts or lack of objectivity in the selection of contractors, signing or performance of contracts.

2. Using one's personal influence to affect or intervene in the selection of contractors, the signing or performance of contracts or deliberately reporting wrong or untruthful information on the results thereof.

3. Making collusion or connivance between bid solicitors and contractors, between state management agencies, bid solicitors and contractors to alter bids or collusion with appraising or inspecting agencies, which affects the collective or national interests.

4. Evaluating bids and appraising contractor-selecting results by the same organizations or individuals for the same bidding package.

5. Stating specific requirements on goods labels and origin in bidding dossiers, for procurement, construction and installation or EPC bidding packages.

6. Participating in bidding in the capacity as contractors for bidding packages for which they are bid solicitors.

7. Dividing a project into bidding packages in contravention of the provisions of Clause 4, Article 6 of this Law.

8. Participating by contractors in biddings for the supply of goods or construction and installation for bidding packages for which they also supply consultancy services, except for EPC bidding packages.

9. Disclosing the following documents or information on bidding:

a/ Contents of bidding dossiers before the prescribed time of distribution thereof;

b/ Contents of bids, notebooks, minutes of meetings for bid consideration, comments and evaluating opinions of experts or consultants on every bid before contractor-selecting results are announced;

c/ Requirements of bid solicitors to clarify bids and contractors' replies in the course of bid evaluation before the announcement of contractor-selecting results;

d/ Reports of bid solicitors, teams of experts, consultancy contractors or relevant professional agencies in the course of bidding, bid consideration and appraisal before the announcement of contractor-selecting results;

e/ Contractor-selecting results before they are permitted to be announced under regulations;

f/ The relevant bidding documentation affixed with confidentiality stamp under the provisions of law on confidentiality.

10. Arranging one's blood parents, parents-in-law, wives or husbands, offspring, adopted



children, daughters-or sons-in-law or siblings to participate in bidding packages for which they are bid solicitors, members of bidding experts' teams or contractor-selecting result appraisers' teams or contractor-selecting results approvers.

11. Acting in contravention of regulations on capital management, causing procedural difficulties for capital allocation, payment and settlement under contracts already signed between investors and contractors.

12. Making arrangement or collusion between two or more contractors so that one contractor wins bids for the same bidding package, between contractors executing bidding packages and consultancy contractors supervising such execution, between contractors executing bidding packages and agencies or organizations assigned to accept the execution results after test.

13. Being named in bids for bidding packages of projects of agencies or organizations for which they have worked for one year before leaving.

14. Letting other contractors use their capacity to participate in biddings or assigning contracts to other contractors after winning bids.

15. Taking advantage of bidding proposals to obstruct the bidding process and signing of contracts, or to obstruct other contractors' participation in biddings.

16. Applying forms of selecting contractors other than open bidding when failing to satisfy the conditions specified in Articles 19 thru 24 of this Law.

17. Organizing biddings when capital sources for bidding packages have not yet been identified, thus owing capital debts to contractors.

**Article 13.-** International biddings

1. An international bidding shall be organized in the following cases:

a/ The bidding package belongs to an ODA project whose donor requests international bidding;

b/ The bidding package is for the procurement of goods which cannot yet be produced at home;

c/ The bidding package is subject to a bidding dossier whose requirements cannot be met by domestic contractors or for which domestic bidding has been organized without bid winners.

2. Where bid-winning foreign contractors fail to strictly comply with the commitment on partnership or employment of Vietnamese subcontractors (if any) as declared in their bids with volumes and values reserved for Vietnamese contractors, such foreign contractors shall be eliminated.

3. Bid-winning foreign contractors executing bidding packages in Vietnam shall have to observe the Vietnamese Government's regulations on management of foreign contractors.

**Article 14.-** Preferences in international biddings

Entitled to preferences in international biddings shall be:

1. Contractors being enterprises established and operating in Vietnam under the Enterprise Law and Investment Law;

2. Partnership contractors when there are partners being contractors defined in Clause 1 of this Article who undertake jobs valued at over 50% of a consultancy or construction and installation

bidding package or an EPC bidding package;

3. Contractors that participate in biddings for procurement of goods with domestic production costs representing 30% or more.

The Government shall specify preferences in international biddings.

**Article 15.-** Bidding currency

1. Bidding currency shall be defined in bidding dossiers on the principle of one currency for a specific volume.

2. In the course of evaluating bids, the conversion of different currencies into a common one for comparison must be based on the exchange rate between Vietnam dong and the foreign currency defined in the bidding dossiers.

3. Domestically-incurred expenses must all be offered for bids in Vietnam dong.

**Article 16.-** Bidding language

The language used in the bidding dossiers, bids and documentation exchanged between bid solicitors and contractors shall be Vietnamese for domestic biddings, and Vietnamese and English for international biddings.

**Article 17.-** Bidding expenses

1. Expenses for preparation of bids and participation in biddings shall rest with contractors.

2. Expenses for selection of contractors shall be incorporated in the total investment level or total cost estimates of a project.

3. Bidding dossiers shall be sold to contractors.

The Government shall specify bidding expenses.

## **Chapter II**

### **SELECTION OF CONTRACTORS**

#### **Section 1. FORMS OF SELECTING CONTRACTORS**

**Article 18.-** Open bidding

1. The selection of contractors for performance of bidding packages of projects defined in Article 1 of this Law must be subject to open bidding, except for cases specified in Articles 19 thru 24 of this Law.

2. In open bidding, the number of participating contractors is not limited. Before distributing the bidding dossiers, bid solicitors must issue notices of invitation for bids according to the provisions of Article 5 of this Law so that contractors are aware of information for participation. Bid solicitors must supply bidding dossiers to contractors that wish to participate in biddings. The bidding dossiers must not specify any conditions restricting participation of contractors or creating advantages for one or some contractors, which causes unequal competition.

**Article 19.-** Restricted bidding

1. Restricted bidding shall apply in the following cases:

- a/ At the request of foreign donors of capital sources used for bidding packages;
  - b/ Bidding packages have high or particular technical requirements; bidding packages are of research or trial nature the requirements of which can be satisfied by several contractors only.
2. In a restricted bidding, at least five contractors identified as being fully capable and experienced must be invited for participation; where the number of participating contractors is less than five, investors must propose competent persons to consider, decide and permit the continuation of restricted bidding or the application of other selection forms.

**Article 20.- Appointment of contractors**

1. The appointment of contractors shall apply in the following cases:

- a/ Where *force majeure* circumstances are caused by natural calamities, enemy sabotage or where incidents must be remedied immediately, investors or agencies managing relevant projects or assets may immediately appoint contractors therefor; in such cases investors or project-or asset-managing agencies must join appointed contractors in carrying out contractor-appointing procedures within 15 days after such contractors are appointed;
- b/ Where it is so requested by foreign donors for bidding packages;
- c/ Where bidding packages belong to projects of national secrets; urgent projects for national interests, energy security or safety as decided by the Prime Minister when deeming it necessary;
- d/ Where bidding packages are for procurement of supplies or equipment for restoration, maintenance or increase of capacity of equipment or technological chains, which have earlier been procured from a supply contractor and cannot be procured from other contractors due to the requirement on assurance of compatibility of such equipment or technologies;
- e/ Where consultancy bidding packages are valued at under VND five hundred million each, procurement or construction and installation bidding packages are valued at under VND one billion each, belonging to development investment projects; procurement bidding packages are valued at under VND one hundred million, belonging to regular procurement projects or cost estimates; where it is necessary, bidding may be organized.

2. In contractor appointment, it is necessary to select fully capable and experienced contractors that meet the requirements of the concerned bidding packages and to comply with the contractor-appointing procedures stipulated by the Government.

3. Before contractors are appointed for bidding packages according to the provisions of Points b, c, d and e, Clause 1 of this Article, the cost estimates for such bidding packages must be approved under regulations.

**Article 21.- Direct procurement**

- 1. Direct procurement shall apply when contracts for the bidding packages with similar contents have been signed earlier for not more than six months.
- 2. In case of direct procurement, contractors that have earlier been selected through bidding for execution of bidding packages with similar contents may be invited.
- 3. Unit prices for contents of bidding packages subject to direct procurement must not exceed those for corresponding contents of similar bidding packages for which contracts have been

signed earlier.

4. Direct procurement may also apply for execution of similar bidding packages of the same project or other projects.

**Article 22.-** Competitive offers in goods procurement

1. Competitive offers shall apply where all the following conditions are met:

a/ Bidding packages are valued at under VND two billion each;

b/ Subject to procurement are common goods available on market with technical specifications already standardized and equivalent in terms of quality.

2. In case of competitive offers, requests therefor must be sent to contractors. Contractors shall send price quotes to bid solicitors directly, by fax or post. Each bidding package must have at least 3 price quotes from three different contractors.

**Article 23.-** Self-execution

1. Self-execution shall apply in cases where investors are contractors with full capabilities and experiences to execute bidding packages of projects under their management and use.

2. Upon application of self-execution form, the cost estimates for bidding packages must be approved according to regulations. Units supervising the execution of bidding packages must be organizationally and financially independent from investors.

**Article 24.-** Selection of contractors in special cases

Where a bidding package has particularities which disallow the application of the forms of selecting contractors defined in Articles 18 thru 23 of this Law, investors shall have to elaborate a contractor-selecting scheme, ensuring competitiveness and economic efficiency and submit it to the Prime Minister for consideration and decision.

**Section 2. GENERAL PROVISIONS ON BIDDING**

**Article 25.-** Conditions for distribution of bidding dossiers

A bidding dossier shall be distributed when all the following conditions are met:

1. The bidding plan has been approved;

2. The bidding dossier has been approved;

3. The notice of invitation for bids or list of contractors invited for participation in bidding has been published according to the provisions of Article 5 of this Law.

**Article 26.-** Bidding modes

1. The one-dossier-bag bidding mode shall apply to open bidding and restricted bidding for procurement, construction and installation or EPC bidding packages. Contractors shall submit bids, including technical and financial proposals, according to requirements of the bidding dossiers. Bids shall be opened only once.

2. The two-dossier-bag bidding mode shall apply to open bidding and restricted bidding for the supply of consultancy services. Contractors shall submit technical and financial proposals separately according to requirements of the bidding dossiers. Bids shall be opened twice whereby technical proposals shall be opened first for evaluation; then, financial proposals of all

contractors having technical proposals which have been evaluated as meeting the set requirements shall be opened for general evaluation. For bidding packages with high technical requirements, the financial proposals of contractors that attain the highest technical points shall be opened for consideration and negotiation.

3. The two-stage bidding mode shall apply to open bidding and restricted bidding for procurement, construction and installation or EPC bidding packages with new, complicated or diverse technical or technological specifications, which shall be conducted in the following order:

a/ In the first stage, based on the bidding dossiers for this stage, contractors shall submit technical proposals and financial plans without bidding prices; the bidding dossiers for the second stage shall be determined on the basis of discussion with each of the contractors participating in the first stage;

b/ In the second stage, based on the bidding dossiers for this stage, contractors that have participated in the first stage shall be invited to submit bids for the second stage, which shall cover technical proposals and financial proposals, including bidding prices, and bid security measures.

**Article 27.- Bid security**

1. When participating in procurement, construction and installation or EPC bidding packages, contractors must take measures to secure their participation in biddings before the time of closing bids. Where the two-stage bidding mode is applied, contractors shall apply the bid-security measure in the second stage.

2. The value of a bid security shall be specified in the bidding dossier at a definite level, based on the nature of each bidding package, which, however, must not exceed 3% of the approved price of the bidding package.

3. The valid time limit of a bid security shall be equal to that of bids plus thirty days.

4. Where it is necessary to extend the valid time limit of bids, bid solicitors shall have to request contractors to extend the validity of bid security respectively; in this case, contractors must not change contents of submitted bids, including bidding prices, and must correspondingly extend the validity of bid security. Where contractors refuse to extend the validity of bids, bid solicitors must return bid security to contractors.

5. Bid security shall be returned to contractors that fail bids within 30 days after bidding results are announced. With regard to bid winners, bid security shall be returned after contractors take measures to secure the performance of contracts according to the provisions of Article 55 of this Law.

6. Contractors shall not be allowed to get back bid security in the following cases:

a/ Withdrawing their bids after the bid closure, provided that the bids are still valid;

b/ Failing, within 30 days after receiving bid-winning notices from bid solicitors, to negotiate and finalize contracts, or refusing to do so or having negotiated and finalized contracts but refusing to sign them without plausible reasons;

c/ Failing to take measures to secure the performance of contracts under the provisions of Article

55 of this Law.

**Article 28.-** Bid-evaluation principles

1. The bid evaluation must be based on the criteria therefor and other requirements in bidding dossiers in order to select contractors that have full capabilities, experiences and feasible solutions for execution of bidding packages.
2. The bid evaluation must, apart from the provisions of Clause 1 of this Article, also be based on submitted bids and contractors' written explanations thereon.
3. The bid evaluation must comply with the order provided in Article 35 of this Law.

**Article 29.-** Bid-evaluation methods

1. Bid-evaluation methods must be reflected through evaluation criteria in bidding dossiers. Bid-evaluation criteria shall cover criteria for evaluation of capabilities and experiences in cases where the pre-qualification is not applied; criteria for general evaluation of consultancy service-bidding packages or contents for determination of expenses on the same technical, financial and commercial grounds for comparing and ranking bids, with regard to procurement, construction and installation or EPC bidding packages.
2. With regard to consultancy service-bidding package, the point-rating method shall apply to technical evaluation. Upon formulation of evaluation criteria, the minimum technical requirements must be specified but not lower than 70% of the total technical points, or not lower than 80%, for bidding packages with high technical requirements. The formulation of evaluation criteria for comparing and ranking bids shall comply with the following provisions:
  - a/ For consultancy service-bidding packages without high technical requirements, a general point scale shall be used to rank bids. The general point scale must ensure the principle that technical points shall not be lower than 70% of the total points of the scale. The bid of the contractor with the highest point shall be ranked first;
  - b/ For consultancy service-bidding packages with high technical requirements, the contractor whose bid has the highest technical point shall be ranked first for consideration of financial proposals.
3. For procurement, construction and installation or EPC bidding packages, the point-rating method or method of evaluation by the "pass" or "fail" criterion shall apply to technical evaluation. Upon formulation of technical evaluation criteria through a point scale, the minimum technical requirements must be specified but not lower than 70% of the total technical points or not lower than 80%, for bidding packages with high technical requirements. For bids which have passed the technical evaluation, the expenses on the same technical, financial and commercial grounds shall be used for comparing and ranking bids. Bids of contractors with the lowest expenses on the same grounds shall be ranked first.

The Government shall specify the evaluation of bids.

**Article 30.-** Online bidding

Online bidding shall be conducted online through a network system. The publication of bidding notices, distribution of bidding dossiers, submission of bids, evaluation of bids and notification of bidding results shall be conducted through the national bidding network system formulated

and uniformly managed by the state management agency in charge of bidding.

The Government shall specify the application of online bidding.

**Article 31.-** Regulations on time in bidding

Based on the nature of each bidding package, competent persons shall decide on time in bidding according to the following provisions:

1. The pre-qualification time shall be at most 30 days for domestic bidding, and 45 days for international bidding, from the date of distribution of dossiers of invitation for pre-qualification till the approval of pre-qualification results.
2. The time for announcement of an invitation for bids shall be at least 10 days, before the distribution of the bidding dossier.
3. The time for preparation of bids shall be at least 15 days for domestic bidding, and 30 days for international bidding, from the date of distribution of bidding dossiers till the bid-closing time.
4. The valid time limit of bids shall be at most 180 days as from the bid-closing time; in case of necessity, this time limit may be extended for not more than 30 days.
5. The time for bid evaluation shall be at most 45 days for domestic bidding and 60 days for international bidding, from the bid-opening date till the time the investors receive reports on bidding results for submission to competent persons for consideration and decision.
6. The time for evaluation of bidding plans, bidding dossiers or contractor-selecting results shall be at most 20 days. With regard to bidding plans or contractor-selecting results of bidding packages approved by the Prime Minister, it shall be at most 30 days.

**Section 3. BIDDING ORDER**

**Article 32.-** Preparation for bidding

1. Pre-qualification

The pre-qualification shall be conducted according to the following provisions:

- a/ The pre-qualification shall be conducted before the organization of bidding with a view to selecting fully capable and experienced contractors according to requirements of bidding packages for invitation to participate in bidding; for procurement or EPC bidding packages valued at VND 300 billion or more each and construction and installation bidding packages valued at VND 200 billion or more each, the pre-qualification is required;
- b/ The order of pre-qualification shall cover the compilation of dossiers of invitation for pre-qualification, announcement of invitation for pre-qualification; reception and management of pre-qualification responses; evaluation of pre-qualification responses; submission and approval of pre-qualification results; and announcement of pre-qualification results;
- c/ The criteria for evaluation of pre-qualification responses must be stated in dossiers of invitation for pre-qualification according to the model dossier set by the Government, including technical capability, financial capability and experience criteria.

2. Compilation of bidding dossiers

Bidding dossiers shall be compiled according to the model set by the Government and have the

following contents:

a/ Technical requirements:

For consultancy-service bidding packages, they are requirements on professional knowledge and experiences of experts (the term of reference);

For procurement bidding packages, they are requirements on the scope of supply, quantity and quality of goods to be determined through their characteristics, technical parameters, technical standards, production standards, warranty duration, environmental requirements and other necessary requirements;

For construction and installation bidding packages, they are requirements based on technical designs, which are accompanied by estimates, technical instructions, and other necessary requirements;

b/ Financial and commercial requirements, which cover expenses for execution of bidding packages, offered prices and price quotes, goods delivery conditions, payment modes and conditions, financial sources, bidding currencies and terms mentioned in the general and specific conditions of contracts.

c/ Evaluation criteria, important requirements, preferential conditions (if any), taxes, insurance and other requirements.

3. Invitation for bids

The invitation for bids shall comply with the following provisions:

a/ Announcement of invitation for bids, in case of open bidding;

b/ Sending of letters of invitation for bids, in case of restricted bidding or open bidding involving pre-qualification.

**Article 33.- Organization of bidding**

1. Distribution of bidding dossiers

Bidding dossiers shall be distributed to contractors participating in open bidding, to contractors on the lists of those invited to participate in restricted bidding or to contractors having passed the pre-qualification.

Where bidding dossiers should be modified after distribution, such must be notified to all contractors having received the dossiers at least 10 days before the bid-closing time.

2. Reception and management of bids

Bids submitted according to requirements of bidding dossiers shall be received and managed by bid solicitors according to the regime of management of "secret" dossiers.

3. Bid opening

Bid opening must be conducted publicly right after the bid-closing time, with regard to bids submitted according to requirements of bidding dossiers.

Major information mentioned in bids of each contractor must be publicized in the bid-opening session and recorded in the bid-opening minutes, which shall be signed for certification by representatives of bid solicitors, contractors and concerned agencies.



**Article 34.- Clarification of bids**

1. Where contractors need the clarification of bidding dossiers, they must send written requests to bid solicitors for consideration and handling.
2. The clarification of bidding dossiers shall be conducted by bid solicitors by one of the following modes:
  - a/ Sending documents clarifying bidding dossiers to contractors that have received such dossiers;
  - b/ When necessary, organizing pre-bidding conferences to discuss contents of bidding dossiers which are not yet clear to contractors. The contents of discussion must be recorded in minutes to be sent to contractors.
3. The documents clarifying bidding dossiers defined in Clause 2 of this Article shall constitute part of such dossiers.

**Article 35.- Bid-evaluation order**

1. Preliminary evaluation of bids for elimination of invalid bids which fail to meet important requirements of bidding dossiers.
2. The detailed evaluation of bids shall be conducted according to the following provisions:
  - a/ To evaluate technical proposals of bids to determine whether they meet the basic requirements of bidding dossiers or not;
  - b/ For procurement, construction and installation or EPC bidding packages, to determine expenses on the same technical, financial and commercial grounds for comparing and ranking bids. For consultancy service-bidding packages, to conduct general evaluation for comparing and ranking bids; particularly for consultancy service-bidding packages with high technical requirements, to consider financial proposals of contractors who rank first in terms of technical aspect.

**Article 36.- Clarification of bids**

1. Contractors must neither change nor supplement their bids after the bid-closing time.
2. After the bid opening, contractors shall have to clarify their bids if so requested by bid solicitors. The clarification of bids may be conducted in form of direct or indirect discussion but must not change the basic contents of submitted bids or bidding prices. The contents of clarification of bids must be recorded in writing and kept by bid solicitors as part of bids.
3. The clarification of bids shall only be conducted between bid solicitors and contractors that have bids to be clarified.

**Article 37.- Consideration and approval of bid winners in bidding for the supply of consultancy services**

Consultancy contractors shall be considered and proposed to be bid winners if they fully meet the following conditions:

1. Having valid bids.
2. Having technical proposals, covering their capabilities, experiences, solutions and staff members, evaluated as meeting the requirements.

3. Getting the highest general technical and financial points; or the highest technical points in case of bidding packages with high technical requirements.
4. Offering bid-winning prices not exceeding the approved prices of bidding packages.

**Article 38.-** Consideration and approval of bid winners in procurement, construction and installation or EPC bidding

Contractors undertaking goods supply, construction and installation or EPC bidding packages shall be considered and proposed to be bid winners if they fully meet the following requirements:

1. Having valid bids.
2. Being evaluated as meeting the requirements on capabilities and experiences.
3. Having their technical proposals evaluated as meeting the requirements of the point-rating system or according to the "pass" or "fail" criterion.
4. Having the lowest expenses on the same ground.
5. Offering bid-winning prices not exceeding the approved prices of bidding packages.

**Article 39.-** Submission for approval and appraisal of bidding results

1. Bid solicitors shall have to elaborate reports on bidding results for investors to submit them to competent persons for consideration and decision and sending to agencies or organizations in charge of appraisal.
2. Agencies and organizations tasked to appraise reports on bidding results must make appraising reports on the basis of investors' reports so as to submit them to competent persons for consideration and decision.

**Article 40.-** Approval of bidding results

1. Competent persons shall have to consider and approve bidding results on the basis of reports thereon and reports on the appraisal thereof.
2. Where a contractor wins bids, the written approval of bidding results must cover the following contents:
  - a/ The name of the bid winner;
  - b/ The bid-winning price;
  - c/ The form of contract;
  - d/ The contract performance duration;
  - e/ Notes (if any).
3. Where no contractors win bids, such must be stated clearly in the written approval of bidding results and the bidding shall be cancelled for the selection of contractors according to the provisions of this Law.

**Article 41.-** Announcement of bidding results

1. The bidding results shall be announced right after they are approved under decisions of competent persons.

2. Announcements of bidding results need not explain reasons to bid-failing contractors.

**Article 42.-** Negotiation, finalization and signing of contracts

1. The negotiation and finalization for signing of contracts with bid winners must be based on the following:

a/ The approved bidding results;

b/ The model contracts which have been filled with all specific information of bidding packages;

c/ The requirements stated in the bidding dossiers;

d/ The contents of bids and bid winners' explanations to clarify their bids (if any);

e/ The contents to be negotiated and finalized for contracts between bid solicitors and bid winners.

2. The results of negotiation and finalization of contracts shall serve as a basis for investors and contractors to sign contracts.

3. In case of unsuccessful negotiation and finalization of contracts, investors must report such to competent persons for consideration of selection of next-ranked contractors. Where the next-ranked contractors also fail to meet the requirements, such shall be reported to competent persons for consideration and decision.

**Section 4. CANCELLATION OF BIDDING AND ELIMINATION OF BIDS**

**Article 43.-** Cancellation of bidding

1. The cancellation of bidding shall apply in one of the following cases:

a/ There's a change in the investment objectives or scope which has already been mentioned in bidding dossiers;

b/ There's evidence of a collusion between bid solicitors and contractors;

c/ All bids fail to basically meet the requirements of bidding dossiers;

d/ There's evidence of a collusion between contractors, thus affecting the bid solicitors' interests.

2. Based on decisions of competent persons, bid solicitors shall have to notify all bid-participating contractors of the cancellation of bidding.

**Article 44.-** Financial liabilities in case of cancellation of bidding

1. Where contractors are not at fault in the cancellation of bidding, bid solicitors shall have to repay bid-participation expenses to the contractors on the basis of the State's current regimes and norms, except where the bidding is cancelled because none of the contractors meet the requirements of bidding dossiers.

2. Where the cancellation of bidding is attributed to the changes in investment objectives or scope, damages shall be decided by competent persons and accounted in project expenses. Where bid solicitors are at fault in the cancellation of bidding, concerned individuals belonging to bid solicitors shall pay damages.

3. Where the cancellation of bidding is attributed to the collusion between bid solicitors and one or several contractors, the concerned individuals shall have to pay damages to other contractors.

**Article 45.-** Elimination of bids

Bids shall be eliminated in the following cases:

1. They fail to meet important requirements of bidding dossiers;
2. They fail to meet technical requirements based on evaluation criteria;
3. They contain arithmetical errors with a total absolute value larger than 10% of bidding prices, except for consultancy service-bidding packages or where contractors do not accept arithmetical errors detected by bid solicitors.
4. They contain errors with a total absolute value larger than 10% of bidding prices, except for consultancy service-bidding packages.

**Chapter III**  
**CONTRACTS**

**Article 46.-** Principles for formulation of contracts

1. Contracts must accord with the provisions of this Law and relevant provisions of law.
2. In case of partnership contractors, the contracts signed with investors must have signatures of all partners.
3. The contractual price must not exceed the bid-winning price, except for cases defined in Clause 4 of this Article.
4. Where a work volume or goods quantity arises beyond the scope of bidding dossiers, making contractual prices exceed the bid-winning prices, it must be considered and decided by competent persons.

**Article 47.-** Contents of a contract

1. Subjects of the contract.
2. Quantity and volume.
3. Specifications, quality and other technical requirements.
4. Contractual price.
5. Form of the contract.
6. Implementation time and schedule.
7. Conditions and mode of payment.
8. Conditions for after-test acceptance and handover.
9. Warranty, in case of goods procurement, construction and installation.
10. Rights and obligations of the involved parties.
11. Liabilities incurred by breaches of the contract.
12. Effective duration of the contract.
13. Other contents, depending on the form of contract.

**Article 48.-** Forms of contract

1. Package contracts.
2. Unit price-based contracts.
3. Time-based contract.
4. Percentage-based contracts.

**Article 49.-** Package contracts

1. Package contracts shall apply to jobs whose quantity or volume has already been clearly defined.
2. Contractual prices shall remain unchanged throughout the execution of contracts. Investors shall pay contractors at the exact prices stated in contracts when the latter fulfill their contractual obligations.

**Article 50.-** Unit price-based contracts

1. Unit price-based contracts shall apply to jobs whose volume or quantity cannot be exactly defined due to the lack of conditions therefor.
2. Investors shall pay contractors according to the actually executed volume or quantity on the basis of the contractual unit prices or unit prices accepted for adjustment under the provisions of Article 57 of this Law.

**Article 51.-** Time-based contracts

1. Time-based contracts shall apply to complicated research, design consultancy, construction supervision, training or refresher training.
2. Investors shall pay contractors on the basis of the actual working months, weeks, days or hours and the remuneration levels provided for experts in contracts or those approved for adjustment according to the provisions of Article 57 of this Law.

**Article 52.-** Percentage-based contracts

1. Percentage-based contracts shall apply to common and simple consultancy jobs.
2. Contractual prices shall remain unchanged throughout the execution of contracts. Contractual prices shall be calculated in percentages of the value of works or work volumes. Investors shall pay contractors at the exact prices stated in contracts when the latter fulfill their contractual obligations.

**Article 53.-** Many component contracts within a common contract

Where a contract comprises one or several component contracts in the contractual forms provided for in Articles 49, 50, 51 and 52 of this Law, the payment principles provided in corresponding articles shall apply.

**Article 54.-** Signing of contracts

1. Contracts shall be signed on the basis of the following documents:
  - a/ Results of negotiation and finalization of contracts;

- b/ Decisions approving and written notices on contractor-selecting results;
- c/ Bids and documentation explaining bids of selected contractors;
- d/ Bidding dossiers.

2. The signing of contracts must ensure the following conditions:

- a/ Bids of selected contractors remain valid;
- b/ Information on technical and financial capabilities of contractors updated at the time of signing contracts must meet the requirements of bidding dossiers.

**Article 55.- Contract-performance security**

1. Bid winners must take measures to secure the performance of contracts before such contracts take effect, except the bidding for consultancy service provision and the self-execution.
2. The value of a contract-performance security shall be defined in the bidding dossier and represent 10% of the contractual price at most; in case of risk prevention, the value of a contract-performance security must be higher but not exceed 30% of the contractual price and must be permitted by competent persons.
3. The valid time limit of a contract-performance security must last till the warranty obligations (if any) start.
4. Contractors shall not get back contract-performance security if refusing to perform contracts after they take effect.

**Article 56.- Warranty**

Contracts involving goods procurement or construction and installation contents must provide warranty. The warranty duration, charges and other contents specified in contracts must be based on the provisions of law.

The Government shall specify the warranty for goods procurement, construction and installation contents of contracts.

**Article 57.- Adjustment of contracts**

1. The adjustment of contracts shall only apply to unit price-based contracts and time-based contracts and shall comply with the following provisions:
  - a/ Where the State amends tax or salary policies, which directly affects the contractual prices, contracts may be adjusted according to such new policies as from the time they come into force;
  - b/ Where the contractual volume or quantity increases or decreases in the course of performance of contracts within the scope of bidding dossiers not due to the contractors' faults, the calculation of the increased or decreased value must be based on the unit prices of contracts;
  - c/ Where the fuel, supplies or equipment prices stated in contracts and controlled by the State substantially fluctuate, directly affecting the contract performance, such must be reported to competent persons for consideration and decision.
2. The adjustment of contracts shall only apply during the performance thereof under the signed contracts and must be considered and decided by competent persons. Post-adjustment contractual prices must not exceed the cost estimates, total cost estimates or prices of bidding packages in

the approved bidding plans, except where it is permitted by competent persons.

3. Where reasonable jobs arise beyond the scope of bidding dossiers, investors shall reach agreement with contractors that have already signed contracts to calculate and add those jobs and report them to competent persons for consideration and decision. Where they fail to reach agreement, the contents of such arising jobs shall form new bidding packages and contractors shall be selected in accordance with the provisions of this Law.

**Article 58.-** Payment of contracts

Contractual prices and specific terms on payment in contracts shall serve as bases for investors to pay contractors.

**Article 59.-** Supervision of performance, after-test acceptance and liquidation of contracts

1. The supervision of contract performance shall comply with the following provisions:

a/ Investors shall take responsibility for supervising contractors in the performance of contracts;

b/ Individuals tasked to supervise the performance of contracts must be impartial, honest, objective, fully capable, experienced and professionally knowledgeable in order to perform their tasks and be answerable to investors and law for the performance of their tasks;

c/ If consultancy contractors supervising construction show irresponsibility or collude with construction contractors, improperly certifying the quantity or quality of works, the consultancy contractors and the construction contractors shall have to pay damages and be handled according to the provisions of Article 75 of this Law and relevant provisions of law;

d/ Population communities shall participate in supervision of bidding activities under the Government's regulations.

2. The after-test acceptance of contracts shall comply with the following provisions:

a/ The after-test acceptance of contracts, in part or in whole, must be conducted in accordance with the contents of the signed contracts;

b/ Individuals involved in the after-test acceptance process must be impartial, honest, objective, fully capable, experienced and professionally knowledgeable and be answerable to law for the performance of their tasks;

3. The liquidation of a contract shall be completed within 45 days after investors and contractors fulfill their contractual obligations; where bidding packages are really complicated, this time limit may be prolonged but must not exceed 90 days.

## **Chapter IV**

### **RIGHTS AND OBLIGATIONS OF PARTIES IN BIDDING**

**Article 60.-** Responsibilities of competent persons

1. To approve bidding plans.

2. To approve or authorize others to approve bidding dossiers.

3. To approve or authorize others to approve contractor-selecting results.

4. To decide on the handling of bidding circumstances.

5. To handle bidding proposals.
6. To handle violations of bidding law according to the provisions of Article 75 of this Law and other relevant provisions of law.
7. To take responsibility before law for their decisions.

**Article 61.-** Rights and obligations of investors

1. To decide on contents related to pre-qualification.
2. To approve lists of bidding-participating contractors.
3. To set up teams of bidding experts; select a consultancy organization or a professional bidding organization to act as bid solicitors on their behalf according to the provisions of this Law.
4. To approve lists of contractors that meet technical requirements and contractor-ranking lists.
5. To approve contractor-appointing results in cases defined at Points a and e, Clause 1, Article 20 of this Law.
6. To take responsibility for setting requirements for bidding packages subject to contractor appointment.
7. To take responsibility for contents of contracts, sign contracts with selected contractors and strictly implement commitments in contracts signed with contractors.
8. To take responsibility before law for the process of selecting contractors under the provisions of this Law.
9. To pay damages to concerned parties in accordance with the provisions of law, if they are at fault in causing the damage.
10. To supply information to bidding bulletin and website.
11. To handle bidding proposals.
12. To keep secret bidding documents in accordance with the provisions of this Law.

**Article 62.-** Rights and obligations of bid solicitors

1. Bid solicitors shall have the following rights and obligations:
  - a/ To prepare for bidding, organize bidding and evaluate bids in accordance with the provisions of this Law;
  - b/ To request contractors to clarify bids in the course of bid evaluation;
  - c/ To sum up the selection of contractors and report to investors on pre-qualification and contractor-selecting results;
  - d/ To negotiate and finalize contracts on the basis of the approved contractor-selecting results;
  - e/ To prepare contractual contents for investors to consider and sign contracts;
  - f/ To be honest, objective and fair in the course of bidding;
  - g/ To pay damages to concerned parties in accordance with the provisions of law, if they are at fault.



h/ To supply information to bidding bulletin and website;

i/ To handle bidding proposals;

j/ To keep secret bidding documents in accordance with the provisions of this Law.

2. Where bid solicitors are investors, they shall, apart from the rights and obligations specified in Clause 1 of this Article, also have to comply with the provisions of Article 61 of this Law.

**Article 63.-** Rights and obligations of bidding experts' teams

1. To evaluate bids strictly according to requirements of bidding dossiers and evaluation criteria stated therein.

2. To keep secret bidding documents according to the provisions of this Law in the task-performance course.

3. To reserve their opinions.

4. To be honest, objective and fair in the course of evaluating bids and reporting the evaluation results.

5. To pay compensations to concerned parties in accordance with the provisions of law, if they are at fault.

6. To exercise other rights and perform other obligations under the provisions of law.

**Article 64.-** Rights and obligations of contractors

1. To participate in bidding in the capacity as independent contractors or partnership contractors.

2. To request bid solicitors to clarify bidding dossiers.

3. To implement commitments under contracts with investors and commitments with subcontractors (if any).

4. To make proposals, complaints or denunciations in bidding.

5. To comply with the provisions of bidding law.

6. To ensure honesty and accuracy in the course of participation in biddings, making proposals, complaints or denunciations in bidding.

7. To pay damages to concerned parties in accordance with the provisions of law if they are at fault.

**Article 65.-** Rights and obligations of appraising agencies, organizations

1. To operate independently, comply with the provisions of this Law and relevant provisions of law when conducting appraisal.

2. To request investors and bid solicitors to fully supply relevant documents.

3. To keep secret relevant documents in the course of appraisal.

4. To be honest, objective and fair in the course of appraisal.

5. To reserve their opinions and take responsibility for their appraisal reports.

6. To exercise other rights and perform other obligations under the provisions of law.

## Chapter V

### MANAGEMENT OF BIDDING ACTIVITIES

**Article 66.-** Contents of state management of bidding

1. Promulgating, disseminating, guiding and organizing the implementation of legal documents and policies on bidding.
2. Training, fostering officials and public employees engaged in the work of bidding.
3. Reviewing, assessing, reporting the situation of bidding activities.
4. Managing the bidding information system nationwide, including the bidding bulletin, the bidding website and the national bidding network system.
5. Entering into international cooperation on bidding.
6. Inspecting, examining, settling proposals, complaints and denunciations in bidding and handling violations of bidding law in accordance with the provisions of this Law and relevant provisions of law.

**Article 67.-** Responsibilities and powers of the Government and the Prime Minister

1. The Government shall exercise the unified state management of bidding throughout the country.
2. The Prime Minister shall exercise the following responsibilities and powers:
  - a/ To direct the inspection work and handle proposals in bidding according to the provisions of this Law and inspection law;
  - b/ To define appraising agencies and organizations to assist competent persons in the course of considering and approving bidding contents;
  - c/ To decide on bidding contents stipulated in Article 60 of this Law for investment projects under resolutions of the National Assembly;
  - d/ To exercise other responsibilities and powers in accordance with the provisions of this Law and other relevant provisions of law.

**Article 68.-** Responsibilities and powers of the Ministry of Planning and Investment

1. To be answerable to the Government for the exercise of state management of bidding activities.
2. To appraise bidding plans and contractor-selecting results, for bidding packages of projects considered and decided by the Prime Minister as defined at Point c, Clause 2, Article 67 of this Law.
3. To make and manage the bidding bulletin, bidding website and national bidding network system.
4. To act as the major agency assisting the Government and the Prime Minister in international cooperation on bidding.
5. To organize the training and fostering of officials and public employees engaged in bidding work.

6. To review, assess and report on the situation of bidding activities.
7. To handle according to its competence bidding proposals.
8. To assume the prime responsibility for, and coordinate with concerned agencies in, inspecting and examining biddings nationwide.
9. To perform other tasks on bidding assigned by the Government.

**Article 69.-** Responsibilities and powers of ministries, ministerial-level agencies and People's Committees at all levels

Within the ambit of their respective powers and tasks, ministries, ministerial-level agencies and People's Committees at all levels shall have the following responsibilities and powers:

1. To manage the bidding work;
2. To organize the training and fostering of officials and public employees engaged in bidding work;
3. To review and assess the situation of bidding activities;
4. To report on bidding activities in accordance with the Government's regulations;
5. To handle bidding proposals in accordance with the provisions of this Law;
6. To inspect and examine biddings;
7. To handle violations of bidding law committed by organizations or individuals involved in bidding activities;
8. Where ministers, heads of ministerial-level agencies or presidents of People's Committees at all levels are competent persons they shall also have to perform the responsibilities provided for in Article 60 of this Law.

**Article 70.-** Handling of bidding circumstances

1. The handling of bidding circumstances must comply with the following principles:
  - a/ Ensuring competitiveness, fairness, transparency and economic efficiency;
  - b/ Basing on the approved bidding plans, contents of bidding dossiers and bids of bidding-participating contractors;
  - c/ Competent persons shall decide on the handling of bidding circumstances and take responsibility before law for their decisions.
2. Groups of bidding circumstances shall include those on:
  - a/ The preparation and organization of biddings, which covers the adjustment of bidding plans on bidding prices or other contents of bidding packages; bidding dossiers; late submission of bids or submission of bids for small quantities; and the number of bidding-participating contractors.
  - b/ The evaluation of bids, which covers contents on bidding prices in excess of prices of bidding packages; bidding prices with abnormal unit prices.
  - c/ The proposal on bid winning and signing contracts, which covers contents on bid-winning prices which are below 50% of approved prices of bidding packages or cost estimates; two bids which are evaluated as the best and equal; and prices requested for signing contracts in excess of

the approved bid-winning prices.

d/ The relevant bidding procedures and order.

The Government shall specify the handling of bidding circumstances.

**Article 71.- Bidding inspection**

1. Bidding inspection shall be conducted against organizations and individuals involved in bidding activities for execution of bidding packages of projects defined in Article 1 of this Law.

2. Bidding inspectorate means specialized inspectorate in the field of bidding. The organization and operation of bidding inspectorate shall comply with the provisions of inspection law.

**Article 72.- Handling of bidding proposals**

1. Bidding-participating contractors shall have the right to make petitions on contractor-selecting results and relevant issues in the course of bidding.

2. Persons responsible for handling bidding proposals of contractors shall be bid solicitors, investors and competent persons. For contractors' petitions on contractor-selecting results, competent persons shall handle them on the basis of reports of the Advisory Council for handling of proposals under the provisions of Article 73 of this Law.

3. For proposals on relevant issues in the bidding process other than contractor-selecting results, the time for submitting proposals shall be counted from the time an incident occurs till the announcement of bidding results. For petitions on contractor-selecting results, the time for submitting petitions shall be at most 10 days after the announcement of bidding results.

**Article 73.- Process of handling bidding proposals**

1. The handling of proposals on relevant issues in the bidding process shall comply with the following provisions:

a/ Bid solicitors shall have to handle bidding proposals of contractors within 15 working days after receiving them. Where bid solicitors cannot handle such proposals or contractors disagree with the handling by bid solicitors, contractors may lodge their proposals to investors for consideration and handling according to the provisions of Point b of this Clause;

b/ Investors shall have to handle bidding proposals of contractors within seven working days after receiving them. Where investors cannot handle such proposals or contractors disagree with the handling by investors, contractors may lodge their proposals to competent persons for consideration and handling according to the provisions of Point c of this Clause;

c/ Competent persons shall have to handle bidding proposals of contractors within 10 working days after receiving them. Where competent persons cannot handle such proposals or contractors disagree with the handling by competent persons, contractors may initiate a lawsuit at court;

2. The handling of petitions on contractor-selecting results shall comply with the following provisions:

a/ The provisions of Point a, Clause 1 of this Article;

b/ The provisions of Point b, Clause 1 of this Article. Particularly, where investors cannot handle such petitions or contractors disagree with the handling by investors, contractors may lodge their proposals concurrently to competent persons and chairman of the Advisory Council for handling

of proposals for consideration and handling in accordance with the provisions of Point c of this Clause;

c/ The Advisory Council for handling of proposals (hereafter called the Advisory Council for short) shall have to request contractors, investors and agencies related to bidding packages to supply necessary information, documents and opinions in order to make reports on working results. In case of necessity, the Advisory Council may work directly with concerned subjects to clarify problems. The time for the Advisory Council to work till the finalization of reports on working results shall be at most 20 days after the receipt of contractors' proposals. The Advisory Council shall comprise a chairman being a representative of the state agency in charge of bidding and members being representatives of competent persons and relevant professional associations. Within five working days after receiving reports on working results of the Advisory Council, competent persons shall have to issue decisions handling proposals of contractors. Where contractors disagree with the handling by competent persons, they may initiate a lawsuit at court.

3. When having bidding petitions, contractors may immediately initiate a lawsuit at court. Where contractors opt for the handling of such petitions not through a lawsuit, they shall comply with the provisions of Clauses 1 and 2 of this Article.

The Government shall specify the handling of proposals and operation of the Advisory Council.

**Article 74.-** Complaints and denunciations in bidding

Complaints and denunciations in bidding and the settlement thereof shall comply with the provisions of complaint and denunciation law.

**Article 75.-** Handling of violations of bidding law

1. Organizations or individuals that violate the bidding law shall be handled in one of the following forms:

a/ Caution shall apply to organizations or individuals violating the provisions of the Bidding Law, besides cases specified in Article 12 of this Law;

b/ Fines shall apply to organizations or individuals violating the provisions of the Bidding Law, causing harms to interests of the concerned parties;

c/ Prohibition of participation in bidding activities shall apply to organizations or individuals violating the provisions of Article 12 of this Law.

2. Individuals violating the Bidding Law shall be handled according to the provisions of the criminal law if their violations constitute crimes.

3. Organizations and individuals violating the Bidding Law shall, apart from being handled according to the provisions of Clauses 1 and 2 of this Article, also be publicized on the bidding bulletin and website.

The Government shall specify the handling of violations of bidding law.

## **Chapter VI**

### **IMPLEMENTATION PROVISIONS**

**Article 76.-** Guidance for implementation

The Government shall detail and guide the implementation of this Law.

**Article 77.-** Implementation effect

This Law takes effect as from April 1, 2006.

*This Law was passed on November 29, 2005, by the XIth National Assembly of the Socialist Republic of Vietnam at its 8th session*

**THE NATIONAL  
ASSEMBLY**

**CHAIRMAN**

*(signed)*

**Nguyen Van An**