

**DECREE 59**  
**ON**  
**MANAGEMENT OF INVESTMENT PROJECTS FOR CONSTRUCTION**

18 June 2015

**CONTENTS**

<b>CHAPTER 1 .....</b>	<b>1</b>
<b>General Provisions .....</b>	<b>1</b>
<b>Article 1</b> Governing scope and applicable entities .....	1
<b>Article 2</b> Definitions .....	2
<b>Article 3</b> Fundamental principles for management of investment projects for construction .....	3
<b>Article 4</b> Construction developer .....	3
<b>Article 5</b> Classification of investment projects for construction .....	4
<b>Article 6</b> Sequence of investment in construction .....	4
<b>CHAPTER 2 .....</b>	<b>5</b>
<b>Formulation, Appraisal And Approval Of Projects And Forms Of Organization Of Management Of Project Implementation .....</b>	<b>5</b>
<b>Section 1 .....</b>	<b>5</b>
<b>Formulation, Appraisal And Approval Of Investment Projects For Construction .....</b>	<b>5</b>
<b>Article 7</b> Pre-feasibility study report on investment in construction .....	5
<b>Article 8</b> Appraisal of pre-feasibility study report and in-principal decision on investment in construction .....	6
<b>Article 9</b> Feasibility study report on investment in construction .....	6
<b>Article 10</b> Authority for project appraisal and appraisal of preliminary design .....	7
<b>Article 11</b> Sequence of project appraisal and appraisal of preliminary design .....	9
<b>Article 12</b> Project approval and decision on investment in construction .....	10
<b>Article 13</b> Eco-technical report on investment in construction .....	11
<b>Article 14</b> Adjustment to investment project for construction and preliminary design .....	11
<b>Article 15</b> Selection, or competitive examination for selection, of architectural design of construction works .....	12
<b>Section 2 .....</b>	<b>12</b>
<b>Organization Of Management Of Investment Projects For Construction .....</b>	<b>12</b>
<b>Article 16</b> Forms of organization of management of investment projects for construction .....	12
<b>Article 17</b> Specialized management unit for investment projects for construction and regional management unit for investment projects for construction .....	13
<b>Article 18</b> Organization and operation of specialized project management units and regional project management units .....	14
<b>Article 19</b> Management unit for a single investment project for construction .....	15

<b>Article 20</b>	Engagement of consultants for management of investment projects for construction.....	15
<b>Article 21</b>	Direct project management by developer .....	16
<b>Article 22</b>	Project management by general construction contractor .....	16
<b>CHAPTER 3</b>	.....	<b>17</b>
<b>Implementation Of Investment Projects For Construction</b>	.....	<b>17</b>
<b>Section 1</b>	.....	<b>17</b>
<b>Construction Design Of Works</b>	.....	<b>17</b>
<b>Article 23</b>	Steps of construction design.....	17
<b>Article 24</b>	Authority for appraisal and approval of design and estimated budget for construction of works in projects using State budget capital .....	18
<b>Article 25</b>	Authority for appraisal and approval of design and estimated budget for construction of works in projects using State non-budget capital .....	18
<b>Article 26</b>	Authority for appraisal and approval of design and estimated budget for construction of works in projects using other capital.....	19
<b>Article 27</b>	Contents of appraisal of design and estimated budget for construction .....	20
<b>Article 28</b>	Contents of approval of construction design .....	20
<b>Article 29</b>	File for appraisal of technical design, design drawings for execution of building works and estimated budget for construction .....	20
<b>Article 30</b>	Procedures for appraisal of design and estimated budget for construction of works.....	21
<b>Management Of Execution Of Building Works</b>	.....	<b>22</b>
<b>Article 31</b>	Content of management of execution of building works.....	22
<b>Article 32</b>	Management of schedule of execution of building works .....	22
<b>Article 33</b>	Management of volume of execution of building works.....	23
<b>Article 34</b>	Management of working safety on construction site .....	23
<b>Article 35</b>	Management of construction environment .....	24
<b>Article 36</b>	Management of other aspects .....	24
<b>Section 3</b>	.....	<b>25</b>
<b>Completion Of Construction And Commissioning Of Project Works To Use</b>	.....	<b>25</b>
<b>Article 37</b>	Check and acceptance of works for commissioning to use.....	25
<b>Article 38</b>	Completion of construction of works.....	25
<b>Article 39</b>	Operation of construction works and investment project for construction .....	25
<b>Section 4</b>	.....	<b>26</b>
<b>Construction Permit</b>	.....	<b>26</b>
<b>Article 40</b>	Conditions for issuance of construction permit.....	26
<b>Article 41</b>	File to request issuance of construction permit .....	26
<b>Section 5</b>	.....	<b>27</b>
<b>Management Of Construction Of Special Works</b>	.....	<b>27</b>

Article 42	Special construction works .....	27
Article 43	Management of investment in construction of special works .....	28
<b>CHAPTER 4</b>	.....	<b>29</b>
<b>Conditions On Capability For Construction Activities</b>	.....	<b>29</b>
<b>Section 1</b>	.....	<b>29</b>
<b>Conditions On Capability For Construction Activities Of Individuals</b>	.....	<b>29</b>
Article 44	Practising certificates for construction activities .....	29
Article 45	General conditions for issuance of practising certificates for construction activities .....	29
Article 46	Practising certificates for construction survey .....	30
Article 47	Practising certificates for design of construction master plans .....	31
Article 48	Practising certificates for design or verification of design for construction .....	31
Article 49	Practising certificates for supervision of execution of building works .....	32
Article 50	Practising certificates for construction [quality] inspection .....	33
Article 51	Practising certificates for labour safety in construction .....	34
Article 52	Practising certificates for construction valuation [pricing] .....	34
Article 53	Conditions for head of construction site .....	35
Article 54	Conditions on capability of directors managing projects .....	36
Article 55	File to request issuance of practising certificates for construction activities .....	36
Article 56	Tests for issuance of practising certificates for construction activities .....	36
<b>Section 2</b>	.....	<b>37</b>
<b>Conditions On Capability Of Organizations For Construction Activities</b>	.....	<b>37</b>
Article 57	General conditions .....	37
Article 58	Issuance of certificates of capability for construction activities .....	38
Article 59	Capability certificates of organizations carrying out construction survey .....	38
Article 60	Capability certificate of consultants formulating construction master plan .....	39
Article 61	Capability certificates of organizations undertaking design or verifying design for construction of works .....	40
Article 62	Capability certificates of organizations formulating or verifying investment projects for construction .....	41
Article 63	Capability certificate of project management consultants .....	42
Article 64	Conditions on capability applicable to management units for investment projects for construction .....	43
Article 65	Capability certificate of organizations undertaking execution of building works .....	44
Article 66	Capability certificate of organizations undertaking supervision of execution of building works or construction [quality] inspection .....	45
Article 67	Capability certificate of consultancy organizations for controlling costs of investment in construction .....	46
Article 68	Conditions applicable to organizations undertaking training or development of speciality or expertise on construction activities .....	46

<b>Article 69</b>	Uploading information about capability of organizations participating in construction activities .....	47
<b>Section 3</b> .....		<b>48</b>
<b>Issuance Of Construction Activities Licences To Foreign Contractors</b> .....		<b>48</b>
<b>Article 70</b>	Principles of management of activities of foreign contractors .....	48
<b>Article 71</b>	Conditions for issuance of construction activities licence .....	49
<b>Article 72</b>	Application file and authority to issue construction activities licences .....	49
<b>Article 73</b>	Time-limit and fees for issuance of construction activities licences .....	50
<b>Article 74</b>	Rights and obligations of foreign contractors .....	50
<b>Article 75</b>	Responsibilities of developer or project owner to foreign contractor .....	52
<b>CHAPTER 5</b> .....		<b>53</b>
<b>Implementing Provisions</b> .....		<b>53</b>
<b>Article 76</b>	Responsibilities for implementation .....	53
<b>Article 77</b>	Transitional provision .....	54
<b>Article 78</b>	Effectiveness .....	55

Ha Noi, 18 June 2015

**DECREE  
ON  
MANAGEMENT OF INVESTMENT PROJECTS FOR CONSTRUCTION**

Pursuant to the *Law on Organization of the Government* dated 25 December 2001;

Pursuant to the *Law on Construction* dated 18 June 2014;

Pursuant to the *Law on Tendering* dated 26 November 2013;

Pursuant to the *Law on Urban Master Planning [Zoning]*<sup>1</sup> dated 17 June 2009;

On the proposal of the Minister of Construction,

The Government hereby issues a Decree on management of investment projects for construction.

**CHAPTER 1**

**General Provisions**

**Article 1** *Governing scope and applicable entities*

1. Governing scope:

This Decree provides detailed regulations for implementation of the 2014 *Law on Construction* on management of investment projects for construction comprising formulation, appraisal and approval of projects; project implementation; completion of construction and commissioning of the works [or facility] of the project for use; and form and contents of management of investment projects for construction.

Projects funded by official development aid (ODA) and/or preferential loans of foreign donors shall be implemented in accordance with the provisions of this Decree and the law on management of use of ODA and preferential loans of foreign donors.

2. Applicable entities:

This Decree applies to domestic agencies, organizations and individuals, and to foreign organizations and individuals conducting construction investment activities within the territory of Vietnam.

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<sup>1</sup>

Allens footnote: Square brackets contain translator's comments only.

## Article 2 Definitions

1. *Main construction works and main items of works of an investment project for construction* means works or items of works with a scale or function which is decisive in terms of the investment objective of the project.
2. *Works with a large impact on community safety* are stipulated in the Decree<sup>2</sup> on Quality Control of Construction Works and Maintenance of Constructed Works.
3. *Works with a large impact on the environment* means works belonging to a project which are required by the law on environmental protection to have an environmental impact assessment report.
4. *Works with a large impact on the landscape* means works required by article 15 of this Decree to select the architectural design by way of competitive examination.
5. *Works built along a route* means works which are built in accordance with a route passing through one or more areas with administrative boundaries such as roadways; railways; power transmission lines; telecom cables; gas and oil pipelines; water discharge pipes; and other similar works.
6. *Project for construction of a residential housing zone* means an investment project for the construction of housing in accordance with the approved master plan, and which includes construction of a complete technical infrastructure system and social infrastructure and which comprises two or more housing buildings.
7. *Project management director* means the person delegated with authority by the director of the specialized project management unit, or of the regional project management unit for investment projects for construction<sup>3</sup>, or by the legal representative of the consultancy organization managing the project to act as head and discharge the project management duties of any one investment project for construction.
8. *Construction activities licence* means a licence issued by the competent State agency of Vietnam to a foreign contractor for a specific contract after the contractor has won tendering in accordance with the law of Vietnam.
9. *Phased construction permit* means a permit issued to the developer to construct each section of works such as pile foundations, the foundations or the structure; or to build each of the construction works forming part of the one investment project for construction.
10. *Foreign contractor* means a foreign organization or individual with civil legal capacity; and in the case of an individual also with capacity for civil acts in order to sign and perform contracts. Civil legal capacity and capacity for civil acts of a foreign contractor shall be determined in accordance with the law of the country of nationality of such contractor. Foreign contractors may be general contractors, main contractors, partnership contractors or sub-contractors.
11. *EPC (Engineering, Procurement and Construction) contractor* means a contractor implementing the entire work of design, procurement of technological equipment, and building the works of any one investment project for construction.

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<sup>2</sup> Allens footnote: See Decree 46-2015-ND-CP of the Government dated 12 May 2015, and Appendix 2 which sets out these works.

<sup>3</sup> Allens footnote: See article 63.2 of the 2014 *Law on Construction*.

12. *General construction contractor performing a turnkey contract* means a contractor performing the entire work of project formulation, design, procurement of technological equipment and building the works of any one investment project for construction.
13. *Operating office* means the office of a foreign contractor registered to operate in the locality of the construction works in order to carry out the task of receiving the contract after being issued with a construction activities licence. The operating office shall only exist during the duration of contractual performance and shall dissolve on expiry of the contractual term.
14. *State non-budget funding or capital* means State capital as prescribed by law but excluding State budget funding.

**Article 3** *Fundamental principles for management of investment projects for construction*

1. Investment projects for construction are managed in accordance with the investment policy and plan, satisfy the requirements prescribed in article 51 of the 2014 *Law on Construction*, and comply with relevant laws.
2. There must be clear definition of the responsibilities and powers of State administrative agencies, of the investment decision-maker, and of the developer and other organizations and individuals involved in the project activities of investment in construction.
3. Management of a project must comply with the type of funding used for the investment in construction as follows:
  - (a) Projects using State budget capital must be tightly managed right across the board, and correctly in accordance with the sequence in order to ensure the investment objective, quality, implementing schedule, cost saving and effectiveness of the project;
  - (b) Projects in the form of public-private partnership (PPP) and involving construction must be managed the same as projects using State non-budget funding in accordance with the provisions of this Decree and other relevant laws;
  - (c) The State shall manage projects using State non-budget funding as regards investment policy and objective, investment scale and implementing costs; impact of the project on the landscape, environment, community safety, national security and defence; and project effectiveness. The developer is itself responsible to manage project implementation in accordance with the provisions of this Decree and other relevant laws;
  - (d) The State shall manage projects funded by other sources as regards objective, investment scale, and impact of the project on landscape, environment, community safety, national security and defence.
4. Activities of investment in construction of projects shall be managed in accordance with the principles prescribed in article 4 of the 2014 *Law on Construction*.

**Article 4** *Construction developer*

The construction developer<sup>4</sup> as defined in article 3.9 of the 2014 *Law on Construction* shall be decided by the investment decision-maker as follows:

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<sup>4</sup> Allens footnote: In our translation of the 2014 *Law on Construction* we used the word "developer".

1. For projects for which the Prime Minister makes the investment decision, the developer shall be the agency, organization or unit allocated by the Prime Minister. The developer shall exercise the authority of the investment decision-maker to approve the design and total estimated budget of the construction works.
2. For projects using State budget and/or non-budget funding and where the investment decision was made by a minister, head of a ministerial equivalent or Government agency, central agency of a political organization or socio-political organization or by the chairman of a provincial or district people's committee, then the developer shall be the specialized management unit for investment projects for construction or the regional management unit for investment projects for construction established in accordance with article 63 of the 2014 *Law on Construction*, or the agency, organization or unit allocated to manage and use capital to invest in construction of the works. For projects using budget capital of a commune, the developer shall be the commune people's committee. For projects in the national defence and security sector, the investment decision-maker shall decide who is to be the developer in conformity with the specific conditions.
3. For projects using State non-budget funding and where an Economic Group or State Corporation made the investment decision, the developer shall be the specialized management unit for investment projects for construction or the regional management unit for investment projects which are established under a decision of such enterprise [Group or Corporation], or the agency, organization or unit allocated to manage and use capital to invest in construction of the works.
4. For projects funded by other capital, the developer shall be the agency, organization or individual being the capital owner or loan borrower where a loan is taken out for investment in the construction. In the case of syndicated funding, the capital contributing parties shall reach agreement on who is to be the developer.
5. For a PPP project, the developer shall be the project enterprise established by the developer in accordance with law.

**Article 5** *Classification of investment projects for construction*

1. Investment projects for construction shall be classified according to their size, nature and type of main works of the project, comprising: important national projects, Group A projects, Group B projects and Group C projects in accordance with the criteria stipulated in the law on public investment and set out in detail in Appendix 1 to this Decree.
2. The following investment projects for construction only require formulation of an eco-technical report on investment in construction:
  - (a) Construction works to be used for religious purposes;
  - (b) Construction works being new works, repairs, improvements or upgrade with total investment capital below fifteen (15) billion dong (excluding land use fees).
3. Investment projects for construction classified according to capital funding source comprise projects using State budget funding, projects using State non-budget funding, and projects using other capital sources.

**Article 6** *Sequence of investment in construction*

1. The sequence for implementing investment in construction prescribed in article 50.1 of the 2014 *Law on Construction* is regulated in detail as follows:



- (a) The phase of project preparation comprises formulation, appraisal and approval of the pre-feasibility study report (if any); formulation, appraisal and approval of the feasibility study report or eco-technical report on investment in construction in order to consider and make the investment decision and undertake other necessary work of project preparation;
  - (b) The phase of project implementation comprises implementation of land allocation or land lease (if any); preparation of construction site, unexploded ordnance clearance (if any); construction survey; formulation, appraisal and approval of construction design and estimated budget; issuance of construction permit (in respect of works for which a construction permit is required by regulations); organization of selection of contractors and signing of construction contract; execution of building works; supervision of building works; making advance payment and payment for the volume of work completed; check and acceptance of completed construction works; handover of completed works for use; operation, commissioning and other necessary work;
  - (c) The phase of completion of construction and commissioning of project works comprises: Finalization of construction contract and warranty of construction works.
2. Depending on the specific conditions and technical requirements of a project, the investment decision-maker decides on a sequence of implementation of one by one, or combined implementation of the items of work specified in clauses 1(a), 1(b) and 1(c) of this article at the same time.
  3. Design drawings which have been appraised and sealed are returned to the developer, who is responsible for keeping them in accordance with the law on archive. The developer is responsible to meet in a timely manner requirements of the professional agency for construction for access to such archived records when necessary. The developer submits the files of drawings and estimated budget, or the copy file (already adjusted according to the appraisal results) to the professional agency as prescribed in article 3.13 of the 2014 Law on Construction.

## CHAPTER 2

### Formulation, Appraisal And Approval Of Projects And Forms Of Organization Of Management Of Project Implementation

#### Section 1

#### Formulation, Appraisal And Approval Of Investment Projects For Construction

##### **Article 7**     *Pre-feasibility study report on investment in construction*

1. The developer or agency or organization assigned with the task of preparation for an important national project or a Group A project organizes the formulation of a pre-feasibility study report as the basis for consideration of and decision on the policy for investment in construction. A pre-feasibility study report is not required for Group A projects (except for important national projects) the master plan of which has been approved as satisfying the provisions in clause 2 of this article.
2. The contents of the pre-feasibility study report comply with article 53 of the 2014 Law on Construction, and the preliminary design plan in the pre-feasibility study report has the following contents:

- (a) Preliminary information about the construction site; project scale; and location, type and level of the main works;
- (b) Preliminary design drawings of the total project site; horizontal surfaces, vertical planes and sectional planes of the main works of the project;
- (c) Preliminary drawings and explanatory statement of the selected foundation design solution of the main works;
- (d) Preliminary information about technological lines and technological equipment (if any).

**Article 8** *Appraisal of pre-feasibility study report and in-principle decision on investment in construction*

- 1. In respect of projects using public funding, appraisal of the pre-feasibility study report and in-principle decision on investment are implemented in accordance with the law on public investment.
- 2. In respect of Group A projects using State non-budget funding, and projects using other capital sources (except for the projects prescribed in clause 1 of this article) which are not yet included in the approved construction master plan or industry master plan, the developer must report to the line Ministry, the Ministry of Construction, or the delegated locality [local authority] for consideration and approval to add to the master plan according to their authority, or for submission to the Prime Minister for approval to add to the master plan prior to the formulation of a pre-feasibility study report as regulated.

The body or organization assigned with the task of presiding over the appraisal of a pre-feasibility study report is responsible for obtaining the opinion of consent to the policy on investment in construction of the line Ministry and relevant agencies for compiling a submission to the investment decision-maker for consideration and decision on the policy on investment. The time-limit to provide an opinion of consent to the policy on investment in construction does not exceed twenty (20) days from the date of receipt of the full file.

**Article 9** *Feasibility study report on investment in construction*

- 1. The developer organizes formulation of a pre-feasibility study report in accordance with article 54 of the 2014 Law on Construction for submission to the investment decision-maker for organizing project appraisal and investment decision, except for the cases prescribed in article 52.4 of the 2014 Law on Construction and article 5.2 of this Decree.

In respect of PPP projects, the feasibility study report on investment in construction is formulated by the agency or organization prescribed by the law on investment in PPP form. The contents of the feasibility study report are formulated in accordance with this Decree and the Decree of the Government on investment in PPP form<sup>5</sup>.

- 2. In respect of investment projects for construction using public investment capital, the developer organizes the formulation of a feasibility study report after the competent authority has made an in-principle decision on investment in accordance with the Law on Public Investment.
- 3. In respect of investment projects for construction not yet included in a construction master plan or an industry master plan, the developer must report to the line Ministry, the Ministry of Construction or

<sup>5</sup> Allens footnote: See Decree 15-2015-ND-CP dated 14 February 2015.

the delegated locality for consideration and approval to add to the master plan according to their authority, or for submission to the Prime Minister for approval to add to the master plan prior to the formulation of a feasibility study report. The time-limit for consideration and approval to add to a construction master plan or an industry master plan does not exceed forty five (45) days.

4. In respect of investment projects for construction of civil works or industrial works in areas where no zoned master plan or construction detailed master plan approved by a competent State authority is available, the developer requests the issuance of a construction master plan permit in accordance with article 47 of the 2014 Law on Construction as the basis for formulation of the feasibility study report.
5. In respect of important national projects and Group A projects which require compensation, site clearance and resettlement, upon approval of the pre-feasibility study report, the investment decision-maker, based on the specific conditions of each project, may decide to separate the work of compensation for loss, site clearance and resettlement to form an individual project to assign to the locality where the project is carried out for organization of implementation. The formulation, appraisal and approval of this project are carried out the same as for an independent project.

**Article 10** *Authority for project appraisal and appraisal of preliminary design*

1. In respect of important national projects: The Prime Minister decides on the establishment of the State Appraisal Council for appraisal of pre-feasibility study reports and feasibility study reports in accordance with separate provisions of law.
2. In respect of investment projects for construction using State budget capital:
  - (a) The professional agency for construction under the Ministry of Construction or under the ministry in charge of administering the specialized construction works as prescribed in article 76 of this Decree presides over the appraisal of the contents prescribed in article 58 of the 2014 Law on Construction for Group A projects, and for projects of Group B or under [i.e. Group C] for which the investment decision is made by a ministry, ministerial equivalent or Government agency or the central body of a political or socio-political organization. Where the Prime Minister assigns organization of appraisal to the ministry in charge of administering specialized construction works, then the professional agency for construction under such ministry conducts the appraisal.
  - (b) The Department of Construction or the Department in charge of administration of specialized construction works as prescribed in article 76 of this Decree presides over the appraisal of the contents prescribed in article 58 of the 2014 Law on Construction of projects with the scale of Group B or under, the investment in construction of which is made in the administrative geographical area of their province, except for the projects stipulated in sub-clauses (a) and (c) of this clause;
  - (c) As delegated by the provincial people's committee, the division in charge of administration of specialized construction works under the district people's committee presides over the appraisal of projects for which an eco-technical report on investment in construction is required and the investment decision is made by the district or commune people's committee.
3. In respect of investment projects for construction using State non-budget funding:
  - (a) The professional agency for construction under the Ministry of Construction, or the ministry in charge of administration of specialized construction works as prescribed in article 76 of this Decree presides over the appraisal of the contents prescribed in article 58.2 of the 2014 Law on Construction (except for the technological design section) for Group A projects, and for Group B projects or under for

which the investment decision is made by a ministry, ministerial equivalent or Government agency or the central body of a political or socio-political organization or an economic group or State corporation. Where the Prime Minister assigns organization of appraisal of the preliminary design of a project to the ministry in charge of administering specialized construction works, then the professional agency for construction under such ministry conducts the appraisal;

- (b) The Department of Construction or the Department in charge of administration of specialized construction works as prescribed in article 76 of this Decree presides over the appraisal of preliminary designs with the contents prescribed in article 58.2 of the 2014 Law on Construction (except for the technological design section) of projects with the scale of Group B or under, the investment in construction of which is made in the administrative geographical area of their province, except for the projects stipulated in sub-clauses (a) and (c) of this clause;
  - (c) As delegated by the provincial people's committee, the division in charge of administration of construction works under the district people's committee presides over the appraisal of the design drawings for execution of building works and estimated budget for construction of projects for which an eco-technical report on investment in construction is required and the investment decision for which is made by the district or commune people's committee;
  - (d) The professional agency under the investment decision-maker presides over the organization of appraisal of the technological design (if any) and other contents of the pre-feasibility study report as prescribed in article 58 of the 2014 Law on Construction and compiles the appraisal results to submit for project approval; and presides over the organization of appraisal of projects for repair, renovation, maintenance and upgrading with the total investment of under five (5) billion dong.
4. In respect of PPP projects, the professional agency for construction as prescribed in clause 3 of this article presides over the appraisal of preliminary designs with regards to the contents prescribed in article 58.2 of the 2014 Law on Construction (except for the technological design section); and provides an opinion on the application of unit rate, norms, assessment of the design solution on saving of work construction costs of the project. The co-ordinating unit in charge of management of PPP activities under the competent State authority to sign project contracts presides over the appraisal of other contents of the feasibility study report and the technological design (if any), and compiles the results of preliminary design appraisal carried out by the professional agency for construction to submit for project approval.
5. In respect of investment projects for construction using other capital:
- (a) The professional agency for construction under the Ministry of Construction or under the ministry in charge of administration of specialized construction works as prescribed in article 76 of this Decree presides over the appraisal of the preliminary design with the contents prescribed in article 58.2 of the 2014 Law on Construction (except for the technological design section) for investment projects for construction of special level and level I;
  - (b) The Department of Construction or the Department in charge of administration of specialized construction works as prescribed in article 76 of this Decree presides over the appraisal of preliminary designs with the contents prescribed in article 58.2 of the 2014 Law on Construction (except for the technological design section) of investment projects for construction of public works, works with a large impact on the landscape, on the environment and on community safety and being works of level II or under built in the administrative geographical area of their province;
  - (c) The investment decision-maker organizes appraisal of the entire project contents as prescribed in article 58 of the 2014 Law on Construction, except for the contents of appraisal of preliminary design

carried out by the professional agency for construction prescribed in sub-clauses (a) and (b) of this clause.

6. Agencies presiding over project appraisal and appraisal of preliminary design are responsible for obtaining opinions from relevant agencies and organizations on project contents. Agencies and organizations consulted are responsible, according to their functions and duties, for providing written opinions within the stipulated time-limit on the contents of the preliminary design; fire and explosion control; environment protection; use of land and resources, technical infrastructure connection, and other required contents.
7. During the appraisal process, the agencies presiding over project appraisal are responsible for organizing appraisal of the preliminary design, technological design and other contents of the project, in particular as follows:
  - (a) Agencies presiding over project appraisal may invite organizations or individuals with expertise and experience to participate in a part of a project, a part of a preliminary design, technological design or other contents of the project;
  - (b) In the case of not having all the conditions for implementation of appraisal, the professional agency for construction or the investment decision-maker may request that the developer directly selects a suitably qualified organization or individual, which/who has publicly registered information about their capability for construction activities on the website of the Ministry of Construction or a Department of Construction for the developer to enter into a verification contract for the purpose of appraisal. An organization or individual providing verification consultancy which/who has not yet publicly registered information about their capability for construction activities on the website of the Ministry of Construction or the Department of Construction must be approved in writing by the professional agency under the Ministry of Construction or the Department of Construction. An organization providing consultancy for project formulation must not carry out verification of the project it formulated.

**Article 11** *Sequence of project appraisal and appraisal of preliminary design*

1. In respect of investment projects for construction using State budget capital:
  - (a) The developer sends the project file to the investment decision-maker, with a copy to the professional agency for construction prescribed in article 10.2 of this Decree for organization of project appraisal. A submission file for appraisal of an investment project for construction of works comprises: The submission for project appraisal on Form No. 1 in Appendix II issued with this Decree; the project file consisting of the explanatory statement and the preliminary design; and relevant legal documents;
  - (b) Within five (5) working days from the date of receipt of a complete project file, the professional agency for construction is responsible to send a written request, accompanied by relevant extracts of the file, to the agencies and organizations prescribed in article 10.6 of this Decree, to obtain their opinions on the related aspects of the project. Upon appraisal of a project of Group A scale the investment in construction of which is made in an urban zone, the agency presiding over appraisal must obtain an opinion on the preliminary design from the Ministry of Construction.
2. In respect of projects using State non-budget funding and projects using other capital sources requiring appraisal of preliminary designs:

- (a) The developer or the co-ordinating unit in charge of management of PPP activities sends the preliminary design file of the project to the investment decision-maker, with a copy to the professional agency for construction prescribed in articles 10.3 and 10.4 of this Decree for organization of appraisal;
  - (b) Within five (5) working days from the date of receipt of a complete project file, the professional agency for construction is responsible to send a written request, accompanied by the file, to the agencies and organizations prescribed in article 10.6 of this Decree to obtain their opinions on the aspects related to the preliminary design of the project.
3. The time-limits for written responses of agencies and organizations relating to the project or preliminary design as prescribed in clauses 1(b) and 2(b) of this article are as follows: Not exceeding thirty (30) days for important national projects; twenty (20) days for Group A projects; fifteen (15) days for Group B projects, and ten (10) days for Group C projects. If no response is sent by relevant agencies or organizations after such time-limits, they are deemed as having consented to the contents of the preliminary design on which an opinion was sought, and are responsible for their field of management.
  4. Time-limits for project appraisal as prescribed in article 59 of the 2014 Law on Construction. Time-limit for appraisal of preliminary design: Not exceeding sixty (60) days for important national projects; thirty (30) days for Group A projects; twenty (20) days for Group B projects, and fifteen (15) days for Group C projects.
  5. Where the professional agency for construction requests that the developer directly selects a consultancy unit for verification as prescribed in article 10.7(b) of this Decree, within five (5) working days from the date of submission of a valid file, the professional agency for construction sends a written notice to the developer on the contents requiring verification for the developer to select and enter into a contract with the verification consultant; the time-limit for verification shall not exceed thirty (30) days for important national projects; twenty (20) days for Group A projects; fifteen (15) days for Group B projects, and ten (10) days for Group C projects. The developer is responsible for sending the verification results to the professional agency for construction and the investment decision-maker as the basis for appraisal of the project and the preliminary design.
  6. The agencies presiding over project appraisal and appraisal of preliminary design are responsible for organizing appraisal using the one-stop inter-service mechanism, ensuring compliance with the contents and timing as prescribed in the 2014 Law on Construction and this Decree. The documents of results of project appraisal and appraisal of preliminary design are prepared on Forms No. 2 and 3 in Appendix II issued with this Decree.

**Article 12** *Project approval and decision on investment in construction*

1. An investment project for construction is approved in the decision on investment in construction. The authority to make a decision on investment in construction is carried out in accordance with article 60 of the 2014 Law on Construction.
2. The main contents of a decision on investment in construction are:
  - (a) Project name;
  - (b) Developer;
  - (c) Consultancy organization for project formulation, survey (if any), and preliminary design formulation;

- (d) Objectives and scale of investment in construction and project implementation schedule;
  - (dd) Main construction works, [other] construction works and level of works under the project;
  - (e) Construction location and area of land used;
  - (g) Preliminary design, technological design (if any), technical specifications and applicable standards selected;
  - (h) Requirements on resources, exploitation and use of natural resources (if any), operation and use of works; plan for compensation and site clearance, and plan for environmental protection (if any) and fire and explosion control;
  - (i) Total investment and planned allocation of the capital used according to [project] schedule;
  - (k) Applied form of organization of project management.
2. The Ministry of Construction makes detailed provisions for submission files for project appraisal, appraisal of preliminary design and the standard form of decisions on investment in construction.

**Article 13** *Eco-technical report on investment in construction*

- 1. Investment projects for construction which only require formulation of an eco-technical report on investment in construction are prescribed in article 5.2 of this Decree.
- 2. A submission file for appraisal of an eco-technical report on investment in construction consists of:
  - (a) The submission form for appraisal of the eco-technical report on investment in construction of works on Form No. 4 in Appendix II issued with this Decree;
  - (b) The contents of the eco-technical report on investment in construction in accordance with article 55 of the 2014 Law on Construction.
- 3. Appraisal and approval of eco-technical reports on investment in construction are prescribed as follows:
  - (a) The authority to appraise eco-technical reports on investment in construction, design drawings for execution of building works and estimated construction budget conforms with article 10 of this Decree; the appraisal results of eco-technical reports on investment in construction conform with Form No. 5 in Appendix II issued with this Decree;
  - (b) The professional agency under the investment decision-maker is responsible to compile appraisal results and submit the project file to the investment decision-maker for consideration of and decision on investment in construction.

**Article 14** *Adjustment to investment project for construction and preliminary design*

- 1. The adjustment to a project using State budget funding or State non-budget funding as prescribed in articles 61.1(b) and 61.1(d) of the 2014 Law on Construction is specified as follows:
  - (a) The developer must have a plan to explain and demonstrate the additional effectiveness resulting from the project adjustment, including: Financial effectiveness, socio-economic effectiveness in respect of production or business projects and projects requiring capital recovery; effectiveness



during the construction phase, and socio-economic effectiveness in respect of projects not requiring capital recovery;

- (b) The preliminary design of a project is adjusted when a construction master plan is changed, directly affecting the location of the construction site, the route, scale and functional use of works under the project;
  - (c) Adjustment to a project due to the element of a dip in construction price is made in accordance with the Decree of the Government on management of costs of investment in construction.
- 2. Appraisal of adjusted projects and preliminary designs is carried out in accordance with article 11 of this Decree.
  - 3. The developer is responsible to submit a proposal for adjustment to the project or preliminary design for the investment decision-maker to consider and make a decision.

**Article 15** *Selection, or competitive examination for selection, of architectural design of construction works*

- 1. Selection, or competitive examination for selection, of architectural designs must be organized for the following public works of a large scale or having special architectural requirements:
  - (a) Public works of level I or special level;
  - (b) Offices of the Party or the State, administrative – political centres, broadcasting and television centres;
  - (c) Provincial central railway stations, civil aviation terminals;
  - (d) Transportation works in urban zones of level II or above with high aesthetic requirements (bridges over rivers, overpasses, inner city railway stations);
  - (dd) Works in important locations with high architectural requirements (monuments or landmarks in urban zones);
- 2. The Ministry of Construction makes detailed provisions for other works of significant importance in urban zones and on main routes for which a competitive examination is required; and makes specific provisions for the forms of selection, or competitive examination for selection, of architectural designs of construction works, and the costs therefor.

Organizations or individuals with [having provided the] architectural design plan are given priority in performing subsequent design steps if they satisfy sufficient conditions on capability for performance as regulated.

Section 2

**Organization Of Management Of Investment Projects For Construction**

**Article 16** *Forms of organization of management of investment projects for construction*

- 1. The investment decision-maker decides on application of a form of management of the investment project for construction as prescribed in article 62 of the 2014 Law on Construction.



2. In respect of projects using State budget funding and State non-budget funding, the applicable forms of organization of project management are specialized management unit for investment projects for construction or regional management unit for investment projects for construction as prescribed in article 63 of the 2014 Law on Construction and article 17 of this Decree.

If the investment decision-maker assigns the agency or organization managing and using capital for investment in construction of works as the developer of the project, the investment decision-maker shall assign to the developer the responsibility to enter into a contract to engage a specialized project management unit or a regional project management unit for project management implementation as regulated.

3. In respect of projects using ODA or preferential loans of foreign donors, the applicable form of organization of project management complies with provisions in the international treaty on ODA or the agreement with the donor. Where there is no specific provision in such treaty or agreement, the form of organization of project management applies in accordance with provisions of this Decree.
4. In respect of projects using other capital, the investment decision-maker decides on the form of project management as appropriate to the management requirements and specific conditions of the project.
5. In respect of PPP projects, the project enterprise selects the form of project management as prescribed in articles 19 and 20 of this Decree.

**Article 17** *Specialized management unit for investment projects for construction and regional management unit for investment projects for construction*

1. Ministers, heads of ministerial equivalent agencies, chairmen of district and provincial people's committees, chairmen of the board of management of economic groups or State owned corporations make decisions on establishment of specialized management units for investment projects for construction and regional management units for investment projects for construction (hereinafter referred to as specialized project management units and regional project management units) to perform the functions of the developer and the duty to manage at the same time multiple projects using State budget funding and State non-budget funding.
2. The forms of specialized project management unit or regional project management unit apply to the following cases:
  - (a) Management of projects implemented in the same administrative area or on the same route;
  - (b) Management of investment projects for construction of works in the same specialized field;
  - (c) Management of projects using ODA capital or loans from the same donor which require consistent management of the capital source used.
3. Specialized project management units and regional project management units established by ministers, heads of ministerial equivalent agencies, or chairmen of district and provincial people's committees are public professional organizations; and where established by authorized representatives of State owned enterprises, are member organizations of such enterprises.

Specialized project management units and regional project management units have full legal entity status, may use their own seals, may open accounts at the State treasury and commercial banks in accordance with regulations; perform the functions, duties and powers of the developer and directly

organize management of implementation of assigned projects; are responsible before the law and to the investment decision-maker for their activities; and manage the operation, exploitation and use of the completed works as assigned by the investment decision-maker.

4. Based on the number of projects requiring management, requirements of the management duties and specific conditions for implementation, the organizational structure of a specialized project management unit or a regional project management unit may be arranged according to the sequence of management of investment in construction of projects, or for each project.
5. Specialized project management units and regional project management units may provide consultancy on project management to other projects on the basis of ensuring completion of duties of assigned project management and satisfaction of conditions on capability for implementation.

**Article 18** *Organization and operation of specialized project management units and regional project management units*

1. The person making the decision on establishment of specialized project management units or regional project management units shall decide on the quantity, functions, duties, organizational structure and operation of such units, in particular as follows:
  - (a) In respect of ministries and ministerial equivalent agencies: Specialized project management units and regional project management units are established as appropriate to the specialized fields under their management or the requirements for construction of physical facilities and infrastructure in each zone and region. The organization of specialized project management units and regional project management units under the Ministry of National Defence and the Ministry of Public Security shall be considered and decided by their Ministers to match the special management requirements for their sectors and fields;
  - (b) At the provincial level: Specialized project management units and regional project management units established by provincial people's committees comprise management units of investment projects for construction of civil and industrial works, management units of investment projects for construction of transportation works, and management units of investment projects for construction of agricultural and rural development works. Cities under central authority may also have management units of investment projects for construction of industrial zones and urban infrastructure and management units of projects for urban development.

Provincial people's committees are responsible for administration of the specialized project management units and regional project management units they established.

- (c) At the district level: Management units for investment projects for construction under district people's committees play the role of the developer and manage projects the investment in construction of which is decided by such district people's committee.
- (d) In respect of projects the investment in which is decided by a commune people's committee, the commune people's committee plays the role of the developer, and at the same time, enters into a contract with the management unit for investment projects for construction at the district level or the project management unit for investment projects for construction prescribed in article 17.5 of this Decree for implementation of project management;
- (dd) In respect of economic groups and State owned corporations: Specialized project management units and regional project management units are established as appropriate to the main lines and fields of business, or in the localities and regions identified for priority investment in construction.

2. A specialized project management unit or regional project management unit is organized as appropriate to its assigned functions and duties and the scale of projects requiring management, and consists of the following main sections:
  - (a) The management board, project management directors and subsidiary section to assist the specialized project management unit or regional project management unit in the performance of its function as the developer and its function of project management;
  - (b) Project management directors of specialized project management units and regional project management units must be qualified as prescribed in article 54 of this Decree; individuals assuming positions in project executive divisions and offices must have expertise, training and practising licences commensurate with the jobs they assume.
3. Regulations on operation of specialized project management units and regional project management units are approved by the person making the decision on their establishment, which must specify the rights and responsibilities of the unit performing the function of the developer and of the unit performing project management operations in accordance with the 2014 Law on Construction and relevant laws.
4. The Ministry of Construction makes detailed guidelines for regulations on operation of specialized project management units and regional project management units.

**Article 19** *Management unit for a single investment project for construction*

1. A developer decides on the establishment of a management unit for a single investment project for construction to manage the implementation of the project if it is on Group A scale with construction works of the special level, a project applying hi-technology as certified in writing by the Minister of Science and Technology, a national defence or security project with State secret requirements, or a project using other capital.
2. A management unit for a single investment project for construction is a professional organization under the developer, has independent legal status, has its own seal, and may open accounts at the State Treasury and commercial banks according to regulations in order to perform the project management duties assigned by the developer; and is responsible before the law and to the developer for its project management activities.
3. A management unit for a single investment project for construction must be qualified as prescribed in article 64.3 of this Decree, and may engage consultancy organizations or individuals qualified to perform a number of jobs under its project management duties.
4. The developer stipulates the functions, duties, powers and organizational and operational structure of the management unit for a single investment project for construction in accordance with article 64.2 of the 2014 Law on Construction.

**Article 20** *Engagement of consultants for management of investment projects for construction*

1. Where a specialized project management unit or a regional project management unit is not qualified to perform a number of tasks of managing an investment project for construction, it may engage qualified consultancy organizations or individuals in accordance with this Decree to do so.

2. Enterprises being members of economic groups or State owned corporations which are not qualified to manage investment projects for construction using State non-budget funding or other capital may engage qualified consultancy organizations or individuals in accordance with this Decree to do so.
3. An organization providing consultancy for project management may assume a part of or the entire contents of project management in accordance with the contract signed with the developer.
4. The selected organization to provide consultancy for project management must establish a project management office in the locality of project implementation and must send a written notice on the duties and powers of the representative and the direct project management team to the developer and relevant contractors.
5. The developer is responsible for supervising the performance of the contract for consultancy for project management, and for dealing with relevant issues between the organization providing consultancy for project management and contractors and the local authority during the project implementation process.

**Article 21** *Direct project management by developer*

1. The developer uses its legal status and its professional team for direct management of projects of renovation, repair or upgrading of construction works of a small scale with the total investment of under five (5) billion dong, projects with community involvement, and projects with the total investment of under two (2) billion dong where the commune people's committee is the developer.
2. Individuals involved in project management may work on a concurrent basis and must have expertise and skills as appropriate to the job they assume. The developer may engage qualified organizations and individuals for supervision of execution of building works and participation in check and acceptance of completed items or works. Project implementation costs must be separately accounted in accordance with law.

**Article 22** *Project management by general construction contractor*

1. An EPC general contractor or a general construction contractor performing a turnkey contract is responsible for participating in management of the implementation of a part of or the entire project as agreed in the contract with the developer, and must meet conditions for capability for construction activities in accordance with this Decree and other provisions of relevant laws to perform the job it assumes.
2. The contents of participation in project implementation management by general construction contractors consist of:
  - (a) Establishment of an executive board for management according to the scope of work of the contract;
  - (b) Management of the entire work construction site;
  - (c) Management of construction design work, processing, manufacturing and supplying materials and equipment, technology transfer and training on operation;
  - (d) Management of activities of execution of building works and connections to the work of sub-contractors;
  - (dd) General coordination of the implementation schedule, checking and supervision that safety is ensured, occupational hygiene and environment protection at the construction site;

- (e) Organization of check and acceptance of completed items and works for handover to the developer;
  - (g) Management of other construction activities as required by the developer.
3. General construction contractors are entitled to a part of project management costs as agreed with the developer.

## CHAPTER 3

### Implementation Of Investment Projects For Construction

#### Section 1

#### Construction Design Of Works

##### **Article 23** *Steps of construction design*

1. Construction design consists of the following steps: Preliminary design (in the case of formulation of a pre-feasibility study report), and preliminary design, technical design, design drawings for execution of building works and other design steps (if any) according to international practice as decided by the investment decision-maker upon making the decision on project investment.
2. Investment projects for construction comprise one or more types of works, each type of works consists of one or more levels of works. Depending on the type and level of works and the form of project implementation, the number of steps of construction design of works is decided by the investment decision-maker, in particular as follows:
  - (a) One step design means design drawings for execution of building works, applicable to works requiring formulation of an eco-technical report on investment in construction;
  - (b) Two-step design comprising preliminary design and design drawings for execution of building works, applicable to works requiring formulation of an investment project for construction;
  - (c) Three-step design comprises preliminary design, technical design and design drawings for execution of building works, applicable to works requiring formulation of an investment project for construction, being of a large scale, and having complex technical requirements and construction conditions;
  - (d) Design by other steps (if any) according to international practice.
3. In respect of works for which the construction design sequence comprises two or more steps, the design of the subsequent step(s) must match the key contents and parameters of the previous step(s).
4. In the case of a three-step design, a contractor for execution of building works which is qualified in accordance with law is permitted to carry out the step of design drawings for the execution of the building works.

**Article 24** *Authority for appraisal and approval of design and estimated budget for construction of works in projects using State budget capital*

1. Authority for appraisal of design and estimated budget:
  - (a) The professional agency for construction under the Ministry of Construction or the ministry in charge of specialized construction works prescribed in article 76 of this Decree presides over the organization of appraisal of the technical design and estimated budget for construction (in the case of a three-step design); the design drawings for execution of building works and estimated budget for construction (in the case of a two-step design) of special level and level I works; works assigned by the Prime Minister, and works under projects for which it [the ministry] is the investment decision-maker;
  - (b) The Department of Construction or the department in charge of specialized construction works prescribed in article 76 of this Decree presides over the organization of appraisal of the technical design and estimated budget for construction (in the case of a three-step design); the design drawings for execution of building works and estimated budget for construction (in the case of a two-step design) of works of level II or lower the investment in construction of which is made in the administrative geographical area of the province; except for the works prescribed in sub-clause (a) of this clause.
2. Authority for approval of design and estimated budget for construction:
  - (a) The investment decision-maker approves the technical design and estimated budget for construction of a three-step design, and approves the design drawings for execution of building works and estimated budget for construction of a two-step design;
  - (b) The developer approves the design drawings for execution of building works and estimated budget for construction of a three-step design.

**Article 25** *Authority for appraisal and approval of design and estimated budget for construction of works in projects using State non-budget capital*

1. Authority for approval of design and estimated budget for construction:
  - (a) The professional agency for construction under the Ministry of Construction or the ministry in charge of specialized construction works prescribed in article 76 of this Decree presides over the organization of appraisal of the technical design and estimated budget for construction (in the case of a three-step design); the design drawings for execution of building works and estimated budget for construction (in the case of a two-step design) of special level and level I works; works of level III or higher of projects in specialized fields where an economic group or State owned corporation under its management makes the investment decision; works assigned by the Prime Minister and works under projects for which it [the ministry] is the investment decision-maker;
  - (b) The Department of Construction or the department in charge of specialized construction works prescribed in article 76 of this Decree presides over the organization of appraisal of the technical design and estimated budget for construction (in the case of a three-step design); the design drawings for execution of building works and estimated budget for construction (in the case of a two-step design) of works of level III or higher the investment in construction of which is made in the administrative geographical area of the province; except for the works prescribed in sub-clause (a) of this clause;

- (c) The investment decision-maker organizes appraisal of the design and estimated budget for the technology section (if any) in respect of the works prescribed in sub-clauses (a) and (b) of this clause; and organizes appraisal of the design and estimated budget for construction of remaining works and medium voltage power grid works.

The investment decision-maker is responsible for the results of appraisal carried out by it and for sending the appraisal results (except for the technology section) to the professional agency for construction as delegated in article 24.1 of this Decree for monitoring and management.

2. Authority for approval of design and estimated budget for construction:

- (a) The investment decision-maker approves the technical design and estimated budget for construction in the case of a three-step design;
- (b) The developer approves the technical design and estimated budget for construction of a three-step design, and approves the design drawings for execution of building works and estimated budget for construction of a two-step design;
- (c) In respect of PPP investment projects, the developer approves the technical design and estimated budget for construction.

**Article 26** *Authority for appraisal and approval of design and estimated budget for construction of works in projects using other capital*

1. Authority for approval of design and estimated budget for construction:

- (a) The professional agency for construction under the Ministry of Construction or the ministry in charge of specialized construction works prescribed in article 76 of this Decree presides over the organization of appraisal of the technical design (in the case of a three-step design) and the design drawings for execution of building works (in the case of a two-step design) of special level and level I works; works along routes going through two or more provinces, and works assigned by the Prime Minister;
- (b) The Department of Construction or the department in charge of specialized construction works prescribed in article 76 of this Decree presides over the organization of appraisal of the technical design (in the case of a three-step design) and the design drawings for execution of building works (in the case of a two-step design) of public works of level III or higher, construction works with a large impact on the landscape, the environment and community safety constructed in the administrative geographical area of the province; except for the works prescribed in sub-clause (a) of this clause;
- (c) The investment decision-maker itself organizes appraisal of the construction design of the remaining works (except for the works prescribed in sub-clauses (a) and (b) of this clause), the technological design section (if any), and the estimated budget for construction.

2. Authority for approval of design and estimated budget for construction:

The investment decision-maker or the developer approves the technical design, design drawings for execution of building works and estimated budget for construction of works.



**Article 27** *Contents of appraisal of design and estimated budget for construction*

1. The contents of appraisal of design and estimated budget for construction are performed in accordance with article 83 of the 2014 Law on Construction, this Decree and the Decree on management of costs of investment in construction.
2. The results of appraisal of design and estimated budget for construction are prepared on Form No. 7 in Appendix II issued with this Decree.

**Article 28** *Contents of approval of construction design*

1. General information about the works: Name of works, items of works (specifying the type and level of works); developer, contractor for construction design of the works; construction location, and area of land used.
2. Scale, technology, technical parameters and main eco-technical criteria of the works.
3. National technical specifications and main standards applied.
4. Main design solutions of items of works and the entire works.
5. Estimated budget for construction of the works.
6. Requirements for completion of and addition to the design file and other items (if any).

**Article 29** *File for appraisal of technical design, design drawings for execution of building works and estimated budget for construction*

The developer sends the design file to the professional agency for construction for appraisal which comprises:

1. Submission form for design appraisal on Form No. 6 in Appendix II issued with this Decree.
2. Explanatory statement to the design, design drawings and relevant documents on construction survey.
3. Copy of the decision approving the investment project for construction, accompanied by the approved preliminary design file, or the in-principal approval for investment in construction of the works, except for single residential houses.
4. Copy of the file on conditions on capability of the persons in charge of construction survey and head designer of the works; appraisal and approval document on fire control, and the environmental impact assessment report (if any).
5. General report of the developer on the compliance of the design file with provisions of the contract.
6. Estimated budget for construction of works using State budget funding and State non-budget funding.



**Article 30** *Procedures for appraisal of design and estimated budget for construction of works*

1. Upon receipt of a file, the professional agency for construction or the investment decision-maker presides over the organization of appraisal of design and estimated budget for construction of works in accordance with the contents prescribed in article 27 of this Decree.
2. The agency presiding over appraisal is responsible for organizing appraisal of the contents of designs and estimated budgets for construction of works. During the appraisal process, the agency presiding over appraisal may invite organizations and individuals with appropriate expertise and experience to participate in each part of construction design, technological design or estimated budget for construction of works to service its appraisal task.

In the case of not having all the conditions for implementation of appraisal, the professional agency for construction or the investment decision-maker may request that the developer directly selects a suitably qualified organization or individual, which/who has publicly registered information about their capability for construction activities on the website of the Ministry of Construction or the Department of Construction for the developer to enter into a verification contract for the purpose of appraisal. An organization or individual providing verification consultancy which/who has not yet publicly registered information about their capability for construction activities on the website of the Ministry of Construction or the Department of Construction must be approved in writing by the professional agency for construction under the Ministry of Construction or the Department of Construction. An organization providing design consultancy must not verify the works it designed.

3. During the process of appraisal of construction design, the professional agency for construction is responsible to request that competent State authorities appraise the contents on environment, fire and explosion control, and other contents in accordance with law.

The time-limits for sending written notices on appraisal results of competent State authorities appraising the contents on environment, fire and explosion control, and other contents [must] comply with provisions of specialized laws, but shall not exceed the period for verification of design and estimated budget for construction prescribed in clause 4 of this article. If no response is sent by relevant agencies or organizations after such time-limits, they are deemed as having consented to the contents appraised, and are responsible for their field of management.

4. Where the professional agency for construction requests that the developer directly select the consultancy unit for verification as prescribed in clause 2 of this article, within five (5) working days from the date of receipt of the full, valid file, the professional agency for construction sends a written notice to the developer on the contents to be verified for the latter to select and enter into a contract with a verification consultant; the time-limit for verification shall not exceed twenty (20) days in respect of level I and special level works, fifteen (15) days in respect of level II and level III works; and ten (10) days in respect of remaining works. The developer is responsible for sending the verification results to the professional agency for construction and the investment decision-maker as the basis for appraisal of the design and estimated budget for construction.
5. Where an investment project for construction of works comprises multiple works of different types and levels, the agency presiding over the organization of appraisal is the agency responsible for appraisal of the main works or main items of works of the investment project for construction of works.
6. In respect of State secret works, works under emergency orders and temporary works, design appraisal and approval are carried out in accordance with the law on management of investment in construction of special works.

7. The agency, organization or individual verifying, appraising or approving a design and estimated budget for construction is responsible before the law for the results of their verification, appraisal or approval of the design and estimated budget for construction.
8. The time-limits for appraisal of a design and estimated budget for construction of the professional agency for construction from the date of receipt of a full, valid file are as follows:
  - (a) Not exceeding forty (40) days in respect of level I and special level works;
  - (b) Not exceeding thirty (30) days in respect of level II and level III works;
  - (c) Not exceeding twenty (20) days in respect of the remaining works.

## Section 2

### Management Of Execution Of Building Works

#### **Article 31** *Content of management of execution of building works*

Management of execution of building works consists of:

1. Management of quality of construction of works.
2. Management of schedule of execution of building works.
3. Management of volume of execution of building works
4. Management of costs of investment in construction during execution of building works.
5. Management of construction contracts.
6. Management of labour safety and the construction environment.

#### **Article 32** *Management of schedule of execution of building works*

1. Before commencement of building works, there must be a schedule for execution of building works. The schedule of execution of building works prepared by the contractor must match the general project schedule approved by the developer.
2. In respect of construction works of a large scale and with long period of execution of building works, the schedule of building works is prepared for each period of a month, quarter or year.
3. The developer, the contractors for execution of building works and for consultancy and supervision of execution of building works, and relevant parties are responsible for monitoring and supervising the schedule of execution of building works and adjusting such schedule if the schedule of execution of building works is prolonged at some stages without affecting the overall project schedule.
4. If the overall project schedule is prolonged, the developer must report to the investment decision-maker for a decision on adjustment to the overall project schedule.

**Article 33** *Management of volume of execution of building works*

1. Execution of building works must be carried out in accordance with the volume of the approved design.
2. The volume of execution of building works is calculated and confirmed among the developer, the contractor for execution of building works and the contractors for consultancy and supervision by the time or stages of work, and is compared against the volume in the approved design as the basis for check and acceptance, and payment according to the contract.
3. When an additional volume arises outside the approved design and estimated budget for construction of works, the developer and the contractor for execution of building works must consider and deal with it.

Additional volumes consented to and approved by the developer or the investment decision-maker are the basis for payment and finalization of works.

4. False declaration, declaration of higher volumes than the actual volumes, or collusion between the participating parties leading to using wrong volumes for payment are strictly prohibited.

**Article 34** *Management of working safety on construction site*

1. The contractor for execution of building works must set up safety measures for employees, equipment, facilities for execution of building works and works prior to execution of building works. Where safety measures involve multiple parties, they must be agreed by the parties.
2. Safety measures and internal regulations on safety must be publicly displayed at the construction site for everyone to be aware of and comply with; there must be people to guide and warn against accidents at dangerous spots on the site.
3. The contractor for execution of building works, the developer and relevant parties must regularly check and supervise labour safety on the site. Upon the occurrence of an unsafe incident, execution of building works must be temporarily ceased or suspended until the incident has been completely remedied. Where there is a breach of labour safety, the person in charge of management must be responsible before the law.
4. Construction contractors are responsible for organizing guidance on, dissemination of and training on regulations on labour safety. In respect of certain jobs with strict requirements on labour safety, employees must have certificates of labour safety training as required by the law on labour safety. The use of employees not yet trained or guided on labour safety is strictly prohibited.
5. The contractor for execution of building works, when employing people on the construction site, is responsible for providing complete equipment and facilities for personal protection and labour safety to the employees as regulated.
6. The contractor for execution of building works is responsible for arranging full time or concurrent staff for labour hygiene and safety as follows:
  - (a) Where the construction site of a contractor has the total number of direct employees of under fifty (50) people, the technical officer in charge of execution of building works may work concurrently on labour hygiene and safety.

- (b) Where the construction site of a contractor has the total number of direct employees of fifty (50) or more people, there must be at least one full time officer in charge of labour hygiene and safety.
  - (c) Where the construction site of a contractor has the total number of direct employees of one thousand (1,000) or more people, a division on labour hygiene and safety must be established, or there must be at least two full time officers in charge of labour hygiene and safety.
  - (d) Full time officers in charge of labour hygiene and safety must have practising certificates as prescribed in article 51 of this Decree.
- 7. The number of full time officers in charge of labour hygiene and safety prescribed in clauses 6(a), 6(b) and 6(c) of this article should be arranged as appropriate to the scale of the construction site and the level of risks of labour accidents of the specific construction site.
  - 8. The State administrative authority for construction according to delegated level of management is responsible for regular or ad hoc checking of labour safety management on construction sites of developers and contractors. Where construction works are subject to examination of check and acceptance by the State administrative authority, labour safety checks will be coordinated at the same time as such examination.
  - 9. The Ministry of Construction stipulates regulations on labour safety in execution of building works.

**Article 35** *Management of construction environment*

- 1. The contractor for execution of building works must carry out measures to ensure [a safe] environment for employees on the construction site and to protect the surrounding environment, including measures for dust control, noise control, waste treatment and site clean-up. In respect of construction works in urban zones, measures of covering and removal of wastes to designated sites must be carried out.
- 2. Construction materials and waste must be covered during the process of transporting to ensure environmental hygiene and safety.
- 3. The contractor for execution of building works and the developer must be responsible for checking and supervising the protection of the construction environment, and at the same time, be subject to checking and supervision by the State administrative agency for environment. Where a contractor for execution of building works does not comply with regulations on environmental protection, the developer or the State administrative agency for environment has the right to suspend the execution of the building works and to request that the contractor properly carry out measures for environmental protection.
- 4. People who let acts adversely affecting the environment happen during the process of execution of building works must be responsible before the law and compensate for damage caused by their fault.

**Article 36** *Management of other aspects*

- 1. Management of quality of construction of works

Management of quality of construction of works is carried out in accordance with this Decree, the Decree on management of quality of construction of works and their guiding legal instruments.

- 2. Management of costs of investment in construction

Management of costs of investment in construction is carried out in accordance with this Decree, the Decree on management of costs of investment in construction of works and their guiding legal instruments.

3. Management of contracts in construction activities

Management of contracts in construction activities is carried out in accordance with this Decree, the Decree on contracts in construction activities and their guiding legal instruments.

Section 3

**Completion Of Construction And Commissioning Of Project Works To Use**

**Article 37** *Check and acceptance of works for commissioning to use*

1. Construction works are commissioned to use upon completion of construction according to the approved design, correct operation according to technical requirements and check and acceptance of satisfaction of quality requirements.
2. Depending on the specific conditions of each works, during the construction process, each section of works or item of works which has been completed under a project or a component project may be handed over for exploitation at the request of the developer.
3. The minutes of acceptance and handover of each section of works, item of works or the entire works which have been completed is the legal document for the developer to commission the works to use and to finalize the investment capital.
4. A works handover file consists of: Works completion file; manuals for use and operation; and regulations on works maintenance.
5. Works construction files must be submitted for archiving in accordance with the law on State archives.

**Article 38** *Completion of construction of works*

1. Construction of works is completed when the entire works have been handed over to the developer and the warranty period of the works has expired as regulated.
2. Before handing over works, the construction contractor must remove all of its assets from the construction site area.

**Article 39** *Operation of construction works and investment project for construction*

1. Upon handover of construction works or an investment project for construction, the developer or organization assigned to manage and use the construction works is responsible for operating and exploiting the works or project effectively in accordance with the approved eco-technical criteria and purposes.
2. The developer or organization assigned to manage and use construction works is responsible to carry out maintenance of the works as regulated.

### Construction Permit

#### **Article 40** *Conditions for issuance of construction permit*

1. The conditions for issuance of construction permits for specific cases are prescribed in articles 91, 92 and 93 of the 2014 Law on Construction.
2. In the case of an investment project for construction in an urban zone where no zoned master plan or construction detailed master plan approved by a competent authority is available, or no detailed master plan is required in accordance with provisions of the law on urban master planning, the construction master plan permit or master plan information provided by the competent State authority is the basis for consideration of issuance of a construction permit.

#### **Article 41** *File to request issuance of construction permit*

1. Files to request issuance of permits for new construction; repair, renovation; removal of works; individual residential houses; works not built along routes, works along routes in urban zones; religious works; monuments or pictures on a large scale; and advertisement works, are implemented in accordance with articles 95, 96 and 97 of the 2014 Law on Construction.
2. File to request issuance of construction permit in respect of works of religious belief:
  - (a) Request for issuance of a construction permit on the standard form prescribed by the Ministry of Construction;
  - (b) Copy of one of the documents evidencing land use right in accordance with the law on land;
  - (c) Construction design drawings appraised as regulated;
  - (d) Declaration of capacity and experience of the designing organization, or individual being the chair or head of the construction design, accompanied by a copy of the practising certificate of the design chair or head.
3. File to request issuance of construction permit in respect of works of diplomatic agencies and international organizations:
  - (a) Request for issuance of a construction permit on the standard form prescribed by the Ministry of Construction;
  - (b) Copy of one of the documents evidencing land use right in accordance with the law on land;
  - (c) Construction design drawings appraised as regulated;
  - (d) Other documents as prescribed by the agreement or international treaty entered into with the Government of Vietnam.
4. File to request issuance of a definite term construction permit as prescribed for each type of work or individual residential house in clause 1 of this article.
5. File to request issuance of a phased construction permit:

- (a) File to request issuance of a construction permit;
  - (b) Copy of one of the lawful documents on land in accordance with the law on land;
  - (c) Construction design drawings as regulated, and written appraisal of the design by the professional agency for construction for each stage (if any);
  - (d) Copy of the decision approving the investment project for construction in the case of works for which project formulation is required.
6. File to request issuance of a construction permit for a project:
- (a) The documents prescribed in articles 95.2(a), (b), (c) and (dd) of the 2014 Law on Construction;
  - (b) Design drawings of each works for which issuance of a construction permit is requested, and written appraisal of the design by the professional agency for construction for works which require such appraisal.

## Section 5

### Management Of Construction Of Special Works

#### **Article 42** *Special construction works*

Special construction works as prescribed in article 128 of the 2014 Law on Construction comprise:

- 1. State secret works:
  - (a) State secret works consist of: Construction works requiring compliance with confidentiality in investment activities for construction in the fields of national defence and security, external relations, economy, science, technology and other special fields; and construction works managed in accordance with the law on protection of State secrets;
  - (b) The Prime Minister makes a decision on construction of State secret works where there is a requirement for investment in construction.
- 2. Works constructed under emergency or urgent orders, consisting of:
  - (a) Works requiring urgent implementation to protect national sovereignty, to ensure national security, or community lives [and] safety;
  - (b) Works under projects with urgent requirements for security, energy safety, environmental safety, national reserves, science or technology, as certified in writing by the Minister of Science and Technology;
  - (c) Works requiring immediate commencement of construction to avoid causing direct disaster to the life, health and assets of the community, or to avoid a specially serious impact on neighbouring and adjoining works;

- (d) Works requiring immediate construction under an emergency order to remedy or rescue promptly, to prevent possible consequences of an event of force majeure or an incident of a construction works, or to respond to a specially serious environmental incident;
  - (dd) Works under other projects with urgent requirements for commencement of implementation as decided by the Prime Minister.
3. Temporary construction works, consisting of:
- (a) Works constructed to service execution of main building works as prescribed in clause 2 of this article;
  - (b) Works to support or supplement main works as prescribed in clauses 2(c) and 2(d) of this article.

**Article 43** *Management of investment in construction of special works*

1. In respect of State secret works:
- (a) Ministers, heads of ministerial equivalent and Government agencies, and chairmen of provincial people's committee decide on investment in construction of State secret works upon an in-principle decision by the Prime Minister of investment in construction of the State secret works;
  - (b) The investment decision-maker for construction of State secret works has the right to decide or to authorize the developer to decide on and to be responsible for the organization of management and implementation of the investment project in construction, and may award a contract (without selection of contractors) from the stages of project formulation, survey, design, execution of building works to the stage of completion and commissioning of the works to use.
2. In respect of works constructed under emergency or urgent orders:
- (a) The investment decision-maker for works under emergency or urgent orders itself makes a decision on the sequence of implementation of investment in construction and the form of project management; and itself organizes appraisal and approval of the project, design and estimated budget for construction, supervision of execution of building works and check and acceptance for handover of completed works in accordance with the law on construction;
  - (b) Construction works under emergency or urgent orders are exempted from construction permits as prescribed in article 89.2(a) of the 2014 Law on Construction;
  - (c) The Prime Minister decides on permitting the investment decision-maker for construction of works under emergency or urgent orders to decide or to authorize the developer to decide on and to be responsible for the organization of management and implementation of the investment project for construction, and may award a contract (without selection of contractors) from the stages of project formulation, survey, design, execution of building works to the stage of completion and commissioning of the works to use.
3. In respect of temporary construction works:
- (a) The developer itself organizes management of implementation of the investment project in construction in accordance with this Decree; itself organizes appraisal and approval of the design and estimated budget for construction; and itself decides on awarding contracts for construction of works, or itself carries out construction;



- (b) The developer or the contractor for construction of the main works is responsible to demolish and remove temporary construction works (if any) to restore the site to its original state upon handover of the completed works.

## CHAPTER 4

### Conditions On Capability For Construction Activities

#### Section 1

#### Conditions On Capability For Construction Activities Of Individuals

##### **Article 44** *Practising certificates for construction activities*

1. Practising certificates for construction activities are issued to individuals being Vietnamese citizens, Vietnamese residing overseas, or foreigners carrying out construction activities legally in Vietnam to assume the titles, to participate in the jobs for the titles, or to practise independently as prescribed in article 148.3 of the 2014 Law on Construction.
2. Foreign individuals or Vietnamese residing overseas already having practising certificates issued by a foreign agency or organization are recognized for practising if they practise construction activities in Vietnam for under six (6) months. Individuals practising construction activities in Vietnam for six (6) months or more must convert their practising certificates for construction activities at the Ministry of Construction.
3. Practising certificates for construction activities have a maximum term of five (5) years, upon the expiry of which procedures must be carried out for re-issuance.
4. The Ministry of Construction exercises uniform administration of practising certificates for construction activities nationally, including issuance of all types of standard forms of practising certificates for construction activities prescribed in this Decree.
5. Authority for issuance of practising certificates:
  - (a) The professional agency for construction under the Ministry of Construction issues practising certificates for construction activities of class I; and practising certificates for construction activities for individuals being foreigners and Vietnamese residing overseas;
  - (b) The Department of Construction issues practising certificates for construction activities of classes [or grade] II and III;
  - (c) Qualified socio-occupational organizations issue practising certificates for construction activities of classes II and III to individuals being their members in the fields within their scope of activities as prescribed by the Ministry of Construction.

##### **Article 45** *General conditions for issuance of practising certificates for construction activities*

An individual is issued with a practising certificate for construction activities upon satisfaction of the following conditions:

1. Having full capacity for civil acts in accordance with law; having residence permits in Vietnam in the case of foreigners and Vietnamese residing overseas.
2. Having professional qualifications, training, duration and experience of work appropriate to the field for which issuance of a practising certificate is requested as follows:
  - (a) Class I: Having University qualifications in the appropriate specialization, and seven (7) or more years of working experience suitable to the field for which issuance of a practising certificate is requested;
  - (b) Class II: Having University qualifications in the appropriate field, and five (5) or more years of working experience suitable to the field for which issuance of a practising certificate is requested;
  - (c) Class III: Having professional qualifications in the appropriate field, and three (3) or more years of working experience suitable to the field for which issuance of a practising certificate is requested if the individual has a University degree; or for five (5) or more years if the individual has a college or vocational secondary school diploma.
3. Satisfying testing requirements regarding professional experience and knowledge of laws relating to the practising field.

**Article 46** *Practising certificates for construction survey*

1. The fields for which a practising certificate for construction survey is issued comprise:
  - (a) Survey of topography;
  - (b) Survey of geology and hydro-geological of works
2. The conditions for issuance of practising certificates for construction survey as appropriate to the type of survey prescribed in article 73 of the 2014 Law on Construction are as follows:
  - (a) Class I: Having been the person in charge of specialized construction survey for at least one (1) Group A project, or five (5) Group B projects, or at least two (2) level I works or three (3) level II works of the same type;
  - (b) Class II: Having been the person in charge of specialized construction survey for at least two (2) Group B projects or five (5) Group C projects, or at least two (2) level II works or three (3) level III works of the same type;
  - (c) Class III: Having participated in specialized construction survey for at least three (3) Group C projects, or at least two (2) level III works or three (3) level IV works of the same type;
3. Scope of construction survey activities:
  - (a) Class I: May act as the person in charge of construction survey for all project groups, all levels of works in the same field and the same types of works as stated in the practising certificate;
  - (b) Class II: May act as the person in charge of construction survey for Group B projects and works of level II or lower in the same field and the same types of works as stated in the practising certificate;
  - (c) Class III: May act as the person in charge of construction survey for Group C projects and works of level III or lower in the same field and the same types of works as stated in the practising certificate.

**Article 47** *Practising certificates for design of construction master plans*

1. An individual issued with a practising certificate for design of construction master plans must have a University or higher degree in the field of architecture, master planning or specialized fields suitable to the requirements of the construction master planning project and satisfy the conditions corresponding to the following classes:
  - (a) Class I: Having acted as the head designer or head design appraiser of the specialized subject of at least one construction master plan for an inter-provincial region, two (2) construction master plans for a provincial region or three (3) construction master plans for an inter-district region or five (5) construction master plans for a district region, or five (5) general construction master plans for special functional zones;
  - (b) Class II: Having acted as the head designer or head design appraiser of the specialized subject of at least one (1) construction master plan for a provincial region, two (2) construction master plans for an inter-district region or three (3) construction master plans for a district region, or three (3) general construction master plans for special functional zones;
  - (c) Class III: Having participated in the design or design appraisal of the specialized subject of at least one (1) construction master plan for a district region or three (3) general construction master plans for special functional zones or five (5) master plans for rural construction.
2. Scope of activities:
  - (a) Class I: May act as the person in charge or the head of the specialized subject of construction master planning projects;
  - (b) Class II: May act as the person in charge of projects or the head of the specialized subject of construction master planning projects for provincial regions, inter-district regions or district regions, general construction master plans for special functional zones with a population equivalent to that of urban zones of type II or lower, zoned construction master plans and detailed construction master plans for special functional zones, and master plans for rural construction;
  - (c) Class III: May act as the person in charge of projects or the head of the specialized subject of construction master planning projects for district regions, zoned construction master plans and detailed construction master plans for special functional zones, and master plans for rural construction.

**Article 48** *Practising certificates for design or verification of design for construction*

1. The fields for which a practising certificate for design for construction of works is issued comprise:
  - (a) Architectural design for construction works;
  - (b) Interior-exterior design of works; landscape design;
  - (c) Structural design for construction works;
  - (d) Electrical-mechanical-electrical design for construction works;
  - (dd) Design for water supply – drainage;

- (e) Design for ventilation – heat supply and emission;
  - (g) Design of information – communications networks in construction works;
  - (h) Fire control design.
2. Conditions for issuance of practising certificates for design for construction of works:
- (a) Class I: Having acted as the person in charge or the head of design, appraisal or verification of design of those jobs relating to the field for which issuance of a practising certificate is requested of at least two (2) level II works; and having participated in the design, appraisal or verification of design of at least one (1) level I works or higher of the same type as the works stated in the practising certificate;
  - (b) Class II: Having acted as the head of design, appraisal or verification of design of those jobs relating to the field for which issuance of a practising certificate is requested of at least five (5) level III works; and having participated in the design, appraisal or verification of design of at least one (1) level I work or higher of the same type as the works stated in the practising certificate;
  - (c) Class III: Having participated in the design, appraisal or verification of design of those jobs relating to the field for which issuance of a practising certificate is requested of at least three (3) level III works, or five (5) works of level IV of the same type as the works stated in the practising certificate;
3. Scope of activities:
- (a) Class I: May act as the person in charge, head designer or head verifier of design of works of all levels, and of the same types as the works stated in the practising certificate; May act as the person in charge of establishing all groups of projects of the same type as projects for which the practising certificate is issued;
  - (b) Class II: May act as the person in charge, head designer or head verifier of design of works of levels II or lower of the same types as the works stated in the practising certificate. May act as the person in charge of Group B and Group C projects of the same type as projects for which the practising certificate is issued;
  - (c) Class III: May act as the person in charge, head designer or head verifier of design of levels III and IV works of the same types as the works stated in the practising certificate. May act as the person in charge of Group C projects of the same type as projects for which the practising certificate is issued.

**Article 49** *Practising certificates for supervision of execution of building works*

1. The fields for issuance of practising certificates for supervision of execution of building works:
- (a) Supervision of building and finishing;
  - (b) Supervision of equipment installation at works;
  - (c) Supervision of technological equipment installation.
2. Conditions for issuance of practising certificates for supervision of execution of building works:
- (a) Class I: Having directly supervised those jobs relating to the field for which issuance of a practising certificate is requested of at least one (1) level I works or two (2) level II works of the same type;

- (b) Class II: Having directly supervised execution of building works or led the design or execution of those jobs relating to the field for which issuance of a practising certificate is requested of at least one (1) level II works or two (2) level III works of the same type;
- (c) Class III: Having directly participated in supervision of execution of building works, or participated in design, appraisal of design or execution of building works of at least one (1) level III works or two (2) level IV works of the same type.

3. Scope of activities:

- (a) Class I: May act as the chief supervisor, to supervise directly all levels of works of the same types as stated in the practising certificate;
- (b) Class II: May act as the chief supervisor, to supervise directly works of level II or lower, and to participate in supervision of certain jobs of level I works of the same types as the works stated in the practising certificate;
- (c) Class III: May act as the chief supervisor, to supervise directly works of levels III or lower, and to participate in supervision of certain jobs of level II works of the same types as the works stated in the practising certificate.

**Article 50** *Practising certificates for construction [quality] inspection*

1. Conditions for issuance of practising certificates for construction [quality] inspection:

- (a) Class I: Having a class I practising certificate for supervision of execution of building works; having been the head verifier or head designer, or having directly supervised execution of building works, of at least one (1) level I works or two (2) level II works of the same type as the works for which issuance of a certificate is requested;
- (b) Class II: Having a class II practising certificate for supervision of execution of building works; a class II certificate for construction design; having been the head verifier or head designer, or having directly supervised execution of building works, of at least one (1) level II works or two (2) level III works of the same type as the works for which issuance of a certificate is requested;
- (c) Class III: Having a class III practising certificate for supervision of execution of building works; a class III certificate for construction design; having been the head verifier or head designer, or having directly supervised execution of building works, of at least two (2) level III works or three (3) level IV works of the same type as the works for which issuance of a certificate is requested.

2. Scope of activities:

- (a) Class I: May act as the head of [quality] inspection of all levels of works of the same types as stated in the practising certificate;
- (b) Class II: May act as the head of [quality] inspection of works of levels II or lower, of the same types as the works stated in the practising certificate;
- (c) Class III: May act as the head of [quality] inspection of works of levels III and IV, of the same types as the works stated in the practising certificate.

**Article 51** *Practising certificates for labour safety in construction*

1. Conditions for issuance of practising certificates for labour safety in construction for each class are as follows:
  - (a) Class I: Having directly participated in execution of building works, or having worked as a full time officer for labour safety on construction sites of at least one (1) level I works or two (2) level II works;
  - (b) Class II: Having directly participated in execution of building works, or having worked as a full time or concurrent officer for labour safety on construction sites of at least one (1) level II works or two (2) level III works;
  - (c) Class III: Having directly participated in execution of building works, or having worked as a full time or concurrent officer for labour safety on construction sites of at least one (1) level III works or two (2) level IV works.
2. Scope of activities:
  - (a) Class I: May be in charge of labour safety or working as a full time officer for labour safety in execution of building works of all levels;
  - (b) Class II: May be in charge of labour safety or working as a full time officer for labour safety in execution of building works of level I or lower;
  - (c) Class III: May be in charge of labour safety or working as a full time officer for labour safety in execution of building works of levels II and III.

**Article 52** *Practising certificates for construction valuation [pricing]*

1. Individuals issued with practising certificates for construction valuation [pricing] may lead the implementation of jobs of management of costs of investment in construction, comprising:
  - (a) Determination and verification of total investment in construction; risk analysis and investment effectiveness assessment of projects;
  - (b) Determination of norms of costs per capacity unit, construction limits, construction prices for works and construction price indices;
  - (c) Bills of quantity;
  - (d) Determination and verification of estimated budget for construction;
  - (dd) Determination of tender package prices and contract prices in construction activities;
  - (e) Control of costs for construction of works;
  - (g) Formulation and verification of files for payment and finalization of investment capital for construction, conversion of investment capital for construction works upon completion, check and acceptance, and handover for use.
2. Conditions for issuance of practising certificates for construction valuation:

- (a) Class I: Having participated in management of costs of investment in construction, or having led preparation of the total investment of at least one (1) Group A project or three (3) Group B projects, or having prepared estimated budget for construction of at least two (2) level I works or five (5) level II works;
  - (b) Class II: Having participated in management of costs of investment in construction, or having led preparation of the total investment of at least one (1) Group B project or three (3) Group C projects, or having prepared estimated budget for construction of at least one (1) level I works or three (3) level II works or ten (10) level III works;
  - (c) Class III: Having participated in preparation of the total investment of at least one (1) Group C project or two (2) eco-technical reports on investment in construction, or having prepared estimated budget for construction of at least two (2) level III works or ten (10) level IV works.
3. Scope of activities:
- (a) Class I: May lead implementation of consultancy for construction valuation regardless of the group of project or level of construction works;
  - (b) Class II: May lead implementation of consultancy for construction valuation of projects of Group B or lower, and construction works of level I or lower;
  - (c) Class III: May lead implementation of consultancy for construction valuation of Group C projects, projects requiring eco-technical reports on investment in construction, and works of level II or lower.

**Article 53** *Conditions for head of construction site*

- 1. An individual assuming the title of the head of a construction site must satisfy the conditions corresponding to each class as follows:
  - (a) Class I: Having a class I practising certificate for consultancy for supervision of execution of building works or practising certificate for labour safety; having been the head of a construction site for execution of building works of at least one (1) level I works or two (2) level II works of the same type;
  - (b) Class II: Having a class II practising certificate for consultancy for supervision of execution of building works or practising certificate for labour safety; having been the head of a construction site for execution of building works of at least one (1) level II works or two (2) level III works of the same type;
  - (c) Class III: Having a class III practising certificate for consultancy for supervision of execution of building works or practising certificate for labour safety; having directly participated in execution of building works of at least one (1) level III works or two (2) level IV works of the same type.
- 2. Scope of activities:
  - (a) Class I: May work as a head of construction sites of all levels of work of the same type;
  - (b) Class II: May work as a head of construction sites where there are works of level II or lower of the same type;
  - (c) Class III: May work as a head of construction sites where there are works of levels III and IV of the same type.

**Article 54** *Conditions on capability of directors managing projects*

1. Directors managing projects under specialized project management units, regional project management units, consultants on project management, developers directly exercising project management and the management unit for an investment project for construction must satisfy the conditions on capability prescribed in this article.
2. Directors managing projects must have qualifications in the specialized construction field as appropriate to project requirements, have a professional certificate of project management, and satisfy the conditions corresponding to each class as follows:
  - (a) Directors managing projects of class I: Having a class I practising certificate for design, or class I practising certificate for supervision of execution of building works; or having been a director managing one (1) Group A project or two (2) Group B projects of the same type, or having been the class I head of a construction site;
  - (b) Directors managing projects of class II: Having a class II practising certificate for design, or class II practising certificate for supervision of execution of building works; or having been a director managing one (1) Group B project or two (2) Group C projects of the same type, or having been the class II head of a construction site;
  - (c) Directors managing projects of class III: Having a practising certificate for design, or practising certificate for supervision of execution of building works of class III; or having been a director for consultancy on project management of one (1) Group C project of the same type, or having been the class III head of a construction site.
3. Scope of activities:
  - (a) Directors managing projects of class I: May work as a director managing projects of all groups;
  - (b) Directors managing projects of class II: May work as a director managing projects of groups B and C;
  - (c) Directors managing projects of class III: May work as a director managing projects of group C and projects requiring only eco-technical reports on investment in construction.

**Article 55** *File to request issuance of practising certificates for construction activities*

A file to request issuance of practising certificates for construction activities consists of:

1. Request for issuance of a practising certificate on the standard form prescribed by the Ministry of Construction.
2. Copies of degrees and certificates of development of speciality or expertise issued by lawful entities.
3. Declaration of experience in professional work in construction activities relating to the field for which issuance of a practising certificate is requested on the standard form prescribed by the Ministry of Construction, accompanied by copies of contracts for construction activities involving the individual in jobs which are relevant to the declarations in the file to request issuance of a practising certificate. The declarant must be responsible for the truthfulness and accuracy of the information declared.

**Article 56** *Tests for issuance of practising certificates for construction activities*

1. Two (2) parts will be tested in relation to the contents practised:



- (a) Professional knowledge part;
  - (b) Legal knowledge part.
2. Organization of testing:
- (a) The competent agency for issuance of practising certificates establishes a council to hold the testing [exam];
  - (b) The composition of the council for testing for issuance of practising certificates consists of: Representative of the agency issuing practising certificates, as the chairman and standing member of the council; representative of relevant occupational associations; experts with high expertise in the field to be tested as invited by the chairman of the council;
  - (c) The Ministry of Construction exercises uniform administration of practising certificates of construction activities in the entire country through the issuance and management of registers of practising certificates; and publishes the list of individuals issued with practising certificates for construction activities on its website.
3. The Ministry of Construction makes detailed provisions for the council for testing for issuance of practising certificates; and the form, timing, and content of testing for issuance and re-issuance of practising certificates for construction activities.

## Section 2

### Conditions On Capability Of Organizations For Construction Activities

#### **Article 57** *General conditions*

- 1. There is a business registration certificate or decision on establishment of the competent agency in accordance with law.
- 2. Items of registration for issuance of a certificate of capability for construction activities must be consistent with the items of the business registration [certificate] or decision on establishment of the competent agency in accordance with law.
- 3. Individuals holding a key position must have a labour contract with the organization requesting issuance of a certificate of capability for construction activities.
- 4. With respect to projects and works of a special nature such as nuclear power plants or plants for production of toxic chemicals or explosives, individuals holding key positions must, in addition to the requirements of having practising certificates corresponding to the type of job undertaken, have been trained in the speciality or have expertise in the special field of the project.
- 5. Certificates of capability for construction activities of organizations shall be valid for a maximum period of five (5) years. The procedures for re-issuance must be carried out within a period of twenty (20) days from the date of any change or the expiry date.

**Article 58** *Issuance of certificates of capability for construction activities*

1. The application file for issuance of a certificate of capability for construction activities [shall comprise]:
  - (a) Application for issuance of a certificate of capability for construction activities on the form stipulated by the Ministry of Construction;
  - (b) Copy of the business registration certificate or decision on establishment of the organization;
  - (c) Declaration on the standard form of the list of key persons and their experience, accompanied by their practicing certificates and labour contracts;
  - (d) Declaration on the standard form of the organization's experience in at least the most recent three (3) typical jobs in each field relating to the items of registration;
  - (dd) Declaration on financial ability; and of machinery, equipment and computer software as required for each field to be registered;
  - (e) Procedures for management of implementation of jobs; and quality control system corresponding to each field to be registered;
2. Authority to issue certificates of capability for construction activities:
  - (a) The professional agency under the Ministry of Construction shall issue Class I certificates of capability for construction activities;
  - (b) Departments of Construction shall issue Class II or III certificates of capability for construction activities in respect of organizations with head offices situated within the administrative locality managed by such Department..
3. The Ministry of Construction shall provide detailed regulations on files, standard forms of certificates, and methods and procedures for assessment for issuance of new certificates or re-issuance of certificates of capability for construction activities.

**Article 59** *Capability certificates of organizations carrying out construction survey*

1. Class I:
  - (a) Having at least three (3) persons with a Class I practising certificates for construction survey appropriate to the field for which issuance of a capability certificate is requested;
  - (b) Having at least ten (10) persons in the quality control system of the organization carrying out construction survey who have a speciality or an expertise appropriate to the type of construction survey which is registered for issuance of a capability certificate;
  - (c) Having carried out construction survey for at least one (1) Group A project; one (1) level I works or two (2) Group B projects or two (2) works of level II or higher level of the same type of survey.
2. Class II:
  - (a) Having at least three (3) persons with a Class II practising certificate appropriate to the field for which issuance of a capability certificate is requested;

- (b) Having at least ten (10) persons in the quality control system of the organization carrying out construction survey who have a speciality or an expertise appropriate to the type of construction survey which is registered for issuance of a capability certificate;
  - (c) Having carried out construction survey for at least one (1) Group B project; one (1) level I works or two (2) Group C projects or two (2) works of level III or higher level of the same type of survey.
3. Class III:
- (a) Having at least three (3) persons with a Class III practicing certificate appropriate to the field for which issuance of a capability certificate is requested;
  - (b) Having at least five (5) persons in the quality control system of the organization carrying out construction survey who have a speciality or an expertise appropriate to the type of construction survey which is registered for issuance of a capability certificate.
4. Scope of activities:
- (a) Class I: May carry out construction survey for all projects and [construction] works of levels of the same type.
  - (b) Class II: May carry out construction survey for Group B projects and works of level II or lower level of the same type;
  - (c) Class III: May carry out construction survey for Group C projects and works of level III or lower level of the same type.

**Article 60** *Capability certificate of consultants formulating construction master plan*

1. Class I:
- (a) Having at least ten (10) persons with a Class I practicing certificate for design of construction master plans; and persons in charge of a subject must have a Class I practicing certificate appropriate to the specialized field which they undertake;
  - (b) Having at least thirty (30) persons having speciality appropriate to the type of construction master plans which is registered for issuance of a capability certificate for formulation of construction master plans;
  - (c) Having formulated drawings of at least one (1) construction master plan for a provincial region or drawings of two (2) general construction master plans for urban areas of Class II or drawings of two (2) construction master plans for a special functional zone.
2. Class II:
- (a) Having at least ten (10) persons with a Class II practicing certificate for design of construction master plans; and persons in charge of a subject must have a Class II practicing certificate appropriate to the specialized field which they undertake;
  - (b) Having at least twenty (20) persons having speciality appropriate to the type of construction master plans which is registered for issuance of a capability certificate for formulation of construction master plans;

- (c) Has formulated at least drawings of one (1) construction master plan for an inter-district region or drawings of two (2) general construction master plans for urban areas of Class II or drawings of two (2) construction master plans for a special functional zone.

3. Class III:

- (a) Having at least five (5) persons with a Class III practicing certificate for design of construction master plans; and persons in charge of a subject must have a Class III practicing certificate appropriate to the specialized field which they undertake;
- (b) Having at least ten (10) persons having a speciality appropriate to the type of construction master plans which is registered for issuance of a capability certificate for formulation of construction master plans.

4. Scope of activities:

- (a) Class I: May formulate types of drawings of construction master plans;
- (b) Class II: May formulate drawings of construction master plans for provincial regions, inter-district regions or district regions, general construction master plans for urban areas of Class II or lower class, master plans for provincial special functional zones, detailed construction master plans and master plans for rural construction;
- (c) Class III: May formulate construction master plans for district regions, general construction master plans for urban areas of Class IV or lower class, master plans for district special functional zones, detailed construction master plans and master plans for rural construction.

**Article 61** *Capability certificates of organizations undertaking design or verifying design for construction of works*

1. Class I:

- (a) Having at least ten (10) persons with a [practising] certificate of Class I for design appropriate to the type of works for which [the organization] requests issuance of a certificate; and head designers of a specialized field must have a Class I practising certificate for design appropriate to the jobs which they undertake;
- (b) Having at least fifteen (15) persons in the quality control system of the organization undertaking design for construction of works who have speciality or expertise appropriate to the type of works which is registered for issuance of a capability certificate;
- (c) Having undertaken design or verified design of at least one (1) level I works or two (2) level II works of the same type.

2. Class II:

- (a) Having at least ten (10) persons with a [practising] certificate of Class II for design appropriate to the type of works for which [the organization] requests issuance of a certificate; and head designers of a specialized field must have a Class II practising certificate for design appropriate to the jobs which they undertake;

- (b) Having at least ten (10) persons in the quality control system of the organization undertaking design for construction of works who have speciality or expertise appropriate to the type of works which is registered for issuance of a capability certificate;
  - (c) Having undertaken design of at least one (1) level I works or two (2) Level III works of the same type.
3. Class III:
- (a) Having at least five (5) persons with a [practising] certificate of Class III for design appropriate to the type of works for which [the organization] requests issuance of a certificate; and head designers of a specialized field must have a Class III practising certificate for design appropriate to the jobs which they undertake;
  - (b) Having at least five (5) persons in the quality control system of the organization undertaking design for construction of works who have speciality or expertise appropriate to the type of works which is registered for issuance of a capability certificate.
4. Scope of activities:
- (a) Class I: May undertake designs or verify designs of works of levels of the same type;
  - (b) Class II: May undertake designs or verify designs of works of Level II or lower level of the same type;
  - (c) Class III: May undertake designs or verify designs of works of Level III or lower level of the same type;

**Article 62** *Capability certificates of organizations formulating or verifying investment projects for construction*

1. Class I:
- (a) Having at least three (3) persons satisfying all the conditions on capability to act as the person in charge of formulation of Group A projects in respect of the type of projects for which issuance of a capability certificate is requested;
  - (b) Persons in charge of a specialized field of a project must have a Class I practising certificate appropriate to the specialized field which they undertake;
  - (c) Having at least thirty (30) persons having speciality or expertise appropriate to the type of projects which is registered for issuance of a capability certificate for formulation of investment projects for construction;
  - (d) Having formulated or verified at least one (1) Group A project or two (2) Group B projects of the same type.
2. Class II:
- (a) Having at least three (3) persons satisfying all the conditions on capability to act as the person in charge of formulation of Group B projects in respect of the type of projects for which [the organization] requests issuance of a certificate;
  - (b) Persons in charge of a specialized field of a project must have a Class II practising certificate appropriate to the specialized field which they undertake;

- (c) Having at least twenty (20) persons having a speciality or expertise appropriate to the type of projects registered for issuance of a capability certificate for formulation of investment projects for construction;
  - (d) Having formulated or verified at least one (1) Group B project or two (2) Group C projects of the same type.
3. Class III:
- (a) Having at least three (3) persons satisfying all the conditions on capability to act as the person in charge of formulation of Group C projects appropriate to the type of projects for which [the organization] requests issuance of a certificate;
  - (b) Persons in charge of a specialized field of a project must have a Class III practising certificate appropriate to the specialized field which they undertake;
  - (c) Having at least ten (10) persons having a speciality or expertise appropriate to the type of projects registered for issuance of a capability certificate for formulation of investment projects for construction.
4. Scope of activities:
- (a) Class I: May formulate and verify projects of the same type;
  - (b) Class II: May formulate and verify Group B or lower group projects of the same type;
  - (c) Class III: May formulate and verify Group C projects and eco-technical reports on investment in construction of the same type.

**Article 63** *Capability certificate of project management consultants*

1. Class I:
- (a) Having at least three (3) persons satisfying all the conditions on capability to act as the director in charge of management of Group A projects;
  - (b) Persons in charge of a specialized field must have a Class I practising certificate appropriate to the jobs which they undertake;
  - (c) Having at least twenty (20) persons in the quality control system of the consultant or the project management unit who have a speciality or expertise appropriate to the type of projects registered for issuance of a capability certificate;
  - (d) Having undertaken management of at least one (1) Group A project or two (2) Group B projects of the same type.
2. Class II:
- (a) Having at least three (3) persons satisfying all the conditions on capability to act as the director in charge of management of Group B projects;

- (b) Persons in charge of a specialized field must have a Class II practising certificate appropriate to the jobs which they undertake;
  - (c) Having at least fifteen (15) persons in the quality control system of the consultant or the project management unit who have a speciality or expertise appropriate to the type of projects registered for issuance of a capability certificate;
  - (d) Having undertaken management of at least one (1) Group B project or two (2) Group C projects of the same type.
3. Class III:
- (a) Having at least three (3) persons satisfying all the conditions on capability to act as the director in charge of management of Group C projects of the same type;
  - (b) Persons in charge of a specialized field must have a Class III practising certificate appropriate to the jobs which they undertake;
  - (c) Having at least ten (10) persons in the quality control system of the consultant or the project management unit who have a speciality or expertise appropriate to the type of projects which is registered for issuance of a capability certificate.
4. Scope of activities:
- (a) Class I: May manage projects of the same type;
  - (b) Class II: May manage Group B or lower group projects of the same type;
  - (c) Class III: May manage Group C projects and works which only require formulation of an eco-technical report on investment in construction.

**Article 64** *Conditions on capability applicable to management units for investment projects for construction*

- 1. [Applicable to] specialized project management units and regional project management units under ministries, ministerial equivalent agencies, provincial people's committees, economic groups and State corporations:
  - (a) Project management directors must satisfy the conditions on capability stipulated in article 54.2 of this Decree;
  - (b) Persons in charge of specialized fields must have practising certificates appropriate to the scale of projects, the level of works and jobs which they undertake;
  - (c) Having at least twenty (20) persons having a speciality or an expertise appropriate to the type of specialized projects.
- 2. [Applicable to] specialized project management units and regional project management units under district people's committees:
  - (a) Project management directors must satisfy the conditions on capability stipulated in article 54.2 of this Decree;



- (b) Persons in charge of specialized fields must have practising certificates appropriate to the scale of projects, the level of works and jobs which they undertake;
  - (c) Having at least ten (10) persons having a speciality or an expertise appropriate to the type of specialized projects.
3. [Applicable to] management units for a single project:
- (a) Project management directors must satisfy the conditions on capability stipulated in article 54.2 of this Decree;
  - (b) Persons in charge of specialized fields must have practising certificates appropriate to the scale of projects, the level of works and jobs which they undertake;
  - (c) Having at least ten (10) persons having a speciality or an expertise appropriate to the type of the project assigned to them for management.

**Article 65** *Capability certificate of organizations undertaking execution of building works*

1. Class I:

- (a) Having at least three (3) persons satisfying all the conditions on capability to act as head of construction sites of Class I for construction works of the same type;
- (b) Persons in charge of execution of building works in a specialized field must have a university or vocational college degree appropriate to the jobs which they undertake and university degree holders must have had at least three (3) years of work experience, and vocational college diploma holders must have five (5) years of work experience;
- (c) Having at least fifteen (15) persons in the quality control system or labour safety control system who have a speciality or an expertise appropriate to the type of the works;
- (d) Having at least thirty (30) technical workers with certificates of specialty or expertise development [training] appropriate to the contents of registration of issuance of a capability certificate;
- (dd) Being able to mobilize a sufficient number of main machines and equipment to satisfy requirements of execution of building works appropriate to the jobs undertaken;
- (e) Having acted as the main contractor for execution of building works of at least one (1) level I works or two (2) level II works of the same type.

2. Class II:

- (a) Having at least two (2) persons satisfying all the conditions on capability to act as heads of construction sites of Class II for construction works of the same type;
- (b) Persons in charge of execution of building works in a specialized field must have a university or vocational college degree appropriate to the jobs which they undertake and at least three (3) years of work experience;
- (c) Having at least ten (10) persons in the quality control system or labour safety control system who have a speciality or an expertise appropriate to the type of works;

- (d) Having at least twenty (20) technical workers with a certificate of development of speciality or expertise appropriate to the contents of registration of issuance of a capability certificate;
- (dd) Having acted as the main contractor for execution of building works of at least one (1) level II works or two (2) Level III works of the same type.

3. Class III:

- (a) Having at least one (1) person satisfying all the conditions on capability to act as head of construction sites of Class III for construction works of the same type;
- (b) Persons in charge of execution of building works in a specialized field must have a vocational degree appropriate to the jobs which they undertake;
- (c) Having at least five (5) persons in the quality control system or labour safety control system who have a speciality or an expertise appropriate to the type of works;
- (d) Having at least five (5) technical workers with a certificate of development of speciality or expertise appropriate to the contents of registration of issuance of a capability certificate.

4. Scope of activities:

- (a) Class I: May execute works of all levels of the same type;
- (b) Class II: May execute works of Level II or lower levels of the same type;
- (c) Class III: May execute works of Level III or lower levels of the same type.

**Article 66** *Capability certificate of organizations undertaking supervision of execution of building works or construction [quality] inspection*

- 1. Class I: Having at least ten (10) persons with a Class I practising certificate for supervision of execution of building works or for being in charge of construction [quality] inspection appropriate to the field of supervision of execution of building works.
- 2. Class II: Having at least ten (10) persons with a Class II practising certificate for supervision of execution of building works or for being in charge of construction [quality] inspection appropriate to the field of supervision of execution of building works.
- 3. Class III: Having at least five (5) persons with a Class III practising certificate for supervision of execution of building works or for being in charge of construction [quality] inspection appropriate to the field of supervision of execution of building works.
- 4. Scope of activities:
  - (a) Class I: May supervise execution of building works or inspect construction [quality] of works of all levels of the same type;
  - (b) Class II: May supervise execution of building works or inspect construction [quality] of works of Level II or lower levels of the same type;
  - (c) Class III: May supervise execution of building works or inspect construction [quality] of works of Level III or lower levels of the same type.

**Article 67** *Capability certificate of consultancy organizations for controlling costs of investment in construction*

1. Class I:

- (a) Having at least five (5) persons with a Class I practising certificate for construction valuation;
- (b) Having at least fifteen (15) persons having a speciality or an expertise appropriate to the work of control of costs of investment in construction;
- (c) Has controlled costs of at least two (2) Group A projects or five (5) Group B projects.

2. Class II:

- (a) Having at least three (3) persons with a Class II practising certificate for construction valuation;
- (b) Having at least ten (10) persons having a speciality or an expertise appropriate to the work of control of costs of investment in construction;

3. Class III:

- (a) Having at least three (3) persons with a Class III practising certificate for construction valuation;
- (b) Having at least five (5) persons having a speciality or an expertise appropriate to the work of control of costs of investment in construction;

4. Scope of activities:

- (a) Class I: May undertake jobs relating to control of costs of investment in construction in respect of all projects;
- (b) Class II: May undertake jobs relating to control of costs of investment in construction in respect of Group B or lower group projects;
- (c) Class III: May undertake jobs relating to control of costs of investment in construction in respect of Group C projects and projects which only require formulation of an eco-technical report on investment in construction.

**Article 68** *Conditions applicable to organizations undertaking training or development of speciality or expertise on construction activities*

- 1. The following organizations may arrange development of speciality or expertise on construction activities: training establishments being vocational secondary schools or schools at a higher level; establishments with the function of training and development of officials under a ministry or ministerial equivalent agency; State professional organizations or entities; and associations or occupational associations in the construction field. Other specific cases shall be considered and recognized by the Ministry of Construction.
- 2. Physical facilities serving development of speciality or expertise on construction activities:
  - (a) Ensuring that classrooms are of the size and have facilities appropriate to the number of trainees, and means and equipment which satisfy requirements of teaching and learning;

- (b) Having laboratories or video tapes or discs to introduce specialised construction experiments.
3. Lecturers:
- (a) An establishment providing development of speciality or expertise on construction activities must have at least forty percent (40%) of the total number of lecturers participating in development of speciality or expertise on construction activities being lecturers who are tenured staff or have an indefinite term labour contract;
  - (b) Standards: [Lecturers] must have a university or higher degree in a speciality appropriate to the subject in which they participate in teaching; and lecturers participating in teaching must have seven (7) or more years of practical experience from activities in the field of project management, management of construction economics; survey and design; execution of building works; supervision of execution of building works; [or] research and teaching in the construction speciality;
  - (c) Lecturers must have a declaration on their professional qualifications and practical experience in occupational activities and [such declaration] has been uploaded onto the website of the Ministry of Construction.
4. Teaching materials:
- (a) Teaching materials must be printed and bound, and accompanied by sets of exam questions of the curriculum for development of the speciality or expertise;
  - (b) Contents of the teaching materials must be appropriate to the curriculum framework stipulated by the Ministry of Construction.
5. Management of establishments undertaking development of speciality and expertise:
- (a) Having a managerial apparatus which satisfies requirements in terms of speciality and expertise in order to organize courses of development of speciality and expertise and archive trainees' files, and documentation and data relating to the work of development of speciality and expertise;
  - (b) Having procedures for management and control of quality of the work of development of speciality and expertise;
  - (c) Having a person in charge of courses who has five (5) or more years of experience in organization of courses of development of speciality or training of expertise in fields relating to construction activities.
6. The Ministry of Construction shall provide detailed regulations on organization of periodical or extraordinary inspections of establishments undertaking development of speciality or expertise on construction activities; and curriculum frameworks for development of speciality and expertise on construction activities.

**Article 69** *Uploading information about capability of organizations participating in construction activities*

- 1. Organizations participating in construction activities shall be responsible to provide information about their capability for construction activities to the professional agency for construction for the latter to publicly upload such information on the website which such agency manages. The authority to receive and upload information shall be stipulated as follows:

- (a) The professional agency for construction under the Ministry of Construction shall receive and upload information from organizations and individuals participating in construction activities in respect of national importance projects, Group A projects and works of level I or higher level; organizations with one hundred (100) per cent foreign owned capital or foreign individuals participating in construction activities in Vietnam; and organizations under management of a ministry, ministerial equivalent agencies, Government agencies, central agencies, State corporations or groups;
  - (b) Departments of Construction shall receive and upload information from organizations participating in construction activities with head offices located in the locality under their management and from individuals who are issued with a practising certificate by such Departments of Construction (except for the organizations and individuals referred in sub-clause (a) of this clause).
2. The professional agency for construction as delegated shall, within a period of thirty (30) days from the date of receipt of the request file for uploading [information] from an organization, be responsible to consider, appraise and upload information about the capability for construction activities of the aforesaid organization on the website the management of which is delegated [ to such agency].
  3. Information about capability for construction activities shall be used as a basis for selection of organizations and individuals to participate in the following construction activities:
    - (a) Formulation of construction master plans;
    - (b) Formulation or verification of investment projects for construction;
    - (c) Management of investment projects for construction; control of costs of investment in construction in respect of investment projects for construction funded by capital from the State budget;
    - (d) Construction survey;
    - (dd) Formulation of designs or estimated budgets; verification of designs or estimated budgets for construction of works;
    - (e) Specialized construction experiments;
    - (g) Supervision of construction of works;
    - (h) Execution of building works;
    - (i) Inspection and assessment of quality of construction works.
  4. The Ministry of Construction shall provide detailed regulations on files and procedures for uploading information about capability for construction activities.

### Section 3

#### Issuance Of Construction Activities Licences To Foreign Contractors

##### **Article 70** *Principles of management of activities of foreign contractors*

1. Foreign contractors may conduct construction activities in Vietnam only after they have been issued with a construction activities licence by the State administrative agency for construction.

2. Activities of foreign contractors in Vietnam must comply with the law of Vietnam and relevant international treaties which Vietnam signs or accedes to.

**Article 71** *Conditions for issuance of construction activities licence*

1. A foreign contractor participating in the construction activities prescribed in article 69.3 of this Decree must publish information on the website of the Ministry of Construction or of the Department of Construction to which authority is delegated.
2. In the case of a tender package for which the law on tendering of Vietnam provides for mandatory application [of tendering], a foreign contractor must satisfy the condition that [such contractor] has won a tender or has been selected under a decision.
3. In the case of a tender package for which the law on tendering of Vietnam does not provide for mandatory application [of tendering], a foreign contractor must satisfy the following conditions:
  - (a) [Such foreign contractor] has won a tender or has been selected under a decision of the developer;
  - (b) [Such foreign contractor] must satisfy all the conditions on capability appropriate to the work to be contracted in accordance with the law on construction .
4. A foreign contractor must have a partnership with a Vietnamese contractor or employ a Vietnamese sub-contractor, unless no domestic contractor is capable of participating in any part of the tender package. Upon having a partnership with or employing a Vietnamese contractor, the items [of work], volume and value of the work to be performed by the Vietnamese contractor in the partnership or by the Vietnamese sub-contractor must be clearly defined.
5. Foreign contractors must undertake to implement fully the provisions of the law of Vietnam relating to the contracted activities in Vietnam.

**Article 72** *Application file and authority to issue construction activities licences*

1. A foreign contractor shall submit directly or send by post one (1) set of the file to the construction activities licence-issuing agency, comprising:
  - (a) Application for issuance of a construction activities licence (on the form stipulated by the Ministry of Construction);
  - (b) Certified copy of the document on results of tendering, or decision on lawful selection of the contractor;
  - (c) Certified copy of the licence for establishment or business registration certificate in the case of an organization and practising certificate (if any) issued in the country of nationality of the contractor;
  - (d) Report on operational experience related to the contracted work, and audited consolidated financial statements for the most recent three (3) years (applicable to the cases referred to in article 71.3 of this Decree);
  - (dd) Partnership contract with a Vietnamese contractor or the official contract or in-principle contract with a Vietnamese sub-contractor to perform the contracted work (already included in the tender bid or quote);
  - (e) Legal power of attorney to a person who is not the legal representative of the contractor.

2. The application for issuance of a construction activities licence must be in Vietnamese. The foreign licence for establishment or business registration certificate must be consularized, unless an international treaty to which Vietnam and the relevant countries are parties stipulates exemption from consularisation. The documents and data prescribed in sub-clauses (b), (c), (dd) and (e) of clause 1 of this article, if made in a foreign language, must be translated into Vietnamese and the translations must be notarized or certified in accordance with the law of Vietnam.
3. Authority to issue construction activities licences:
  - (a) The professional agency for construction under the Ministry of Construction shall issue construction activities licences to foreign contractors performing contracts for Group A projects or investment projects for construction located in two (2) or more provinces;
  - (b) Departments of Construction shall issue construction activities licences to foreign contractors performing contracts for Group B or C projects for investment in construction within the administrative locality of their province.

**Article 73** *Time-limit and fees for issuance of construction activities licences*

1. The professional agency for construction prescribed in article 72.3 of this Decree shall consider the application file for issuance of a construction activities licence to a foreign contractor within a period of twenty (20) days from the date of receipt of the complete file prescribed in article 72 of this Decree. If a licence is not issued, the agency authorized to issue construction activities licences must provide written notice to the contractor specifying its reasons.
2. On receipt of a construction activities licence, the foreign contractor must pay a fee stipulated by the Ministry of Finance.
3. The effectiveness of a construction activities licence shall expire in the following circumstances:
  - (a) The contract for the work has been completed and liquidated;
  - (b) The contract is no longer effective when the operation of the foreign contractor has been suspended, or the foreign contractor has been dissolved or become bankrupt or, for some other reason under the law of Vietnam or the law of the country of nationality of the contractor.

**Article 74** *Rights and obligations of foreign contractors*

1. A foreign contractor shall have the following rights:
  - (a) To request that functional agencies provide guidance for the formulation of a file requesting issuance of a construction activities licence and for other issues related to operations of the contractor pursuant to this Decree;
  - (b) To lodge complaints and denunciations about breaches committed by organizations or individuals performing work pursuant to this Decree;
  - (c) To have its legitimate interests protected while conducting business in Vietnam in accordance with the contractor's issued permit.
2. A foreign contractor shall have the following obligations:



- (a) To register the address, telephone and fax numbers, and email address of its operating office and representative for contractual performance at agencies relevant to the aforesaid items in accordance with regulations of the people's committee of the province where the contracted project work is situated. A [foreign] contractor implementing a tender package for formulation of a construction master plan, formulation of an investment project for construction, construction survey or design for construction of works may register the aforesaid items at a locality other than the locality where the contracted project work is situated.

After completing registration of the aforesaid items, the [foreign] contractor must send a notice on such information directly or by post, in accordance with guidelines of the Ministry of Construction, to the Ministry of Construction, the Ministry of Public Security, the Ministry of Finance, the Ministry of Industry and Trade, the State Bank of Vietnam and the people's committee of the province or city under central authority where the construction works are situated;

- (b) To register the use of the seal of the works operating office with the police in the province or city under central authority where the construction works are situated; the foreign contractor may use such seal only in work servicing contractual performance in Vietnam pursuant to the provisions of its contractor's permit. On termination of the contract, the foreign contractor must hand in the seal to the agency which issued it;
- (c) To register for and make tax payment in accordance with the law of Vietnam; to implement the accounting regime, and to open a bank account and make payments in accordance with guidelines of the Ministry of Finance and the State Bank of Vietnam in order to service business operations under the contract;
- (d) To recruit and employ Vietnamese and foreign employees in accordance with the labour laws of Vietnam.

A foreign contractor is permitted to register to bring into Vietnam only economic management experts, technical management experts and highly skilled persons whom Vietnam is unable to supply.

Foreigners working for a foreign contractor in Vietnam must comply with the laws of Vietnam on entry and exit, on registration of temporary or permanent residence, and on registration for issuance of a work permit in accordance with the labour laws of Vietnam;

- (dd) To carry out import/export procedures for materials, machinery and equipment relevant to receipt of the contract work in Vietnam in accordance with the law of Vietnam and guidelines of the Ministry of Industry and Trade, comprising:

Registration of temporary import for re-export of materials, machinery and equipment for execution of building works;

Registration of the list of raw materials, fuel, supplies, and entire and synchronous equipment to be imported for the contracted works;

- (e) To perform the partnership contract signed with a Vietnamese contractor or to employ a Vietnamese sub-contractor as specified in the application file for issuance of a construction activities licence;
- (g) To purchase insurance in accordance with the law of Vietnam for the contractor's works comprising professional indemnity insurance in the case of a consultant providing consultancy on investment and construction; insurance of assets and goods in the case of a contractor for procurement; all

types of insurance in the case of a contractor for execution of building works, and other insurance regimes pursuant to the law of Vietnam;

- (h) To register quality of imported materials and equipment which are supplied pursuant to the contract awarding the work;
- (i) To register safety of equipment for execution of building works and transport vehicles relevant to the business operations of the foreign contractor in accordance with the law of Vietnam;
- (k) To comply with regulations on standards and technical specifications, on management of quality of construction works and environmental protection as well as other relevant provisions of the law of Vietnam;
- (l) To implement the reporting regimes stipulated in the construction activities licence;
- (m) On completion of the contract works, a foreign contractor must formulate a file on completion of the works; be responsible for warranty; conduct accounting finalization for imported materials and equipment; deal with any remaining materials and equipment under the contract for execution of building works in accordance with the law on import and export; re-export the materials and execution equipment which have been registered in accordance with the regime of temporary import for re-export; and liquidate the contract. [The foreign contractor] shall at the same time notify the relevant State administrative agencies of the completion of the contract and terminate the operation of the operating office for the works.

**Article 75** *Responsibilities of developer or project owner to foreign contractor*

A developer or project owner shall be responsible:

1. To sign a contract assigning the contracted work [to the foreign contractor] only when the foreign contractor is issued with a construction activities licence by the competent State agency; to guide foreign contractors in compliance with this Decree and other relevant laws; to assist foreign contractors in their preparation of data relating to the contracted work which must be declared in the file requesting issuance of a contractor's permit and to assist with other relevant procedures pursuant to the law of Vietnam. Together with the foreign contractor, to register import and export of materials, machinery and equipment relevant to performance of the contract and within the responsibility of the foreign contractor as stipulated in this Decree.
2. To supervise foreign contractors in the performance of their undertakings in partnership contracts with Vietnamese contractors or their employment of Vietnamese sub-contractors as prescribed in article 71 of this Decree.
3. To consider the domestic capacity to supply equipment for execution of building works before reaching agreement on the list of machinery and equipment for execution of building works for which a foreign contractor applies for permission for temporary import for re-export.
4. To consider the capacity to supply technical employees in Vietnam before reaching agreement with a foreign contractor on the list of foreign personnel working for the foreign contractor for whom application is made for entry into Vietnam to perform the contractual work of the foreign contractor.
5. On completion of the works, to certify accounting finalization for materials and equipment imported by the foreign contractor.

6. When using a foreign contractor to provide consultancy on project management, [and/or] supervision of quality of construction, the developer or project owner must provide written notice to other contractors and agencies managing quality of construction about the functions and tasks of the contractor who will implement this work on behalf of the developer or project owner.

## CHAPTER 5

### Implementing Provisions

#### **Article 76** *Responsibilities for implementation*

1. The Ministry of Construction
  - (a) To exercise uniform State administration of items within the governing scope of this Decree. To provide guidelines for and inspect relevant ministries, branches, agencies and organizations in the implementation of the provisions of this Decree;
  - (b) To direct and check professional agencies under its authority in terms of organization of appraisal of projects, of preliminary designs, designs and estimated budgets for construction of civil works, works in light industries, works in the building materials industry, technical infrastructure facilities and urban traffic works (except for urban railway works, river bridges and national highways running through urban areas).
2. Ministries in charge of management of specialized construction works shall be responsible to direct and check professional agencies for construction under their authority in terms of organization of appraisal of projects, of preliminary designs, designs and estimated budgets for construction of investment projects for construction of works in their speciality, particularly:
  - (a) The Ministry of Transport in respect of traffic works (except for the works managed by the Ministry of Construction as prescribed in clause 1(b) of this article);
  - (b) The Ministry of Agriculture and Rural Development in respect of agricultural and rural development works;
  - (c) The Ministry of Industry and Trade in respect of mines or petroleum works, power plants, electric transmission lines, transformer stations and specialized industrial works (except for works in light industries);
  - (d) The Ministry of National Defence and the Ministry of Public Security in respect of works in the national defence or security field.
3. The Ministry of Finance shall be responsible to provide detailed regulations on charges and fees relating to the following operations: appraisal of projects; appraisal of preliminary designs; appraisal of designs or estimated budgets for construction; issuance of construction activities licences to foreign contractors, issuance of certificates of capability for construction activities to organizations; tests for issuance of practising certificates for construction activities; insurance in investment in construction activities; and regimes of cost accounting, accounting and use of budgets by management units of investment projects for construction.
4. The Ministry of Planning and Investment shall be responsible to provide detailed regulations on supervision and assessment of investment projects for construction funded by public investment

capital; and the mechanism of operation of the State appraisal council in respect of investment projects for construction.

5. People's committees of provinces and cities under central authority shall be responsible to undertake State administration of the items within the governing scope of this Decree within their administrative locality as delegated; to make decisions on delegating authority to appraise projects, preliminary designs and designs and estimated budgets for construction within their authority; to direct and check departments in charge of management of specialized construction works in terms of organization of appraisal of projects, of preliminary designs, designs and estimated budgets for construction of investment projects for construction of works in their speciality, particularly:
  - (a) Departments of Construction in respect of civil works, works in light industries, works in the building materials industry, technical infrastructure facilities and urban traffic works (except for urban railway works, river bridges and national highways running through urban areas);
  - (b) Department of Transport in respect of traffic works (except for the works appraised by the Department of Construction as prescribed in sub-clause (a) of this article);
  - (c) Department of Agriculture and Rural Development in respect of agricultural and rural development works;
  - (d) Department of Industry and Trade in respect of mines or petroleum works, power plants, electric transmission lines, transformer stations and specialized industrial works;
6. District people's committees shall be responsible to undertake State administration of items within the governing scope of this Decree within their administrative locality as delegated; to direct and check divisions with the function of management of construction under their authority in terms of organization of the work of appraisal of projects, and of designs and estimated budgets for construction of works as delegated by the provincial people's committee.
7. Ministries, branches, people's committees of provinces and cities under central authority, State corporations and economic groups shall be responsible to establish, organize or restructure specialised project management units and regional project management units in order to manage investment projects for construction funded by capital from State budget or State non-budget capital under their management pursuant to this Decree. Where it is necessary to issue documents providing specific guidelines on items relating to this Decree, consultation with the Ministry of Construction for consensus is required before promulgation.
8. Ministries in charge of management of specialized construction works, people's committees of provinces and cities under central authority, State corporations and economic groups shall be responsible to send on a quarterly basis reports on the contents of appraisal of projects and of designs and estimated budgets for construction to the Ministry of Construction for compilation and monitoring. The Ministry of Construction shall provide a form for the report.

**Article 77** *Transitional provision*

1. Preliminary design files submitted to the competent State agency for its comments and construction designs submitted to the professional agency for construction for verification prior to 1 January 2015 shall continue to be implemented in accordance with the *2003 Law on Construction*. Approval of amendments to projects or to designs which are made after 1 January 2015 shall be carried out in accordance with the *2014 Law on Construction*.

2. Works the construction of which was commenced prior to 1 January 2015 and which do not require a construction permit to be issued pursuant to regulations may continue to be built. Where works the construction of which has not yet commenced require a construction permit to be issued, an application for issuance of a construction permit must be made in accordance with this Decree.
3. Practising certificates for construction activities issued by competent State agencies may continue to be used until their expiry. The provisions of this Decree shall apply to conversion of practicing certificates which the holders wish to carry out before their expiry. After 1 March 2016, individuals wishing to use a practicing certificate shall carry out the procedures for application for issuance of practicing certificates prescribed by this Decree.
4. Establishments undertaking development of specialities or expertise on construction activities which have been recognized by the Ministry of Construction may continue to operate. After 1 January 2016, any training or development establishments which wish to carry out training or development activities shall make registration for recognition and public posting on the website of the Ministry of Construction in accordance with this Decree.
5. Organizations participating in construction activities for which a certificate of capability for construction activities is required pursuant to the *2014 Law on Construction* must have a certificate of capability for construction activities prescribed by this Decree from 1 March 2016.

**Article 78** *Effectiveness*

1. This Decree shall become effective from 5 August 2015 and replace Decree 12-2009-ND-CP of the Government dated 12 February 2009 on management of investment projects for construction of works; Decree 83-2009-ND-CP dated 15 October 2009 on amendments to the said Decree 12-2009-ND-CP ; Decree 64-2012-ND-CP of the Government dated 4 September 2012 on issuance of construction permits; the provisions on verification of designs in Decree 15-2013-ND-CP of the Government dated 6 February 2013 on management of quality of construction works; Decree 71-2005-ND-CP of the Government dated 6 June 2005 on management of investment in construction of special works; the provisions in Section 1 of Chapter II of Decree 37-2010-ND-CP dated 7 April 2010 in relation to formulation, appraisal, approval and management of urban master plans; Decision 87-2004-QD-TTg of the Prime Minister of the Government dated 19 May 2004 issuing the Regulations on management of operations of foreign contractors in the construction field in Vietnam; Decision 03-2012-QD-TTg of the Prime Minister of the Government dated 16 January 2012 on amendments to the Regulations on management of operations of foreign contractors in the construction field in Vietnam issued with Decision 87-2004-QD-TTg; and Decision 39-2005-QD-TTg of the Prime Minister of the Government dated 28 February 2005 providing guidelines for implementation of article 121 of the Law on Construction. Any previous regulations of the Government, ministries, ministerial equivalent agencies and local authorities which are inconsistent with this Decree are hereby repealed.
2. The Minister of Construction shall be responsible to provide guidelines for and organize the implementation of this Decree.

On behalf of the Government  
Prime Minister  
NGUYEN TAN DUNG

## APPENDIX 1

### CLASSIFICATION OF INVESTMENT PROJECTS FOR CONSTRUCTION OF WORKS

*(Issued with Decree 59-2015-ND-CP of the Government dated 18 June 2015)*

No.	TYPES OF INVESTMENT PROJECTS FOR CONSTRUCTION OF WORKS	TOTAL INVESTMENT
<b>I</b>	<b>NATIONAL IMPORTANT PROJECTS</b>	
	1. By total investment:	
	Projects funded by public investment capital	10,000 billion Dong or more
	2. By the level of effect on the environment or potential of serious effect on the environment, including: (a) Nuclear power plants; (b) Land use with a requirement for conversion of the land use purpose of a national park, natural conservation zone, landscape protection zone, forest for scientific research or experiment of 50 hectares or more; upstream protective forest of 50 hectares or more; protective forest as windbreaker, flying sand breaker or breakwater, or for reclamation of the sea or for environmental protection with an area of 500 hectares or more; and forests for production with an area of 1,000 hectares or more; (c) Land use with a requirement for conversion of the land use purpose for wet rice cultivation for two or more crops [per year] in an area of 500 hectares or more; (d) Relocation and resettlement of 20,000 people or more in mountainous areas or 50,000 people or more in other areas; (dd) Projects which require application of a special mechanism or policy which should be decided by the National Assembly.	Regardless of the total investment
<b>II</b>	<b>GROUP A</b>	
II.1	1. Projects located in areas with a special national heritage. 2. Projects located in areas which are specially important to the country in terms of national defence and security as prescribed in the law on national defence and security. 3. Projects in the field of protection of national defence and security in the nature of national confidentiality. 4. Projects for production of explosive or toxic substances. 5. Projects for infrastructure of an industrial zone or export processing zone.	Regardless of the total investment
II.2	1. Traffic [works], including bridges, seaports, river ports, airports, railway and national highways. 2. Electricity industry. 3. Petroleum production. 4. Chemicals, fertilizers, cement. 5. Machinery manufacturing or metallurgy. 6. Mining and processing of minerals. 7. Construction of residential housing zones.	2,300 billion Dong or more
II.3	1. Traffic projects except for the projects prescribed in Item II.2.1. 2. Irrigation.	1,500 billion Dong or more

	3. Water supply or drainage and technical infrastructure facilities. 4. Electrical engineering. 5. Production of communications or electronic equipment. 6. Pharmaceutical chemistry. 7. Production of materials, except for the projects prescribed in Item II.2.4. 8. Mechanical works, except for the projects prescribed in Item II.2.5. 9. Post and telecommunications.	
II.4	1. Agricultural production, forestry, aquaculture. 2. National park or natural conservation zone. 3. Technical infrastructure of new urban areas. 4. Industries, except for projects in the industrial fields prescribed in Items I.1, I.2 and I.3.	1,000 billion Dong or more
II.5	1. Health care, culture or education; 2. Scientific research, informatics, broadcasting or television; 3. Warehouses; 4. Tourism, sports and games; 5. Civil construction, except for the construction of residential housing zones prescribed in Item II.2.	800 billion Dong or more
<b>III</b>	<b>GROUP B</b>	
III.1	Projects in the fields prescribed in Item II.2	From 120 to 2,300 billion Dong
III.2	Projects in the fields prescribed in Item II.3	From 80 to 1,500 billion Dong
III.3	Projects in the fields prescribed in Item II.4	From 60 to 1,000 billion Dong
III.4	Projects in the fields prescribed in Item II.5	From 45 to 800 billion Dong
<b>IV</b>	<b>GROUP C</b>	
IV.1	Projects in the fields prescribed in Item II.2	Under 120 billion Dong
IV.2	Projects in the fields prescribed in Item II.3	Under 80 billion Dong
IV.3	Projects in the fields prescribed in Item II.4	Under 60 billion Dong
IV.4	Projects in the fields prescribed in Item II.5	Under 45 billion Dong



## APPENDIX 2

### FORMS OF SUBMISSION FOR APPRAISAL OF AN INVESTMENT PROJECT FOR CONSTRUCTION OR PRELIMINARY DESIGN OF WORKS

*(Issued with Decree 59-2015-ND-CP of the Government dated 18 June 2015)*

Form 1	Submission for appraisal of an investment project for construction or a preliminary design
Form 2	Official letter notifying the appraisal result of the project
Form 3	Official letter notifying the appraisal result of the preliminary design of a project
Form 4	Submission for appraisal of an eco-technical report on investment in construction
Form 5	Official letter notifying the appraisal result of an eco-technical report on investment in construction
Form 6	Submission for appraisal of a construction design and estimated budget for construction of works
Form 7	Official letter notifying the appraisal result of a design and estimated budget for construction of works

NAME OF ORGANIZATION

-----

No. ....

SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom - Happiness

-----

....., .....date ...

**SUBMISSION****for Appraisal of an Investment Project for Construction or Preliminary Design**

To: (Agency presiding over appraisal)

Pursuant to the Law on Construction dated 18 June 2014;

Other relevant legal bases

(Name of organization) hereby submits to (the agency presiding over appraisal) the investment project for construction (name of the Project) with the following main items for appraisal:

**I. GENERAL INFORMATION ABOUT THE PROJECT (WORKS)**

1. Name of the project:
2. Group of the project:
3. Type and level of works:
4. Investment decision-maker:
5. Name of developer (if any) and contact details (address, telephone etc.):
6. Location of construction:
7. Value of the total investment:
8. Source of investment capital:
9. Period of implementation:
10. Applicable standards or technical regulations:
11. Contractor formulating the feasibility study report:
12. Other information (if any):

**II. LIST OF DOCUMENTS ENCLOSED WITH THE REPORT**

1. Legal documents:
  - Decision approving in principle the investment in construction of works (in the case of projects funded by public investment capital) or document approving in principle the investment in construction or investment registration certificate (in the case of projects funded by capital from other sources);

- Decision on the chosen architectural design plan by way of selection or competitive examination for selection in accordance with regulations, accompanied by the chosen design plan (if any);
- Decision selecting the project formulating contractor;
- Detailed master plan to a scale of 1/500 (master plan to a scale of 1/2000 for an industrial zone of a scale of more than 20 hectares) approved by the competent authority or the master plan permit of the project;
- Document evaluating and approving or providing comments on the solutions for fire control and environmental impact assessment report of the competent agency (if any);
- Written agreement on the clearance height (if any);
- Written information and data about urban technical infrastructure;
- Other relevant legal documents (if any).

2. Data on survey, designs and total investment (or estimated budget):

- Construction survey file used for formulation of the project;
- Explanatory notes to the feasibility study report (including the total investment or estimated budget);
- Preliminary design including drawings and explanatory notes.

3. Documents on capability of contractors:

- Information about capability of the survey contractor or the contractor formulating the project or the preliminary design;
- Practising certificates and information about capability of persons in charge of [construction] survey, or persons in charge of design drawings or head designer of the design contractor.

*(Name of organization)* submits to *(agency presiding over appraisal)* the investment project for construction *(name of the project)* with the aforesaid items for appraisal.

*Recipients:*

- As stated above;
- Kept at.

FOR THE ORGANIZATION

*(Sign, specify full name and position and affix a seal)*

Name of the representative

AGENCY UNDERTAKING  
APPRAISAL

SOCIALIST REPUBLIC OF VIETNAM  
Independence – Freedom – Happiness

No. ....  
Re. Notification of the appraisal  
result of ....project

....., date ...

To: (Name of the entity making the submission)  
(The agency undertaking appraisal) received Submission No. ... of .....dated ....for appraisal of the project (name of the investment project).

Pursuant to the Law on Construction dated 18 June 2014;

Other relevant bases

After consideration and compilation of the comments and verification results from the relevant agencies and organizations, (the agency undertaking appraisal) hereby notifies the appraisal result of the project (name of the project) as follows:

**I. GENERAL INFORMATION ABOUT THE PROJECT**

1. Name of the project:
2. Group of the project, and type, level and scale of works:
3. Investment decision-making person:
4. Name of developer (if any) and contact details (address, telephone etc.):
5. Location of construction:
6. Value of the total investment:
7. Sources of investment capital:
8. Period of implementation:
9. Applicable standards or technical specifications:
10. Contractor formulating the feasibility study report:
11. Other information (if any):

**II. DOCUMENTATION FOR APPRAISAL OF THE PROJECT**

1. Legal documents:  
(List the legal documents in the submission file)
2. File and data on the project, survey and design:
3. Documentation on capability of contractors:

**III. CONTENTS OF THE PROJECT FILE SUBMITTED FOR APPRAISAL**

Summarize the basic items of the project file submitted for appraisal enclosed with the submission of the organization making the submission for appraisal of the project.

**IV. COMPILATION OF COMMENTS FROM ENTITIES INVOLVED IN APPRAISAL**

Compile the comments from entities involved in appraisal subject to their function and duties.

**V. APPRAISAL RESULT OF THE PROJECT**

1. Contents of appraisal of the preliminary design [comprising]:
  - Consistency of the preliminary design with the detailed construction master plan; the approved total surface area or the selected plan for route of works in respect of works to be built along a route;
  - Consistency of the preliminary design with the position of the construction location and capacity for connection with technical infrastructures in the area;

- Suitability of the selected technology plan or technological line in respect of works which have technological design requirements;
  - Consistency of the design solutions ensuring safety during construction, environmental protection, and fire and explosion control;
  - Compliance with standards and technical specifications in terms of the design;
  - Conditions on capability for construction activities of organizations or practising capability of consultant individuals formulating the design;
  - Consistency of the solution to organize implementation of the project by stages or by items of works with the requirements of the preliminary design.
2. Contents of appraisal of the total investment:
3. Other items of the feasibility study report for investment in construction to be appraised:
- Evaluation of the necessity for investment in construction;
  - Evaluation of elements ensuring the feasibility of the project;
  - Evaluation of elements ensuring the effectiveness of the project.

## VI. CONCLUSION

The project (*name of the project*) has satisfied all the conditions (has not yet satisfied all the conditions) for submission for approval and commencement of the next steps.

The above is the notification of the appraisal result of the project (*name of the project*) from (*agency undertaking appraisal*). The developer is request to study and implement it in accordance with regulations.

*Recipients:*

- As stated above;
- ...;
- ...;
- Kept at.

AGENCY UNDERTAKING APPRAISAL

(*Sign, specify full name and position and affix a seal*)

AGENCY UNDERTAKING  
APPRAISAL

SOCIALIST REPUBLIC OF VIETNAM  
Independence – Freedom - Happiness

No. ....

....., date ...

Re. Notification of the appraisal  
result of the preliminary  
design of the project

To: (Name of the entity making the submission)

(The agency undertaking appraisal) received Submission No. ... of .....dated .....for appraisal of the preliminary design of the project (name of the investment project).

Pursuant to the Law on Construction dated 18 June 2014;  
Other relevant bases

After consideration, (the agency undertaking appraisal) hereby notifies the appraisal result of the preliminary design of the project (name of the project) as follows:

**I. GENERAL INFORMATION ABOUT THE PROJECT**

1. Name of the project:
2. Group of the project, type, level and scale of works:
3. Investment decision-making person:
4. Name of developer (if any) and contact details (address, telephone etc.):
5. Location of construction:
6. Value of the total investment:
7. Sources of investment capital:
8. Period of implementation:
9. Applicable standards or technical specifications:
10. Contractor formulating the feasibility study report:
11. Other information (if any):

**II. DOCUMENTATION SUBMITTED FOR APPRAISAL OF THE PROJECT**

1. Legal documents:  
(List the legal documents in the submission file)
2. File and data on the project, survey and design:
3. Documentation on capability of contractors:

**III. CONTENTS OF THE PROJECT FILE SUBMITTED**

Summarize the basic contents of the preliminary design file of the project submitted for appraisal enclosed with the submission for appraisal of the preliminary design of the project by the organization making the submission.

**IV. APPRAISAL RESULT OF THE PRELIMINARY DESIGN**

- Consistency of the preliminary design with the detailed construction master plan; the approved total surface area or the selected plan for route of works in respect of works to be built along a route;
- Consistency of the preliminary design with the position of the construction location and capacity for connection with technical infrastructure in the area;
- Suitability of the selected technology plan or technological line in respect of works which have technological design requirements;

- Consistency of the design solutions ensuring safety during building and environmental protection; fire and explosion control;
- Compliance with standards and technical specifications in terms of the design;
- Conditions on capability of organizations for construction activities or capability for practice of consultant individuals formulating the design;
- Consistency of the solution to organize implementation of the project by stages or items of works with the requirements of the preliminary design;
- Comments on application of unit prices and norms and evaluation of design solutions in terms of cost saving in construction of works of the project (applicable to investment projects in the form of a public private partnership).

## V. CONCLUSION

The preliminary design of the project (*name of the project*) has satisfied all the conditions (or has not yet satisfied all the conditions) for submission for approval and commencement of the next steps.

[*The developer*] is required to make amendments of and additions to and finalize the explanatory notes.

The above is the notification of the appraisal result of the preliminary of the project (*name of the project*) from (*agency undertaking appraisal*). The developer is request to study and implement it in accordance with regulations./.

*Recipients:*

- As stated above;
- ....;
- ....;
- Kept at.

AGENCY UNDERTAKING APPRAISAL

(*Sign, specify full name and position and affix a seal*)



NAME OF ORGANIZATION

SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

No. ....

....., .....date ...

**SUBMISSION****for Appraisal of an Eco-technical Report on Investment in Construction**To: (*Agency undertaking appraisal*)

Pursuant to the Law on Construction dated 18 June 2014;

Other relevant legal bases

(Name of developer) hereby submits to (*agency undertaking appraisal*) the design (technical design/design drawings for execution of building works) and the estimated budget for construction of works for appraisal:**I. GENERAL INFORMATION ABOUT THE WORKS**

1. Name of the works:
2. Type and level of the works:
3. Name of developer and contact details (address, telephone etc.):
4. Location of construction:
5. Value of the estimated budget for construction of the works:
6. Source of investment capital:
7. Contractor formulating the design and estimated budget for construction:
8. Applicable standards or technical specifications:
9. Other relevant information:

**II. LIST OF DOCUMENTS ENCLOSED, INCLUDING**

1. Legal documents:
  - Decision approving in principle the investment in construction of the works (in the case of projects funded by public investment capital);
  - Written approval of the list of foreign standards (if any);
  - Document of the competent agency verifying and approving [the solutions] for fire control and the environmental impact assessment report (if any);
  - Overall report of the developer; and
  - Other relevant documents.
2. Data on construction survey, designs and estimated budget:
  - Construction survey file;
  - Design file for design drawings for execution of building works including drawings and explanatory notes;
  - Estimated budget for construction of the works applicable to works funded by capital from the State budget or State non-budget capital.
3. Documents on capability of contractors:
  - Information about capability of the survey contractor or the contractor formulating the design for construction of works;
  - Foreign contractor's permit (if any)
  - Practising certificates of the person in charge of survey, the person in charge of design drawings or head designer of the design contractor (certified copy).

(Name of organization) submits to (*agency undertaking appraisal*) the design and estimated budget for construction of the .....works with the aforesaid items for appraisal.

*Recipients:*

- As stated above;
- Kept at.

FOR THE ORGANIZATION

*(Sign, specify full name and position and affix a seal)*

Name of the representative

AGENCY UNDERTAKING  
APPRAISAL

SOCIALIST REPUBLIC OF VIETNAM  
Independence – Freedom - Happiness

No. ....  
Re. Notification of the appraisal  
result of the eco-technical  
report on investment in  
construction

....., date ...

To:

(*The agency undertaking appraisal*) received Submission No. ... of ..... dated ..... requesting appraisal of the eco-technical report on investment in construction.

Pursuant to the submission file for appraisal enclosed with the submission for appraisal;

Pursuant to Decision No.....of ... dated..... approving in principle the investment in construction of works;

Pursuant to the appraisal result of the design drawings for execution of building works and the estimated budget for construction (if any) from the consultant organization or individual (if any) as assigned by (*the agency undertaking appraisal*);

Other relevant bases

After consideration, (*the agency undertaking appraisal*) hereby notifies the appraisal result of the construction design and the estimated budget for construction of works as follows:

**I. GENERAL INFORMATION ABOUT THE PROJECT**

- Name of the works:                      Type and level of the works: .
- Developer:
- Value of the estimated budget for construction of the works:
- Sources of capital:
- Location of construction: .
- Contractor formulating the design for construction of the works or the estimated budget for construction:
- Construction survey contractor:

**II. CONTENTS OF THE SUBMISSION FILE FOR APPRAISAL**

1. List of documents to be submitted for appraisal.
2. Main applicable standards and technical specifications.
3. Main design solutions in terms of architecture, foundation, base, structure, technical systems of the works, fire and explosion control and other items (if any).
4. Selected method of formulating the estimated budget and bases for identifying cost items in the estimated budget for construction submitted for appraisal (if any).

**III. APPRAISAL RESULT OF THE ECO-TECHNICAL REPORT ON INVESTMENT IN CONSTRUCTION**

1. Conformity with the decision approving in principle the investment in construction of the works.
2. Conditions on capability of organizations and individuals conducting the survey or design; formulating the estimated budget for construction (if any). Capability of individuals undertaking verification of the design and the estimated budget for construction (if any).
3. Rationality of the design solutions for construction of the works.
4. Compliance with the applicable standards, technical specifications and the law in the use of building materials for the works.
5. Suitability of design solutions for the works with the use function of the works, the level of safety of the works and assurance for the safety of adjoining works.

6. Rationality of the selection of a technological line and equipment in respect of designs of works which have technological requirements (if any).
7. Compliance with the regulations on environmental protection, fire and explosion control.
8. Requirements for amendments of, additions to and finalization of the design (if any)  
(Applicable to projects funded by capital from other sources, in addition to the aforesaid items of appraisal, the items prescribed in articles 57.4(a) and (b) of the 2014 Law on Construction must be appraised).  
Appraisal result of the estimated budget (if so required)
9. Matching of the principal volume in the estimated budget with the designed volume.
10. Correctness and rationality of the application and use of norms and construction unit prices for the works.
11. Value of the estimated budget for construction:.....(in words:....), of which:
  - Costs for construction:
  - Costs for equipment (if any):
  - Costs for project management:
  - Costs for consultancy for investment in construction:
  - Other costs:
  - Contingency costs:
12. Other items (if any)

#### IV. CONCLUSION AND RECOMMENDATIONS

- Whether or not [the file] satisfies all the conditions for submission for approval.
- Requirements and recommendations in respect of the developer (if any).

##### *Recipients:*

- As stated above;
- ....;
- ....;
- Kept at.

##### AGENCY UNDERTAKING APPRAISAL

*(Sign, specify full name and position and affix a seal)*

NAME OF ORGANIZATION

SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

No. ....

....., .....date ...

**SUBMISSION****for Appraisal of a Construction Design and Estimated Budget for Construction of Works**To: *(Agency undertaking appraisal)*

Pursuant to the Law on Construction dated 18 June 2014;

Other relevant legal bases

*(Name of developer)* hereby submits to *(agency undertaking appraisal)* the design (technical design/design drawings for execution of building works) and the estimated budget for construction of works for appraisal:**I. GENERAL INFORMATION ABOUT THE WORKS**

1. Name of the works: .....
2. Level of the works: .....
3. Belonging to the project: under the approval decision in investment:.....
4. Name of developer and contact details (address, telephone etc.): .....
5. Location of construction: .....
6. Value of the estimated budget for construction of the works: .....
7. Source of investment capital: .....
8. Contractor formulating the design and estimated budget for construction: .....
9. Applicable standards or technical specifications: .....
10. Other relevant information: .....

**II. LIST OF DOCUMENTS ENCLOSED, INCLUDING**

1. Legal documents:
  - Decision approving the investment project for construction of the works;
  - Preliminary design file which has been approved together with the investment project for construction;
  - Written approval of the list of foreign standards (if any);
  - Document of the competent agency verifying and approving [the solutions] for fire control and the environmental impact assessment report (if any);
  - Overall report of the developer;
  - Other relevant documents.
2. Data on construction survey, designs and estimated budget:
  - Construction survey file;
  - File of technical design/design drawings for execution of building works including drawings and explanatory notes;
  - Estimated budget for construction of the works applicable to works funded by capital from the State budget or State non-budget capital.
3. Documents on capability of contractors:
  - Information about capability of the survey contractor or the contractor formulating the design for construction of works;
  - Foreign contractor's permit (if any)
  - Practicing certificates of the person in charge of survey, the person in charge of design drawings or head designer of the design contractor.

(*Name of organization*) submits to (*agency undertaking appraisal*) the design and estimated budget for construction of the .....works with the aforesaid items for appraisal.

*Recipients:*

- As stated above;
- Kept at.

FOR THE ORGANIZATION

(*Sign, specify full name and position and affix a seal*)

Name of the representative

AGENCY UNDERTAKING  
APPRAISAL

SOCIALIST REPUBLIC OF VIETNAM  
Independence – Freedom - Happiness

No. ....

....., date ...

Re. Notification of the appraisal  
result of the design and  
estimated budget for  
construction of works

To:

(*The agency undertaking appraisal*) received Submission No. ... of ..... dated ..... requesting appraisal of the construction design (technical design/design drawings for execution of building works) and the estimated budget for construction (if any) of .... works belong to ... investment project.

Pursuant to the submission file for appraisal enclosed with the submission for appraisal;

Pursuant to the verification result of the design (technical design/design drawings for execution of building works) and the estimated budget for construction (if any) from the consultant organization or individual as assigned by (*the agency undertaking appraisal*) (if any);

Other relevant bases

After consideration, (*the agency undertaking appraisal*) hereby notifies the appraisal result of the construction design and the estimated budget for construction of the works as follows:

#### I. GENERAL INFORMATION ABOUT THE WORKS

- Name of the works: ..... Type and level of the works: .....
- Belonging to .... investment project
- Developer: .....
- Value of the estimated budget for construction of the works: .....
- Sources of capital: .....
- Location of construction: .....
- Contractor formulating the design for construction of the works or the estimated budget for construction (if any): .....
- Construction survey contractor: .....

#### II. CONTENTS OF THE SUBMISSION FILE FOR APPRAISAL

1. List of documents submitted for appraisal.
2. Main applicable standards and technical specifications.
3. Main design solutions in terms of architecture, foundation, base, structure, technical systems of works, fire and explosion control, and other items (if any).
4. Selected method of formulating the estimated budget and bases for identifying cost items in the estimated budget for construction submitted for appraisal (if any).

#### III. APPRAISAL RESULT OF THE CONSTRUCTION DESIGN

1. Conditions on capability of organizations and individuals conducting the survey or design; formulating the estimated budget for construction (if any). Capability of individuals undertaking verification of the design and the estimated budget for construction (if any).
2. Consistency of the design for construction in a step with the design for construction in the previous step (technical design [consistent] with the preliminary design; design drawings for execution of building works [consistent] with the technical design in the case of three step designs, [consistent] with the preliminary design in the case of two step designs or [consistent] with the designing tasks in the case of one step designs).
3. Rationality of the design solutions for construction of the works.

4. Compliance with the applicable standards, technical specifications and the law in the use of building materials for the works.
5. Consistency of design solutions for the works with the use function of the works and the level of safety of the works and assurance for the safety of adjoining works.
6. Rationality of the selection of a technological line and equipment in respect of designs of works which have technological requirements (if any).
7. Compliance with the regulations on environmental protection, fire and explosion control.
8. Requirements for amendments of, additions to and finalization of the design (if any).

#### **IV. APPRAISAL RESULT OF THE ESTIMATED BUDGET (IF SO REQUESTED)**

1. Matching of the principal volume in the estimated budget with the designed volume.
2. Correctness and rationality of the application and use of norms and construction unit prices for works.
3. Value of the estimated budget for construction:.....(in words:....), of which:
  - Costs for construction:
  - Costs for equipment (if any):
  - Costs of project management:
  - Costs for consultancy for investment in construction:
  - Other costs:
  - Contingency costs:
4. Other items (if any)

#### **V. CONCLUSION AND RECOMMENDATIONS**

- Whether or not [the file] satisfies all the conditions for submission for approval.
- Requirements and recommendations in respect of the developer (if any).

##### *Recipients:*

- As stated above;
- ....;
- ....;
- Kept at.

##### **AGENCY UNDERTAKING APPRAISAL**

*(Sign, specify full name and position and affix a seal)*

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