

No. 24/2024/ND-CP

Hanoi, February 27, 2024

DECREE

ON ELABORATION OF AND MEASURES FOR IMPLEMENTATION OF THE BIDDING LAW REGARDING CONTRACTOR SELECTION

Pursuant to the Law on Government Organization of June 19, 2015; Law on amendments to the Law on Government Organization and the Law on Organization of Local Governments dated November 22, 2019;

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

At the request of the Minister of Planning and Investment;

The Government promulgates a Decree on elaboration of and measures for implementation of the Bidding Law regarding contractor selection.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

1. This Decree elaborates certain articles of the Bidding Law regarding contractor selection, including:

- a) Clause 6, Article 6 on ensuring competitiveness in bidding;
- b) Clause 6, Article 10 on incentives in contractor selection;
- c) Clause 3, Article 15 on costs associated with contractor selection;
- d) Clause 4, Article 19 on capacity and experience of members of expert teams and appraisal teams;
- dd) Clause 2, Article 20 on other contractor selection methods;
- e) Clause 7, Article 23 on direct contracting;
- g) Clause 4, Article 29 on contractor selection in special cases;
- h) Clause 4, Article 36 on the overall contractor selection plan for the project;
- i) Clause 2, Article 39 on the content of the specific contractor selection plan;
- k) Clause 8, Article 43 on contractor selection procedures;
- l) Clause 1 and Clause 5 of Article 50 on online contractor selection;
- m) Clause 7, Article 53 on centralized procurement;
- n) Clause 3 and Clause 4, Article 55 on selection of suppliers of drugs, chemicals, testing supplies, and medical equipment;
- o) Clause 4, Article 67 on signing of contract with successful bidder (contractor);
- p) Clause 6, Article 70 on contract modification;
- q) Clause 2, Article 84 on state management responsibilities for bidding;
- r) Clause 4, Article 86 on inspection and supervision of bidding activities;
- s) Clause 5, Article 87 on handling of violations;
- t) Clause 4, Article 88 on handling situations in bidding.

2. Measures to implement the Law on Bidding regarding contractor selection, including:

- a) Register on Vietnam National E-Procurement System (VNEPS);
- b) Contractor selection duration;
- c) Authority to decide on procurement for procurement estimates;
- d) Disclose information in bidding activities;
- dd) Bidder management.

3. The selection of contractors to provide public products and services in the form of orders and

assignments shall comply with the Government's procurement regulations.

Article 2. Interpretation of terms

1. "online quotation" is a repeated process where bidders electronically submit new prices or non-price values (quantifiable according to bidding document criteria) for ranking or re-ranking bids on VNEPS.
2. "sustainable bidding" considers environmental, social, and economic factors in the contractor selection process: make an overall contractor selection plan (if any), make a specific contractor selection plan, prepare designs, prepare bidding documents, make requests for proposals (RFPs), evaluate bids or proposals, sign and manage contract performance.
3. "successful bid" is the price stated in the decision on approval for contractor selection result.
4. "online procurement" means direct procurement of goods and services on VNEPS from the bidder who has won the bid for the package for procurement of goods and services through centralized procurement.

Article 3. Ensuring competitiveness in bidding

1. A bidder for construction, goods procurement, non-consulting service, or procurement and construction (PC) package must be legally and financially independent from the following parties:

- a) The consultants that provide the following consulting services for that package: preparation, verification of the engineering design, design of construction drawing design, estimate, design of Front-End Engineering Design (FEED); valuation; supervision of the contract performance, appraisal; preparation, appraisal of the prequalification document or bidding documents; evaluation of prequalification applications or bids; appraisal of the prequalification result or contractor selection result; management of the project or contract; other consulting services directly to the package;
- b) The employer or procuring entity, except for the cases specified in Clauses 8 and 9 of this Article.

2. A bidder for consulting service package must be legally and financially independent from the following parties:

- a) The consultants that provide the following consulting services for that package: preparation, appraisal of the EOI (expression of interests) request or bidding documents; evaluation of the EOI responses or bids; appraisal of the EOI result or contract selection result; management of the project or contract; other consulting services directly to the package;
- b) The employer or procuring entity, except for the cases specified in Clauses 8 and 9 of this Article;
- c) Apart from point a and b of this clause, a bidder for the following consulting services related to a goods procurement, construction, or non-consulting service package must be legally and financially independent from the contractors of that package: preparation, verification of the engineering design; design of the construction drawing, estimate; preparation, evaluation of FEED; valuation; preparation, appraisal of the prequalification document or bidding documents; evaluation of prequalification applications or bids; appraisal of the prequalification result or contractor selection result; appraisal, supervision of the contract performance.

3. A bidder for Engineering-Procurement-Construction (EPC), Engineering-Procurement (EP), Engineering-Construction (EC) package must be legally and financially independent from the following parties:

- a) The contractor that prepares, verifies FEED;
- b) The contractor that prepares, verifies a feasibility study report in case the FEED is not prepared;
- c) The contractor that prepares, verifies a technical-economic report in case of neither preparing a feasibility study report nor preparing a FEED as per the construction law;
- d) The consultant for project management, supervision, appraisal, or contract management who works for or is hired by the employer or procuring entity;
- dd) The consultant that conducts valuation; the contractor that prepares, evaluates the prequalification document or bidding documents; the consultant that evaluates the prequalification applications or bids; the consultant that appraises prequalification application result or contractor selection result; other consultants directly participating in the contractor selection process;
- e) The employer or procuring entity, except for the cases specified in Clauses 8 and 9 of this Article;

The design in EPC, EP, EC packages under construction projects specified in this Clause can be either FEED or basic design; however, if engineering design or a two-stage design process is mandated by construction law, these packages cannot be formed.

4. A bidder for turnkey package must be legally and financially independent from the following parties:

- a) The contractor that prepares, verifies the pre-feasibility study report;

b) The consultant for project management, supervision, appraisal, or contract management who works for or is hired by the employer or procuring entity;

c) The consultant prepares, appraises the prequalification document or bidding documents; the consultant that evaluates the prequalification applications or bids; the consultant that appraises prequalification application result or contractor selection result; other consultants directly participating in the contractor selection process;

d) The employer or procuring entity, except for the cases specified in Clauses 8 and 9 of this Article.

5. Except for the case where the bidder performing the design work of the EPC, EP, EC, turnkey package must be legally and financially independent from the consultants specified in Points a, b, c, d and dd Clause 3 of this Article, Points a, b and c Clause 4 of this Article, consultants may provide single or multiple consulting services within the same project or package below:

a) Prepare, verify investment policy proposals;

b) Prepare, verify pre-feasibility study reports;

c) Prepare, verify feasibility study reports;

d) Prepare, verify technical and economic reports;

dd) Conduct construction survey;

e) Prepare, verify design drawings and estimates;

g) Prepare, appraise the overall contractor selection plan, specific contractor selection plan, prequalification documents, EOI requests, bidding documents, RFPs; evaluate prequalification applications, EOI responses, bids, and proposals; appraise the results of evaluating prequalification applications, results of evaluating EOI responses, and contractor selection results;

h) Supervise construction.

For each item in points a, b, c, d, e, and g of this clause, the bidder can only prepare, verify, or appraise.

6. The ratio of shares and capital contribution among parties is determined at the bid submission deadline based on the ratio reflected in the business registration certificate, establishment decision, or other equivalent documents.

7. For bidders participating as a joint venture or consultants selected as a joint venture, the capital ownership ratio of other members will be determined using the following formula:

$$\text{Tỷ lệ sở hữu vốn} = \sum_{i=1}^n X_i \times Y_i$$

Where:

X_i : is the capital ownership ratio of other members in “the i th joint venture party”;

Y_i : is the percentage (%) of the workload of “the i th joint venture party” in the joint venture agreement;

n : is the number of parties in the joint venture.

8. Parent companies, subsidiary companies, associate companies in an economic group or state-owned corporation can participate in each other's packages, provided the products and services offered belong to the core business lines of that economic group or state-owned corporation. Bidders must still be legally independent and financially independent from the contractors specified in Points a, b, c, Clause 1 and Clause 2, Article 6 of the Bidding Law.

9. Public service providers and enterprises under the same direct management and capital contribution agency are exempt from legal and financial independence requirements between bidders and employer/procuring entity when participating in each other's packages.

Article 4. Principles of incentives

1. Bidders eligible for multiple incentives in the capacity and experience or financial assessments will receive only the most advantageous incentive per evaluation item.

2. If all bidders receive the same incentives or none qualify, incentive calculations for comparison and ranking are not necessary.

3. For mixed packages, the calculation of incentives is based on all proposals of the bidders in the consulting work, supply of goods, construction. Bidders qualify for incentives if they propose domestic costs (costs of consulting, non-consulting, Vietnamese-origin goods, construction, and installation) of at least 25% of the work value of the package.

4. The bidder must prove that they, goods and services offered by the bidder are eligible for incentives as prescribed in Clause 1, Article 10 of the Bidding Law.

Article 5. Incentives for Vietnamese-origin goods

1. Incentives for Vietnamese-origin goods with a domestic production cost ratio of less than 50% and no goods with a domestic production cost ratio of 50% or more are determined as follows:

a) For least-cost selection (LCS), non-incentive goods will be adjusted for comparison and ranking by adding 7.5% of the bid price (after error correction, deviation adjustment, and any discounts) offered for the goods to that bid price;

b) For evaluated price selection, non-incentive goods will be adjusted for comparison and ranking by adding 7.5% of the bid price (after error correction, deviation adjustment, and any discounts) offered for the goods to the bidder's evaluated price;

c) For quality- and cost-based selection (QCBS), incentive goods receive an incentive point added to their aggregate score based on the following formula:

Incentive point= 7.5% x (incentive good price/bid price (after error correction, deviation adjustment, and any discounts)) x aggregate score

Where: Incentive good price is the bid price (after error correction, deviation adjustment, and any discounts) of the incentive good;

d) In cases under points a, b, and c of this clause, bidders offering Vietnamese-origin goods with a domestic production cost ratio below 50% and employing at least 50% disabled, war invalids, or ethnic minorities under valid 3-month contracts or longer at the bid submission deadline qualify for a 10% incentive coefficient instead of 7.5%.

2. Incentives for Vietnamese-origin goods with a domestic production cost ratio of at least 50% are determined as follows:

a) For least-cost selection (LCS), non-incentive goods will be adjusted for comparison and ranking by adding 10% of the bid price (after error correction, deviation adjustment, and any discounts) to that bid price; incentive goods with a domestic production cost ratio below 50% will be adjusted for comparison and ranking by adding 2.5% of the bid price (after error correction, deviation adjustment, and any discounts) to that bid price; bidders offering Vietnamese-origin goods with a domestic production cost ratio below 50% and employing at least 50% disabled, war invalids, or ethnic minorities under valid 3-month contracts or longer at the bid submission deadline are exempt from adding an amount to the bid price for comparison and ranking;

b) For evaluated price selection (LCS), non-incentive goods will be adjusted for comparison and ranking by adding 10% of the bid price (after error correction, deviation adjustment, and any discounts) to the bidder's evaluated price; incentive goods with a domestic production cost ratio below 50% will be adjusted for comparison and ranking by adding 2.5% of the bid price (after error correction, deviation adjustment, and any discounts) to the bidder's evaluated price; bidders offering Vietnamese-origin goods with a domestic production cost ratio below 50% and employing at least 50% disabled, war invalids, or ethnic minorities under valid 3-month contracts or longer at the bid submission deadline are exempt from adding an amount to the bid price for comparison and ranking;

c) For quality- and cost-based selection (QCBS), incentive goods with a domestic production cost ratio at least 50% receive an incentive point added to their aggregate score based on the following formula:

Incentive point= 10% x (incentive good price/bid price (after error correction, deviation adjustment, and any discounts)) x aggregate score

Where: Incentive good price is the bid price (after error correction, deviation adjustment, and any discounts) of the good with a domestic production cost ratio at least 50%.

Incentive goods with a domestic production cost ratio below 50% will apply the formula in point c clause 1 of this Article; bidders offering Vietnamese-origin goods with a domestic production cost ratio below 50% and employing at least 50% disabled, war invalids, or ethnic minorities under valid 3-month contracts or longer at the bid submission deadline qualify for a 10% incentive coefficient;

d) In cases under points a, b, and c of this clause, bidders offering Vietnamese-origin goods with a domestic production cost ratio at least 50% and employing at least 50% disabled, war invalids, or ethnic minorities under valid 3-month contracts or longer at the bid submission deadline qualify for a 12% incentive coefficient instead of 10%.

3. Innovative Vietnamese-origin products are entitled to the following incentives:

a) For least-cost selection (LCS), non-incentive goods will be adjusted for comparison and ranking by adding 15% of the bid price (after error correction, deviation adjustment, and any discounts) to that bid price; incentive goods with a domestic production cost ratio below 50% will be adjusted for comparison and ranking by adding 7.5% of the bid price (after error correction, deviation adjustment, and any

discounts) to that bid price; incentive goods with a domestic production cost ratio at least 50% will be adjusted for comparison and ranking by adding 5% of the bid price (after error correction, deviation adjustment, and any discounts) to that bid price;

b) For evaluated price selection, non-incentive goods will be adjusted for comparison and ranking by adding 15% of the bid price (after error correction, deviation adjustment, and any discounts) to the bidder's evaluated price; incentive goods with a domestic production cost ratio below 50% will be adjusted for comparison and ranking by adding 7.5% of the bid price (after error correction, deviation adjustment, and any discounts) to the bidder's evaluated price; incentive goods with a domestic production cost ratio at least 50% will be adjusted for comparison and ranking by adding 5% of the bid price (after error correction, deviation adjustment, and any discounts) to the bidder's evaluated price;

c) For quality- and cost-based selection (QCBS), innovative Vietnamese-origin products receive an incentive point added to their aggregate score based on the following formula:

Incentive point = $15\% \times (\text{incentive good price/bid price (after error correction, deviation adjustment, and any discounts)}) \times \text{aggregate score}$

Where: Incentive good price is the bid price (after error correction, deviation adjustment, and any discounts) of the innovative Vietnamese-origin product;

Non-innovative Vietnamese-origin products with a domestic production cost ratio of below 50% and at least 50% will receive incentive coefficients of 7.5% and 10%, respectively, instead of 15%.

4. Innovative Vietnamese-origin products receive incentives according to Clause 3 of this Article when they meet one of the following conditions:

a) These products fall under the list of high-tech products prioritized for investment and development or encouraged for development, as designated by the Prime Minister's decision;

b) These products are formed from scientific and technological research results of science and technology enterprises as per the law on science and technology enterprises;

c) These products are created based on the bidder's patents, layout-design of semiconductor integrated circuit, or plant varieties with granted protection certificates within the past 5 years, or based on the bidder's computer programs with granted copyright registration certificates within the past 5 year;

d) They are semiconductor chip products;

dd) These products win Ho Chi Minh awards, state awards for science and technology as per the law on science and technology awards;

e) They are new products created from research and development results at one of the facilities of the National Innovation Center;

g) They are new products created from the results of scientific research and technology development as per the law on technology transfer.

Innovative products specified in this Clause are entitled to incentives for a period of 6 years from the first time they are produced and are eligible to place on the market.

5. Domestically circulated Vietnamese-origin goods (goods manufactured in Vietnam) are entitled to the following incentives:

a) IT software products:

Criteria for determining domestically-produced IT software products eligible for incentives comply with the law on information technology, regardless of the domestic production cost content requirement in Point b of this clause;

b) For goods other than those specified in Point a of this Clause:

Determining goods manufactured in Vietnam can apply the following direct formula or indirect formula:

Direct formula: $D (\%) = G^*/G \times 100\%$

Indirect formula: $D (\%) = (G - C)/G \times 100\%$

Where:

G*: is the domestic production cost;

G: is the quoted price of the goods in the bid or proposal minus the tax value; for bidders who are manufacturers, G is the ex-works price (EXW price) of the goods;

C: is the value of foreign import costs, excluding taxes and fees related to import;

D: is the percentage of domestic production costs of goods. If $D \geq 30\%$, then those goods are entitled to incentives according to this Article and Articles 6, 7, 8, 9, 10 of this Decree.

Article 6. Incentives for international bidding

1. For consulting service packages:

a) For least-cost selection (LCS), non-incentive bidders will be adjusted for comparison and ranking by adding 7.5% of the bid price (after error correction, deviation adjustment, and any discounts) to that bid price;

b) For quality-based selection (QBS), incentive bidders will be adjusted for comparison and ranking by adding 7.5% of the technical score to the bidder's technical score;

c) For quality- and cost-based selection (QCBS), incentive bidders will be adjusted for comparison and ranking by adding 7.5% of the aggregate score to the bidder's aggregate score;

2. For non-consulting, construction, and mixed packages:

a) For least-cost selection (LCS), non-incentive bidders will be adjusted for comparison and ranking by adding 7.5% of the bid price (after error correction, deviation adjustment, and any discounts) to that bid price;

b) For evaluated price selection, non-incentive goods will be adjusted for comparison and ranking by adding 7.5% of the bid price (after error correction, deviation adjustment, and any discounts) to the bidder's evaluated price;

c) For quality- and cost-based selection (QCBS), incentive bidders will be adjusted for comparison and ranking by adding 7.5% of the aggregate score to the bidder's aggregate score;

3. For goods procurement packages, the application of incentives for Vietnamese-origin goods shall comply with Article 5 of this Decree.

4. Incentives for domestic innovation-driven enterprises (IDEs) are implemented according to Article 8 of this Decree.

5. Incentives for domestic bidders that produce Vietnamese-origin goods are implemented according to Article 9 of this Decree.

6. Incentives for information technology services comply with the law on information technology.

Article 7. Incentives for domestic bidding

1. For goods procurement packages, the application of incentives for Vietnamese-origin goods shall comply with Article 5 of this Decree.

Packages with a package price under 500 million VND seeking bidders with at least 50% of their workforce being disabled, war invalids, or ethnic minorities under valid 3-month contracts or longer at the bid submission deadline, can only be authorized by the competent persons. If no bidders or no qualified bidders participate in the authorized procurement, it will be re-organized to allow participation from a wider pool of bidders.

2. For construction packages with a package price of up to 5 billion VND, incentives for micro and small enterprises shall comply with Point dd, Clause 2, Article 10 of the Bidding Law.

3. Incentives for domestic IDEs are implemented according to Article 8 of this Decree.

4. Incentives for domestic bidders that produce Vietnamese-origin goods are implemented according to Article 9 of this Decree.

5. Incentives for information technology services comply with the law on information technology.

Article 8. Incentives for domestic IDEs

1. Domestic IDEs are exempt from the revenue and same-industry operational history requirements (within 6 years of qualified product launch) when offering their own innovative products for bidding under Clause 4, Article 5 of this Decree.

2. When goods of domestic IDEs which qualify as innovative products specified in Clause 4, Article 5 of this Decree participate in bidding, they are entitled to incentives according to Clause 3, Article 5 of the Decree.

3. When services of domestic IDEs which qualify as innovative products specified in Clause 4, Article 5 of this Decree participate in domestic or international bidding, they are entitled to incentives according to Clauses 1 and 2, Article 6 of the Decree.

Article 9. Incentives for domestic bidders that produce Vietnamese-origin goods

1. For domestic bidders who are transferred technology to produce Vietnamese-origin goods in accordance with the bidding documents:

a) They are exempt from the revenue and same-industry operational history requirements (within 5 years of qualified product launch);

b) Transferred technologies on the lists for investment incentives and technology transfer are exempt from the requirements of demonstrating successful operation and user confirmation of quality, in addition to the incentives in point a of this clause. If the technology transferor guarantees the quality of products produced by the bidder at the employer's request, the technology transferee (bidder) can use the transferor's data and test results to demonstrate the transferred technology's effectiveness and suitability for the produced goods. This evidence can be based on the technology transfer contract or technology transfer certificate issued by a competent authority.

c) All participating bidders will be evaluated on the same basis for capacity, experience, goods quality, technical requirements, and other package requirements, except for those specified in points a and b of this clause. Where necessary, the employer can make additional requests to bidders receiving incentives, including: extended warranty period, stricter production quality control, factory testing, and comprehensive operation and maintenance services, and other services to ensure reliable product operation.

2. For domestic bidders who produce Vietnamese-origin goods in accordance with the bidding documents:

a) They are exempt from the revenue and same-industry operational history requirements (within 5 years of qualified product launch before the bid submission deadline). Bidders are entitled to this incentive from the time the bidder is established but not more than 7 years from the bid submission deadline;

b) They receive incentives as prescribed in Point b, Clause 1 of this Article for the technology transfer component from other entities (if any).

3. Individuals and groups of individuals that produce innovative products specified in Clause 4, Article 5 of this Decree are exempt from the financial situation and same-industry operational history requirements (within 6 years of qualified product launch) when offering their own innovative products for bidding.

4. Domestic bidders can demonstrate their eligibility to transfer technologies or encouraged technologies for production of Vietnamese-origin goods using either a technology transfer registration certificate or an encouraged technology transfer certificate, as defined by the technology and investment laws.

Article 10. Incentives for products and services certified with ecology labels, energy labels and equivalent

1. Products and services certified with ecology labels, energy labels and equivalent as per the law are entitled to incentives according to Clause 3, Article 10 of the Bidding Law.

2. The employer, considering the package nature and usage needs, can prioritize products and services with ecology and energy labels (or equivalent certifications) in RFPs and bidding documents. This aligns with Point k, Clause 6, Article 16 and Clause 3, Article 44 of the Bidding Law, and can be achieved by specifying technical requirements and a price evaluation formula that favors such certifications.

Article 11. Sustainable bidding

Based on the package nature, the employer may specify sustainable bidding requirements in the bidding documents and RFPs in one or more of the following ways:

1. Specify technical requirements in bidding documents and RFPs according to weighted scoring method or pass or fail method. Bidders offering solutions, goods and services that meet sustainable bidding requirements will be considered and evaluated further;

2. The formula for determining the evaluated price should incorporate quantifiable sustainable bidding factors to compare and rank bidders.

Article 12. Fees associated with contractor selection

1. For international bidding, the employer will determine, based on the project scale and nature, the purchase price of the electronic bidding document or RFP to be paid by bidders, aligning with international practices.

For state-funded packages, revenues from selling electronic bidding documents or RFPs shall be transferred by the employer to the state budget according to the State Budget Law. For non-state-funded packages, revenues from selling electronic bidding documents or RFPs are the employer's revenues and are managed and used according to the employer's financial mechanism.

2. Fees for preparation and appraisal of documentation during the contractor selection process:

a) The fee for hiring a bidding consultant to perform any work during contractor selection process is not subject to the fees outlined in Clauses 3, 4, 5, 6, and 7;

b) In case the competent person assigns a subordinate agency to prepare and evaluate the overall

contractor selection plan, the cost incurred in these tasks are included in the contractor selection cost estimate under Clause 3 of this Article;

c) If an expert team or appraisal team is established by the employer to prepare and evaluate prequalification documents, EOI requests, bidding documents, and RFPs; to evaluate prequalification applications, EOI responses, bids, and proposals; to appraise contractor selection results, the costs incurred in their tasks are included in the contractor selection cost estimate according to Clauses 4, 5, 6 and 7 of this Article;

d) The costs specified in Clauses 3, 4, 5, 6 and 7 of this Article are determined in the total estimated investment, procurement estimate, investment preparation estimate, or recurrent expenditure estimate of the agency;

dd) The management and use of the costs specified in Clauses 3, 4, 5, 6 and 7 of this Article are carried out according to the employer's financial mechanism.

3. The fee for preparing or appraising the overall contractor selection plan is 0.5% of the feasibility study report fee, capped at a minimum of 5,000,000 VND and a maximum of 40,000,000 VND.

4. Fees for preparing and appraising documentation:

a) The fee for preparing an EOI request or prequalification document is 0.1% of the package price, capped at a minimum of 2,000,000 VND and a maximum of 30,000,000 VND;

b) The fee for appraising an EOI request or prequalification document is 0.06% of the package price, capped at a minimum of 2,000,000 VND and a maximum of 30,000,000 VND;

c) The fee for preparing bidding documents or RFP is 0.2% of the package price, capped at a minimum of 3,000,000 VND and a maximum of 60,000,000 VND;

d) The fee for appraising bidding documents or RFP is 0.1% of the package price, capped at a minimum of 2,000,000 VND and a maximum of 60,000,000 VND.

5. Fees for evaluation of documentation:

a) The fee for evaluating an EOI request or prequalification application is 0.1% of the package price, capped at a minimum of 2,000,000 VND and a maximum of 30,000,000 VND;

b) The fee for evaluating a bid or proposal is 0.2% of the package price, capped at a minimum of 3,000,000 VND and a maximum of 60,000,000 VND;

6. The fee for appraising the contractor selection result, including cases where no bidder is selected, is 0.1% of the package price, capped at a minimum of 3,000,000 VND and a maximum of 60,000,000 VND.

7. The fee for preparing and appraising EOI requests, prequalification documents, bidding documents, or RFPs for similar packages within the same project or procurement by the same employer, or for packages requiring contractor selection reorganization, is capped at 50% of the fee specified in Clause 4 of this Article. If a part of a divided package needs to be re-bid, the maximum fee is 50% of the estimated value of the re-bid part.

If contractor selection needs to be reorganized, the contractor selection cost will be calculated based on the specific circumstances of the package and added to the project and procurement estimate. In case of international bidding, the document translation fee is calculated in accordance with market prices, ensuring the effectiveness of the package.

8. The petition fee paid to the Advisory Council to resolve a petition regarding selection results is calculated as a percentage of the bid price of the petitioner (petitioning bidder), as follows:

a) For bid price under 50,000,000,000 VND, the rate is 0.03%, but not less than 5,000,000 VND;

b) For bid price from 50,000,000,000 VND to under 100,000,000,000 VND, the rate is 0.025%, but not less than 15,000,000 VND;

c) For bid price from 100,000,000,000 VND to under 200,000,000,000 VND, the rate is 0.02%, but not less than 25,000,000 VND;

d) For bid price at least 200,000,000,000 VND, the rate is 0.015%, but not less than 40,000,000 VND and no greater than 60,000,000 VND.

For packages applying the single-stage and two-envelope method, two-stage and two-envelope method, in case the bidder requests not to open the financial proposal, the petition fee for the Advisory Council is determined based on bid price.

9. Reimbursement of petition fees:

a) If the bidder's petition is successful, the relevant organizations or individuals will reimburse the petitioner the petition fee that they have paid;

b) If the bidder's petition is unsuccessful, the petitioner will not be reimbursed their paid petition fee.

10. The Advisory Council has financial autonomy to cover expenses related to resolving bidder petitions, including payments to its members, standing support team, and other operational costs.

During the petition process, if the bidder withdraws the petition, they will only be reimbursed 50% of the paid petition fee in case the Advisory Council has not been established or the Advisory Council has been established but a council meeting has not yet been held. In case the Advisory Council has held a council meeting, the bidder will not be reimbursed their paid petition fee. For the remaining petition fee after reimbursement and spending according to Article 13 of this Decree, the standing support team of the Advisory Council shall transfer it to the state budget within 10 working days from the date on which the bidder withdraws the petition.

11. Fees for contractor selection on VNEPS include:

a) The fee for maintaining the name and capacity profile of the bidder on VNEPS is 330,000 VND for 1 year (including value added tax). Bidders pay this fee from the second year onwards after the year of registration to participate in VNEPS;

b) The fee for submission of bids on VNEPS is: 330,000 VND for 1 package (including value added tax) for competitive bidding, limited bidding, online quotation under ordinary procedures; 220,000 VND for 1 package (including value added tax) for shopping method;

c) The winning bidder fee for a package under competitive bidding, limited bidding, shopping method, or online bidding under ordinary procedures, applying online bidding:

For undivided packages: 0.022% of the successful bid but not greater than 2,200,000 VND (including value added tax).

For packages divided into multiple parts, total winning bidder fee for all winning bidders must not exceed 2,200,000 VND (value added tax included). In case the value of 0.022% multiplied by the total successful bid of the package is lower or equal to 2,200,000 VND, the winning bidder fee of each bidder is 0.022% of the total successful bid for the package part that the bidder wins. In case the value of 0.022% multiplied by the total successful bid of the package exceeds 2,200,000 VND, the winning bidder fee of each bidder is calculated according to the following formula:

The winning bidder fee (including value added tax) = 2,200,000 VND x (total successful bid for the package part that the bidder wins/total successful bid of the package);

d) The connection fees for electronic bid security between VNEPS and various institutions are determined by agreements between the VNEPS operator/supervisor and these entities, which include domestic credit institutions, branches of foreign banks established under Vietnamese law, domestic non-life insurers, and branches of foreign non-life insurers established under Vietnamese law.

Article 13. Detailed expenditures paid to the Advisory Council to resolve bidders' petitions on contractor selection results

1. Detailed expenditures: direct remuneration for members of the Advisory Council to perform tasks, per diem, expenditures on stationery, translation and interpretation, printing, meetings and other expenses serving the resolution of petitions; expenditure amounts comply with regulations for regulatory agencies; receipt and expenditure documents are made according to regulations.

The total amount of expenditures must not exceed the fee that the petitioner has paid as prescribed in Clause 8, Article 12 of this Decree.

2. After resolving the petition, the President of the Advisory Council is responsible for confirming the amount of actual expenditures. The difference between the fee and expenditures (if any) will be reimbursed to the petitioner.

3. If the bidder's petition is upheld, the resolution plan must clearly outline any necessary corrective actions, timelines to address the consequences (if any), and the standing support team will request the competent person to request relevant organizations and individuals to jointly reimburse the bidder the actual fee paid to the Advisory Council.

4. Payment of remuneration to members of the Advisory Council who are officials and public employees shall comply with the relevant laws.

Article 14. Preparation, submission, appraisal of, and approval for the overall contractor selection plan for the project

1. Depending on the project bidding's scale and nature, the employer (if appointed) can request the competent person to consider developing an overall contractor selection plan. If the employer has not been appointed yet, the agency assigned to prepare the project can request the competent person to consider developing an overall contractor selection plan.

2. If the competent person approves the development of an overall contractor selection plan, the employer (or the agency assigned to prepare the project if the employer is not yet determined)

(hereinafter referred to as employer) will use the following documents to create the plan:

- a) Decision on investment policy for programs and projects;
- b) Project approval (if any);
- c) International treaties and loan agreements for ODA-funded projects or concessional loans from foreign sponsors (if any);
- d) Project financing plan or project funding source plan (if any);
- dd) Relevant legal documents (if any).

The overall contractor selection plan includes the contents specified in Article 15 of this Decree. The employer may hire a consultant to make an overall contractor selection plan for the project in case the employer's personnel are not qualified to do that.

3. The employer is responsible for submitting the overall contractor selection plan to the competent person for review and approval.

4. Agencies, organizations, and units specified in Article 126 of this Decree shall appraise the overall contractor selection plan.

5. The competent person approves the overall contractor selection plan after approving the project itself. This approval is based on both the request for approval for the overall contractor selection plan and its accompanying appraisal report. The approved overall plan then serves as the foundation for the employer to develop and secure approval for a specific contractor selection plan. The specific contractor selection plan must align with the approved overall contractor selection plan. If there are any deviations, the employer can report them to the competent person for consideration and decision without resubmitting and reapproving the overall plan.

6. The employer is responsible for posting the overall contractor selection plan on VNEPS no later than 5 working days from the date the document is issued.

Article 15. Contents of the overall contractor selection plan for the project

1. Analysis of the project execution context:

Determine specific requirements and objectives of the project, analyze factors in the project execution context that can impact bidding activities; the bidder's willingness to bid; factors include: legal regulations, economic, social, technological factors, sustainable bidding, and other factors.

2. Evaluation of the employer's capacity, resources, and experience:

The evaluation of the employer's capacity, resources, and experience in bidding includes:

- a) The capacity to carry out the contractor selection process from the contractor selection overall plan (if any) to contract management;
- b) The employer's bidding performance, through the following indicators: the average savings rate; the average number of bidders participating in competitive bidding, limited bidding, shopping method, online quotation under normal procedures, the percentage of packages with only one participating bidder under competitive bidding, limited bidding, shopping methods, or online quotations under normal procedures, in the total number of packages; percentage of packages with petitions on other contents during the contractor selection process, contractor selection results; the number of instances where the employer did not respond to requests for clarification on bidding documents, did not respond to bidders' petitions regarding bidding documents, other aspects in the contractor selection process and contractor selection results; other indicators (if any);
- c) Experience in executing similar projects, resolving petitions in contractor selection, complaints and denunciations;
- d) Other factors.

3. Market analysis and consultation:

a) Market analysis and consultation include assessment of market risks and opportunities associated with the chosen contractor selection method; bidder's ability to participate in the bidding process; market landscape for goods and services needed for the project; market trends that could impact project execution. Based on the scale and nature of the package, market analysis and consultation include the following information: the availability of goods and services needed for the package on the market; costs that may incur in cases where it is necessary to apply innovative and creative solutions; content of warranty terms and contract types commonly applied to packages for procurement of similar goods and services from other employers; legal regulations (if any) for goods and services needed for the package; the ability to apply sustainable bidding, procurement of environmentally friendly services, information about goods and services that use recycled and energy-saving materials; the accessibility of the bidding process for the following groups: small and micro enterprises, IDEs, businesses that employ many female workers, war invalids, people with disabilities, and ethnic minorities; supply chain

analysis (ability to provide supplies, materials, goods, and services for contract performance); the feasibility of a contractor selection process that exclusively allows bids for Vietnamese-origin goods according to Point e, Clause 3, Article 10 and Clause 1, Article 56 of the Bidding Law and other necessary information;

b) Market consultation is carried out in one or more of the following ways: refer to the most recent market consultation results for similar goods and services; post market consultation questions on appropriate media; research catalogs and brochures of manufacturers, suppliers, distributors, and agents; refer to the experience of other employers who have conducted market consultations and consult on the results of contractor selection for similar goods and service procurement packages; organize market consultation conferences with potential bidders on an open and transparent basis; organize information surveys from production and business units; consult with experts in relevant fields, print newspapers, magazines, specialized market analysis publications, information on the Internet and other appropriate forms;

c) The employer can hire consultants to research and analyze the market, use the advice of experts or independent authorities or businesses in the market in making an overall contractor selection plan, specific contractor selection plan, bidding documents, RFPs but must ensure the principles of competition, fairness and transparency;

d) In case of not making an overall contractor selection plan, the employer can conduct market analysis and consultation to prepare a specific contractor selection plan, bidding documents, and RFPs.

4. Risk identification and management in bidding:

a) Analyze main risks related to the operating environment, market conditions, the capacity of the entity that organize contractor selection and the complexity of bidding activities;

b) Assess the likelihood and impact of each risk on the project's bidding;

c) Develop a management plan and minimize risks in the project's bidding through the application of appropriate forms and methods of contractor selection, technical requirements, standards and methods of evaluation of contract conditions.

5. Specific objectives of bidding activities:

Identify specific objectives of bidding activities (including specific objectives on sustainable procurement, if applicable) to ensure the overall objectives of the project.

6. Plan on schedule of main tasks and the package:

Develop an overall schedule to carry out main tasks and the package in accordance with the project execution schedule.

7. Management of contractor selection:

a) Package division: the package division is based on the scale and nature of the project's tasks, project execution progress and based on the results of market analysis and consultation; determine the number of packages and the scope of work of each package, identify packages to be divided into many parts;

b) Form and method of contractor selection: determine the appropriate form and method of contractor selection for each package of the project, clearly stating whether the package applies centralized procurement, whether the package applies shortlisting, domestic or international bidding;

c) Contract type: determine the appropriate contract type for each package;

d) Key considerations when developing bidding documents, RFPs, and managing contract performance (if any).

Article 16. Package price and contractor selection duration

1. The package price accurately reflects all costs to perform the package, including: contingency costs (price slippage and volume variations), fees, charges and taxes. For construction packages applying fixed unit price and adjustable unit price contracts, contingency costs include provisional amounts (if any) and are only used when they incur. Packages with a short performance duration and little possibility of risks or price slippage may have a zero contingency cost for price slippage. Contingency costs are determined by the employer according to the nature of each package but must not exceed the maximum level prescribed by law (if any). In case the law stipulates that the goods are exempt from taxes or free of charge, the package price does not include exempted taxes and fees. The package price is updated within 28 days before the bid opening date if necessary. In case the package consists of many separate parts, clearly state the estimated value of each part.

2. Grounds for determining package price:

The package price is established based on one of the following information:

- a) Approved package estimate (if any) in case the law has regulations on making estimates or has instructions on norms and unit prices. If conditions for an estimate are unmet, the package price will be determined based on the following: average prices of projects and packages completed within a specified timeframe; total investment or estimated total investment according to the investment cost per unit, estimated procurement value; expert salaries and number of working days; other related information;
- b) Description and scope of work, number of experts, performance duration, capacity and experience of consultants, expert salaries in accordance with law (if any) and other factors;
- c) Contractor selection results for similar goods and services for a maximum period of 12 months before the date of submitting the specific contractor selection plan. This data can be adjusted to reflect changes in procurement volume or market prices for the goods or services needed so as to determine the package price. The market price at procurement time can be determined through market consultation specified in Point b, Clause 3, Article 15 of this Decree. If no similar goods or services were procured within the past 12 months, the package price can be determined by contractor selection results for similar goods or services from previous years, adjusted for changes in procurement volume and market prices. When submitting the specific contractor selection plan, the employer attaches a list of selection results of similar goods and services extracted from VNEPS (if any);
- d) At least one quotation is required for goods or services. Collecting more than one quotation is encouraged. If multiple quotations are received, the average price should be used.

For packages for procurement of drugs; chemicals, testing supplies, medical equipment; components, accessories, and replacement materials used for medical equipment: based on specialized requirements, the employer decides on technical criteria and requests for quotations. The employer will publish a request for quotations on one of the following platforms within at least 10 days of successful information posting: VNEPS, the employer's portal or website, Ministry of Health's portal, online public service portal on medical device management. If there are two or more quotations, the employer may choose the highest quotation that aligns with their budget and professional requirements. The employer is responsible for collecting quotations in a public and transparent manner. The quoting entity must provide accurate prices of goods or services based on their supply capabilities; and ensure the quotation complies with competition law, anti-dumping regulations, and fair pricing practices;

- dd) Price appraisal results of the price appraisal council or of an organization with the function of providing price appraisal services for assets, goods, or services that must be appraised as per the law on prices. For types of assets, goods, and services that must be appraised according to the law on prices, the appraisal results are a mandatory basis for determining the package price;
- e) List prices of manufacturers, importers, agents, distributors, suppliers, businesses;
- g) Declared prices that are announced or provided by competent authorities.

3. The employer can consider sustainable bidding factors as prescribed in Article 11 of this Decree and environmentally friendly products and services when determining the package price. In this case, the package price includes the costs necessary to meet sustainable bidding requirements.

4. For contractor selection within the procurement estimate, the employer must state the following contents in the specific contractor selection plan:

- a) The state budget estimates approved by competent authority according to the budget year or expected budget estimate to be allocated in case of procurement for the next year or procurement for many years; expected legal financial resources in the fiscal year or expected legal financial resources for the following years in case of procurement for the next year or procurement for many years;
- b) Value of procurement performed in the fiscal year or budget year;
- c) The part of the budget not used for procurement;
- d) The procurement estimate, calculated by subtracting the budget specified in Points b and c from the budget specified in Point a of this Clause. The employer is not required to appraise or approve the procurement estimate.

In case the employer has available funds for procurement in the budget year or fiscal year and does not use the expected revenue for the year, it is not required to determine the procurement estimate according to this Clause. In this case, the procurement estimate is the available funding for procurement in the budget year or fiscal year.

In case the package has a contract performance period longer than 1 year or the effective date of the contract and the date of completion of contract obligations are not in the same financial year, clearly state the procurement estimate of the budget year or fiscal year and estimated procurement estimates for the following years. Competent persons and employers are responsible for ensuring adequate funds to pay the contract each year. Payments for each year are made after the annual expenditure estimate is approved.

5. To ensure an uninterrupted supply of goods, services, and construction, employers can pre-select bidders for next year's procurement during this year's procurement estimate process. The specific contractor selection plan must include procurement estimates for the following years to set the package price.

6. Based on the scale, nature, and progress of the project or package, the competent person shall decide the contractor selection duration for each package. This duration is the number of days issuing bidding documents/RFPs to receiving the contractor selection results, incorporating appraisal time. In case the package applies the short list selection procedure, the contractor selection duration is from the date of issuing the prequalification documents and EOI requests until the contractor selection results are available. If necessary, the time for evaluating bids, proposals, and appraisal can be clearly stated.

Article 17. National database on bidders and quality of goods used

1. National database of bidders includes:

a) Information about the bidders' legal status;

b) Information about the bidder's violations;

c) Information about the bidder's capacity and experience, including: financial statements or documents on revenue and net assets; the implementation of tax declaration and tax payment obligations; financial resources; key personnel; major machinery and equipment; contracts completed or ongoing under its execution, production capacity, contracts with public main contents within the scope of the Bidding Law;

d) Information about the bidder's reputation in participating in bidding, including information about violations during the bidding process specified in Clause 1, Article 18 of this Decree;

dd) Information about the bidder's contract performance results, including information specified in Clause 3, Article 18 of this Decree and information about the contract performance process;

e) Other information about bidders.

2. National database on quality of goods used includes the following information:

a) Name of goods;

b) Origin, manufacturer, marking, label;

c) Main specifications;

d) Employer, goods users;

dd) Quality of goods as prescribed in Clauses 5, 6 and 7, Article 18 of this Decree;

e) Other information.

3. The national database on bidders and quality of goods used is regularly updated to ensure objective and truthful information for contractor selection.

4. The Ministry of Planning and Investment regulates this Article in detail.

Article 18. Information on the bidder's contract performance results and the quality of the goods used

1. Except in cases where the bidder is simultaneously ranked first in multiple packages or due to force majeure, the bidder's reputation in participating in the bidding will be assessed when performing the following acts:

a) The bidder fails to participate in, or refuses, document verification and contract negotiation (if any) during the bid or proposal's validity period upon invitation;

b) The bidder has participated in document verification and contract negotiation (if any) but refuses or does not sign the contract negotiation record, except for the case specified in Clause 8, Article 43 of this Decree;

c) The bidder is selected as the winning bidder but does not proceed or refuses to finalize the contract or framework agreement or fails to sign the contract or framework agreement;

d) The bidder has signed the framework agreement but does not proceed or refuses to finalize the contract or fails to sign the contract.

2. Within 7 working days from the dates on which bidders commit any acts specified in Clause 1 of this Article, the employer posts the list of violating bidders and related documents on VNEPS, specifically stating the dates on which the acts were committed. Bidders whose names are on this list, when participating in bidding, must furnish a bid security with a value 3 times greater than the value required for other bidders within 2 years from the last time committing the violating acts specified in Clause 1 of this Article. For consulting service packages, information about reputation in bidding participation is

used for technical evaluation (if any).

3. Information about the bidder's contract performance results includes:

- a) Progress of contract performance;
- b) Quality of goods, services, works, including incidents that occur during contract performance (if any) and other relevant factors;
- c) Violations of contract, termination of contract and reasons;
- d) Other information (if necessary).

4. The employer or unit with procurement needs in centralized procurement must publish the bidder's contract performance results on VNEPS. Contract performance results must be published for each contract, based on the completed work scope. The results can be published during or after the package performance period but no later than 6 months from the period ends. If the warranty period is longer than 6 months, the employer or unit with procurement needs in centralized procurement must also update the bidder's contract performance results after completing the warranty obligation (if any).

Within 20 days from the date the employer or unit with procurement needs in centralized procurement posts information about the bidder's contract performance results, the bidder may send feedback on VNEPS. If the bidder's feedback is correct, the employer or the unit with procurement needs in for centralized procurement is responsible for updating the information.

5. Information on quality of goods used includes:

- a) Actual quality of goods compared to provisions in the contract;
- b) The severity of good defects and the actions taken to remedy them, including replacement of goods (if any);
- c) Frequency of defects and problems of goods and quality of warranty, repair and remedial services (if any);
- d) Reliability, durability, performance, capacity (if necessary);
- dd) Other information (if necessary).

6. Information on the quality of goods used for drugs, testing supplies, medical equipment and supplies and components for repairing medical equipment shall comply with the law on pharmacy, medical equipment.

7. The employer or unit with procurement needs in centralized procurement shall publish the quality of goods used as prescribed in Clause 5 of this Article on VNEPS. The quality can be published during or after the package performance period but no later than 6 months from the period ends. If the warranty period is longer than 6 months, the employer or unit with procurement needs in centralized procurement must also update the quality of goods used after completing the warranty obligation (if any).

Within 20 days from the date the employer or unit with procurement needs in centralized procurement posts information about the quality of goods used, the bidder may send feedback on VNEPS. If the bidder's feedback is correct, the employer or the unit with procurement needs in centralized procurement is responsible for updating the information.

8. The employer or unit with procurement needs in centralized procurement shall take legal responsibility for the truthfulness and objectivity of information on published contract performance results and quality of goods used.

9. The database on contract performance results and quality of goods used as prescribed in Clauses 3, 5 and 6 of this Article is used as a basis for setting technical evaluation criteria, forming formula for determining the evaluated price (if any). If necessary, the employer may disclose additional information in addition to the information specified in Clauses 3, 5 and 6 of this Article to serve as a basis for setting technical evaluation criteria and forming formula for determining the evaluated price (if any). The setting of technical evaluation criteria must not violate the provisions of Point k, Clause 6, Article 16 and Clause 3, Article 44 of the Bidding Law.

Article 19. Capacity and experience requirements for expert teams and appraisal teams

1. Members of the expert team and appraisal team must meet the following requirements:

- a) Have a professional certificate in bidding, except for the cases specified in Clauses 2 and 3 of this Article;
- b) Obtain at least a bachelor's degree;
- c) Have active legal capacity as per the law; not being prosecuted for criminal liability;
- d) Have at least 3 years of work in one of the fields related to the legal, technical, financial aspect of

the package: have experience or perform technical-related tasks stated in the EOI request, prequalification document, bidding document, RFP or financial- or legal-related tasks.

2. Individuals who evaluate the overall contractor selection plan and specific contractor selection plan according to assigned tasks (not including bidding consultants) are not required to have a professional certificate in bidding.

3. In case the opinion of specialized experts is needed, these experts are not required to have a professional certificate in bidding.

4. For the medical field, in case the employer does not have personnel who meet the requirements specified in Clause 1 of this Article, then select a consulting bidder to act as an expert team or appraisal team. In case a consulting bidder cannot be selected, the employer has the right to mobilize and assign personnel such as doctors, pharmacists, managers or invite officials from the Department of Health and the Ministry of Health, and experts in the medical field to participate in the expert team or appraisal team, regardless of the qualifications in Points a and b, Clause 1 of this Article. The organization of contractor selection must meet the objectives of bidding which are competition, fairness, transparency, economic efficiency, and accountability.

Article 20. Publicizing information on contractor selection

1. Information about contractor selection is publicly posted on VNEPS.

2. The Ministry of Planning and Investment provides detailed regulations on posting, management, and use of information as prescribed in Clause 1 of this Article.

Article 21. Registration and management of accounts on VNEPS

1. Registration to participate in VNEPS is carried out according to the following process:

a) Organizations and individuals fill into the registration form created on VNEPS;

b) The organization submits a registration application on VNEPS, including the following documents: the registration form specified in Point a of this Clause, which is signed and stamped (if any) by the organization's legal representative; power of attorney (if any); establishment decision or enterprise registration certificate, or registration certificate of household business, cooperatives, cooperative union, or cooperative group, or other equivalent documents in case the organization's name is not listed on the National Business Registration Information System;

c) The individual submits a registration application on VNEPS, including the following documents: the registration form specified in Point a of this Clause, which is signed by the registrant; copy of passport or equivalent document for the individual with foreign nationality.

2. Update of account information on VNEPS is done as follows:

a) Updated information includes: additions and modifications to registered information; supplementing and modifying roles in bidding activities; terminate, suspend, restore participation status;

b) The request to update information sent on VNEPS must be signed and stamped (if any) by the legal representative of the organization or individual.

3. The documentation specified in Clauses 1 and 2 of this Article will be processed within 2 working days from receipt of the request on VNEPS. The results of processing documentation are announced on VNEPS and e-mails.

4. Organizations and individuals who knowingly post false information under Articles 7 and 8 of the Bidding Law will have their accounts locked for 12 months upon discovery.

5. In case of hiring a bidding consultant to be the procuring entity, the employer is still responsible for posting the specific contractor selection plan and contractor selection results on VNEPS according to Article 7 and Article 8 of the Bidding Law. In case a bidding consultant, any organizations or individuals uses their account to post information on behalf of the employer, the bidding consultant, organization, or individual will have their account locked for 6 months upon discovery.

Chapter II

OFFLINE LIMITED BIDDING, COMPETITIVE BIDDING FOR NON-CONSULTING, GOODS PROCUREMENT, CONSTRUCTION, MIXED PACKAGES UNDER SINGLE-STAGE METHOD

Section 1. SINGLE-STAGE AND ONE-ENVELOPE METHOD

Article 22. Detailed procedures

1. Contractor selection preparation, including:

a) Draw up a shortlist (if necessary);

b) Prepare bidding documents;

- c) Appraise and approve bidding documents.
- 2. Contractor selection organization, including:
 - a) Invitation to bid:
 - b) Issue, modify and clarify bidding documents;
 - c) Prepare, submit, receive, manage, modify, withdraw bids;
 - d) Open bids.
- 3. Evaluation of bids, including:
 - a) Check and evaluate the validity of bids:
 - c) Evaluate bids in details;
 - c) Rank bidders (if there is more than 1 bidder).
- 4. Submit, appraise, approve, and publicize the contractor selection result and explain reasons for unsuccessful bidders upon their requests (if any).
- 5. Finalize, sign, and manage contract performance.

In addition to organizations, individuals and groups can bid on goods procurement packages with innovative products that meet the criteria of Clause 4, Article 5 of this Decree.

Article 23. Shortlisting

Based on the scale and nature of the package, the competent person decides to apply the shortlisting procedure. The application of shortlisting procedure must be recorded in the specific contractor selection plan.

1. For competitive bidding:

a) Prepare prequalification documents:

The prequalification documents include the following contents: summary about the project, procurement estimate, package; instructions on preparing and submitting prequalification applications; evaluation criteria for the validity of prequalification applications; criteria for bidder capacity and experience.

Prequalification applications are evaluated using pass/fail criteria, which define the minimum acceptable level for each element of the bidder's capacity and experience;

b) Prequalification documents are evaluated according to Article 129 of this Decree before approval. Approval for the prequalification documents is done in writing based on the approval report and appraisal report of the prequalification documents;

c) Invitation for pre-qualification applications shall comply with Point b, Clause 1, Article 8 of the Bidding Law;

d) Issue prequalification documents:

Prequalification documents are published for free on VNEPS;

dd) Receive and manage prequalification applications:

The procuring entity confidentially receives and manages prequalification applications until the preliminary results are announced;

e) Open and evaluate prequalification applications:

Prequalification applications are submitted by the deadline and at the location specified in the prequalification documents and are opened immediately after the bid submission deadline. The record of the prequalification application opening will be sent to participating bidders and posted on VNEPS within 24 hours upon bid opening. Prequalification applications submitted after the bid submission deadline are invalid, cannot be opened and will be disqualified. The evaluation of prequalification applications is carried out according to the evaluation criteria specified in the prequalification documents. Bidders whose prequalification applications meet all capacity and experience requirements will be shortlisted.

Bidders who are individuals or groups offering innovative products that meet the requirements in Clause 4, Article 5 of this Decree may be exempt from certain criteria outlined in Clause 3, Article 9.

g) Submit, appraise, and approve prequalification results:

The procuring entity submits the prequalification results for approval, including their opinions on of the expert team's evaluation findings. The prequalification results are appraised against Clauses 1 and 2 of Article 130 of this Decree. Following this appraisal, a written approval is granted based on the prequalification approval proposal and appraisal report. If a shortlist is created, the prequalification

approval will identify the successful bidders and include any relevant notes. If a shortlist is not created, the prequalification approval must clearly state the reason a shortlist was not created.

h) Publicly announce the shortlist: the shortlist will be posted as required in Point b, Clause 1 and Clause 4, Article 8 of the Bidding Law and shared with bidders who submitted prequalification applications.

2. For limited bidding:

a) Identify and approve a shortlist of at least 3 bidders who have the capacity and experience to meet the requirements of the package and wish to participate in the bidding. If less than 3 bidders meet the requirements, follow the procedures outlined in Clause 3, Article 131 of this Decree;

b) After approval, the shortlist is posted according to Point b, Clause 1 and Clause 4, Article 8 of the Bidding Law.

3. Shortlisted bidders cannot form a joint venture for this bidding process. However, they may participate as a joint venture with a non-shortlisted bidder, but only with the employer's approval before the bid deadline.

Article 24. Preparation of bidding documents

1. Grounds for preparing bidding documents:

a) Approved overall contractor selection plan (if any);

b) Approved specific contractor selection plan;

c) Documentation on design, drawings, and notes to the package (if any);

d) Technical specifications of the package including: characteristics, specifications, technology requirements, service quality, inspection, testing, taking-over inspection and other technical requirements (if any);

dd) Legal regulations on bidding and related laws; international treaties and loan agreements (if any) for ODA-funded projects and concessional loans;

e) Legal regulations on taxes, fees, incentives in contractor selection;

g) Other related grounds.

2. Bidding documents must provide all necessary information for bidders to prepare competitive bids. They cannot contain any restrictions that limit bidder participation or give any bidder an unfair advantage, which may cause unfair competition as prescribed in Point k, Clause 6, Article 16 and Clause 3, Article 44 of the Bidding Law. The Ministry of Planning and Investment clarifies that violations of Clause 3, Article 44 of the Bidding Law can invalidate bidding documents. This means such documents cannot be used to evaluate bids.

3. The bidding documents must specify the criteria for evaluating the validity of bids, including:

a) There is the original bid;

b) There is a letter of bid signed and stamped by the bidder's legal representative (if any) according to the requirements of the bidding documents; the signing date of the letter of bid must be after the issuance date of the bidding documents; do not propose different bid prices or include conditions that are disadvantageous to the employer. For a joint venture bidder, the letter of bid must be signed and sealed by the legal representative of each joint venture party (if any) or the party assigned to by the joint venture to sign the letter of bid according to the assigned responsibilities in the joint venture agreement;

c) The validity of the bid meets the requirements as prescribed in the bidding documents;

d) There is a bid security with value and validity period and the beneficiary meets the requirements of the bidding documents. Bid security, in the form of a bank guarantee or certificate of guarantee insurance, may not violate any of the following requirements: their value or validity period must meet the minimums specified in the bidding documents, the beneficiary name must be correct, a valid signature must be present, the signature cannot be dated before the bidding documents were issued, the document cannot contain any conditions that disadvantage the employer or procuring entity. The bank guarantee or certificate of guarantee insurance must be signed and stamped by a legal representative of a domestic credit institution or foreign bank branch established under Vietnamese law, a domestic non-life insurer, branch of foreign non-life insurer established under Vietnamese law (if any). For insurance packages, participating bidders may not present their own certificate of guarantee insurance;

dd) The bidder is not named in two or more bids as an independent bidder or a joint venture party;

e) There is a joint venture agreement (in case of joint venture) signed and sealed by the legal representative of each joint venture party (if any); the joint venture agreement must clearly state the

specific work each party will perform and the estimated value of each party's work. Work assignments within the joint venture will be determined by: items listed in the bid price schedule or tasks required to produce those items. Tasks unrelated to these items or the production of these items must not be assigned.

g) The bidder must meet the eligibility requirements in accordance with Article 5 of the Law on Bidding;

h) In the 3 years before the bid submission deadline, the bidder did not have employed personnel (signed a labor contract with the bidder at the time they committed the violation) who were convicted by a court of a bidding violation leading to serious criminal consequences, with the intent for that bidder to win the contract.

4. Criteria for evaluating bids for goods procurement packages include:

a) Evaluation criteria for capacity and experience:

Bidders' capacity and experience are evaluated using pass/fail criteria, which define the minimum acceptable level for each element of the bidder's capacity and experience, including: experience in supplying similar goods, production capacity, and financial capability (net asset value, revenue); fulfillment of tax declaration and payment obligations and other necessary indicators to evaluate the bidder's financial capability; technical facilities, qualifications of professional staff to perform related services (if required).

Determining the level of specific requirements for each criterion specified in this point is based on the requirements of each specific package. Bidders that are assessed to meet all the criteria specified in this point meet the requirements for capacity and experience.

For goods procurement packages, bidders who are individuals or groups offering innovative products that meet the requirements in Clause 4, Article 5 of this Decree may be exempt from certain criteria outlined in Clause 3, Article 9.

Bidders who are household businesses are exempt from financial statements and the net asset value requirements.

b) Technical evaluation criteria:

Technical evaluation criteria are set based on pass, fail criteria or scoring methods.

In case of using pass/fail method, for general evaluation criteria, only pass/fail criteria are used. For basic detailed criteria in the general criteria, only pass and fail criteria are used; for non-basic detailed criteria in the general criteria, in addition to the pass and fail criteria, additional acceptable criteria may be applied but must not exceed 30% of the total number of detailed criteria in the general criteria. General criteria are assessed as passed when all basic detailed criteria are assessed as passed and non-basic detailed criteria are assessed as passed or acceptable.

In case a scoring method is used, the minimum score and maximum score must be specified for each general criterion. The minimum scores for basic detailed criteria can be specified in the general criteria; there is no minimum score for non-basic detailed criteria. The minimum technical score is not lower than 70% of the total maximum technical score. For a package with high technical requirements, the minimum technical score is from 80% to 90% of the total maximum technical score; for a package that need to be considered on the basis of focusing on technical and price factors, the employer can stipulate that the minimum technical score is not lower than 80% of the total maximum technical score. Technical evaluation criteria are built on the basis of factors on the ability to meet the requirements of quantity, quality, delivery time, transportation, installation, warranty, and after-sales services (if any), the bidder's contract performance results according to Articles 17 and 18 of this Decree and other requirements stated in the bidding documents. Based on each specific package, when preparing bidding documents, it is necessary to specify the criteria as a basis for technical evaluation, including: characteristics, specifications of goods, production standards, manufacturing and technology standards; the reasonableness and economic efficiency of technical solutions and measures for supplying and installing goods; level of satisfaction of warranty and maintenance requirements; the degree to which requirements for providing supplies, replacement equipment and other related services (if any) are met during the entire use process of the goods; geographical and environmental adaptability; impacts on the environment and solutions; factors of commercial conditions, delivery time, technology transfer training, and after-sales services; goods supply progress; environmentally friendly factors; the bidder's contract performance results according to Articles 17 and 18 of this Decree; the quality of similar goods published according to Article 18 of this Decree (if any); other necessary factors.

c) Determine the lowest price (in case the least-cost selection is applied): determine the bid price; correct errors and adjust deviations; deduct discounts (if any); convert the bid price to a common currency (if any); determine incentive value (if any); compare bids to determine the lowest price;

d) Criteria for determining evaluated price (in case of applying the evaluated price selection):

Formula for determining evaluated price:

$$G_{DG} = G \pm \Delta_G + \Delta_{UD}$$

Where:

G = (bid price \pm error correction value \pm deviation adjustment value) - discounts (if any).

Δ_G is the value of factors converted into one level for the entire life cycle of the goods including: delivery time; payment schedule; costs of supplies and spare parts during the initial period; availability of materials, spare parts and after-sales services for the goods offered in the bid at the project location; life cycle costs; device performance and capacity; elements of sustainable bidding (if any); the bidder's contract performance results according to Articles 17 and 18 of this Decree; the quality of goods used published according to Article 18 of this Decree, including consideration of origin; other factors (if any).

Δ_{UD} is the value that must be added to non-incentive subjects according to Points b and d Clause 1, Points b and d Clause 2 and Point b Clause 3 Article 5 of this Decree.

5. Criteria for evaluating bids for construction packages include:

a) Evaluation criteria for capacity and experience:

Bids are evaluated using pass/fail criteria for capacity and experience, which define the minimum acceptable level for each element of the bidder's capacity and experience, including: experience in performing similar packages; technical capacity: quantity and professional qualifications of key staff, quantity of main construction equipment that can be mobilized to carry out the package (if required); financial capacity: net asset value, revenue; fulfillment of tax declaration and payment obligations and other necessary indicators to evaluate the financial capacity of the bidder.

The specific requirements for each criterion will be determined based on the individual package requirements. Bidders that are assessed to meet all the criteria specified in this point meet the requirements for capacity and experience;

b) Technical evaluation criteria:

Technical evaluation criteria are set based on pass, fail criteria or scoring methods.

In case of using pass/fail method, for general evaluation criteria, only pass/fail criteria are used. For basic detailed criteria in the general criteria, only pass and fail criteria are used; for non-basic detailed criteria in the general criteria, in addition to the pass and fail criteria, additional acceptable criteria may be applied but must not exceed 30% of the total number of detailed criteria in the general criteria. General criteria are assessed as passed when all basic detailed criteria are assessed as passed and non-basic detailed criteria are assessed as passed or acceptable.

In case a scoring method is used, the minimum score and maximum score must be specified for each general criterion. The minimum scores for basic detailed criteria can be specified in the general criteria; there is no minimum score for non-basic detailed criteria.

Technical evaluation criteria will assess a bidder's ability to meet the requirements outlined in the design documents, scope of work, and contract performance results, as detailed in Articles 17 and 18 of this Decree and other requirements stated in the bidding documents. Based on each specific package, when preparing bidding documents, it is necessary to specify the criteria as a basis for technical evaluation, including: reasonableness and feasibility of technical solutions, execution plans in accordance with proposed construction progress; construction progress; project management methods (project management organization, field management organization); quality assurance measures; assurance of environmental sanitation and other conditions such as fire safety and labor safety; level of satisfaction of warranty and maintenance requirements; environmentally friendly factors (if any), including: the use of supplies, materials, execution plans, lines, construction technology and other factors (if any); bidder's contract performance results according to Articles 17 and 18 of this Decree; other necessary factors.

The bidding documents must allow bidders to propose alternative construction methods, except in special cases where a specific method is required due to the package's nature. This will be clearly stated in the bidding documents;

c) Determination of the lowest price (in case of applying the least-cost selection) is carried out according to Point c, Clause 4 of this Article;

d) Criteria for determining evaluated price (in case of applying the evaluated price selection):

Formula for determining evaluated price:

$$G_{DG} = G \pm \Delta_G + \Delta_{UD}$$

Where:

G = (bid price \pm error correction value \pm deviation adjustment value) - discounts (if any).

Δ_G is the value of factors converted into one level for the entire life cycle of the construction work including: construction completion progress; life cycle costs during the entire use of the construction work; loan interest expenses (if any); elements of sustainable bidding (if any); the bidder's contract performance results according to Articles 17 and 18 of this Decree; other factors (if any).

Δ_{UD} is the value that must be added to non-incentive subjects according to Point b Clause 2 Article 6 of this Decree.

6. For non-consulting and mixed packages:

Based on the scale and nature of the package and the provisions in Clauses 2, 4 and 5 of this Article, determine evaluation criteria for capacity and experience; technical evaluation criteria; determine the lowest price (in case the least-cost selection is applied) or the criteria for determining the evaluated price (in case the evaluated price selection is applied) accordingly.

7. Do not use the quality- and cost-based selection for packages that apply the single-stage and one-envelope method. For a package that needs to be considered on the basis of focusing on technical and price factors, the employer can stipulate that the minimum technical score is not lower than 80% of the total maximum technical score.

8. For a divided package, the bidding documents must clearly state the bidding conditions, the bid security measures and values for each part or multiple parts, and the evaluation method for each part or multiple parts so that the Bidders calculate bidding options according to their abilities.

9. Regulations on trademarks and origin of goods:

a) Except for the cases specified in Point e, Clause 3, Article 10, Clause 2, Article 44 and Clause 1, Article 56 of the Bidding Law, bidding documents must not state requirements on the specific trademarks or origin of the goods;

b) If bidding documents specify an origin requirement by groups of countries or territories but exclude Vietnamese origin (as allowed under Clause 2, Article 44 of the Bidding Law), Vietnamese goods can still be evaluated.

c) If the bidding documents cannot describe the goods in details according to technical characteristics, usability, technological design, or technological standards, they may state the trademark or catalog of a specific product for reference and illustration. However, these references must always be followed by the phrase "or equivalent." Additionally, the documents must clearly define what constitutes an equivalent good in terms of technical specifications, usability, and any other relevant aspects.

10. Regulations on labor use: For international bidding, bidding documents must prioritize the use of domestic workers for unskilled positions, where their qualifications are suitable and the supply is available. Foreign workers can only be employed when domestic workers are underqualified. Bids that fail to meet the labor use requirements outlined in the bidding documents will be rejected.

11. Regulations on additional purchase options (if any):

In case the specific contractor selection plan has regulations on additional purchase options, the bidding documents must stipulate the maximum volume and quantity of goods or services subject to the additional purchase option in accordance with the approved specific contractor selection plan.

12. Bidding documents must not require a sales permit, a sales authorization letter from the manufacturer or distributor, or a partnership certificate, manufacturer's, or distributor's technical support or warranty, or other documents of equivalent value (hereinafter referred to as sales permit). For complex goods requiring the manufacturer's after-sales support (warranty, maintenance, repairs, parts, technical support, etc.), the bidding documents may request a sales permit from the bidder. However, such a request must be pre-approved by the relevant authority.

If the manufacturer, its representative office, or agent commits one or more of the following acts without a legitimate reason: fails to provide a sales permit; revokes a previously provided sales permit; limits competition by issuing sales permits to only a few bidders; engages in other anti-competitive practices, the bidders or procuring entity will report these actions by: posting information on VNEPS and sending information to the Ministry of Planning and Investment and the Ministry of Industry and Trade. The document must specifically state the actions taken by the manufacturer, representative office, or agent along with supporting documents. The manufacturer, representative office, or agent facing a complaint from a bidder or procuring entity must respond via VNEPS. Additionally, they should submit a copy of their response to the Ministry of Planning and Investment for their records.

Article 25. Appraisal of and approval for bidding documents

1. Bidding documents must be appraised according to Article 129 of this Decree before approval.
2. Approval for bidding documents must be based on the approval report and appraisal report of bidding documents.

Article 26. Organization of contractor selection

1. Invitation for bids:

- a) Invitations to bid are applied according to Point b, Clause 1, Article 8 of the Bidding Law if the shortlisting procedure is not applied;
- b) In case the package applies the shortlisting procedure, invitations to bid will be sent to the bidders named on the shortlist.

2. Issue, modify and clarify bidding documents:

- a) The bidding documents are published on VNEPS;
- b) In case of modifications of the bidding documents after issuance, the procuring entity must post on the VNEPS the modification decision enclosed with the detailed modifications of the bidding documents and the modified bidding documents. Modifications of bidding documents must be made at least certain days before the bid submission deadline as prescribed in Point dd, Clause 1, Article 45 of the Bidding Law. In case there is not enough time, the bid submission deadline must be extended;
- c) In case the bidding documents need to be clarified, the organization or individual shall send a written request for clarification to the procuring entity on VNEPS within at least 3 working days (for domestic bidding), 5 days (for international bidding) before the bid submission deadline. The procuring entity shall post the clarifications to bidding documents on the VNEPS at least 2 working days before the bid submission deadline. The clarifications to bidding documents must not mention the name of the bidder that requested clarification. If necessary, the procuring entity may organize a pre-bid meeting to discuss the content of bidding documents. The notice of organization of the pre-bid meeting is posted on VNEPS; all interested bidders are allowed to attend the pre-bid meeting without prior notification to the procuring entity. The procuring entity must record the minutes of the pre-bid meeting and post them on VNEPS. The minutes of the pre-bid meeting are considered clarifications to the bidding documents.

Clarifications to bidding documents must not contradict the approved bidding documents. In case the clarifications to the bidding documents leads to the need to modify the bidding documents, the modifications of the bidding documents shall comply with point b of this clause;

- d) The decision on modifications or written clarifications to bidding documents is an integral part of the bidding documents.

3. Prepare, submit, receive, manage, modify, withdraw bids:

- a) Bidders prepare and submit bids according to the requirements of the bidding documents.

The procuring entity confidentially receives and manages bids until the contractor selection results are announced. Bids or documents submitted after the deadline to modify or supplement the bid will be rejected, except for: clarifications requested by the procuring entity; clarifications regarding eligibility, financial statements, tax declaration and payment obligations, personnel and equipment documents, similar contracts, production capacity to demonstrate the bidder meets the requirements;

- b) The employer, the procuring entity, or the expert team cannot disclose information from one bid to another bidder, except for information disclosed at the bid opening;
- c) When there is a request to modify or withdraw the submitted bid, the bidder must send a written request to the procuring entity. The procuring entity only accepts the modifications or withdrawal of the bid when receiving a written request before the bid submission deadline.

4. Bid opening:

- a) The bid opening must be conducted publicly and begin within 2 hours from the bid submission deadline. The procuring entity only opens bids received before the bid submission deadline according to the requirements of the bidding documents in the presence of representatives of bidders attending the bid opening ceremony, regardless of the presence or absence of bidders. Bids are opened in alphabetical order by bidder name and in the following order: check the seal; open the envelope and clearly read the bidder's name; identify if the bid is submitted independently or as a joint venture; check the number of originals and copies of all documents; review the bid price stated in the letter of bid and any offered discount; check validity period of the bid; verify proposed performance duration; check value and validity of bid security and other related information;
- b) Minutes of bid opening: The information specified in point a of this clause must be recorded in the minutes of bid opening. The minutes of bid opening must be signed by the representative of the procuring entity and the bidders attending the bid opening ceremony. The minutes will be sent to participating bidders and posted on VNEPS within 24 hours upon bid opening;
- c) The representative of the procuring entity signs the original letter of bid, letter of discount (if any), and the authorization letter of the bidder's legal representative (if any); joint venture agreement (if any); bid security; financial proposals and important contents of each bid.

Article 27. Principles for evaluating bids

1. The evaluation of bids must be based on the bid evaluation criteria and other requirements in the bidding documents, based on the submitted bids and clarifications to bids to ensure the selection of a bidder with sufficient capacity and experience and a feasible solution to perform the package; any content within the bidding documents that restricts competition, as defined in Clause 2, Article 24 of this Decree, will be disregarded during bid evaluation.
2. The procuring entity will allow the bidder to make additions of and substitutions for key personnel (excluding engineering (E) personnel in EPC, EP, EC, or turnkey contracts) or major equipment if: the proposed personnel or equipment does not meet requirements, the bidder cannot demonstrate the ability to mobilize personnel (including cases where personnel have been mobilized for another contract whose working time overlaps with the performance duration of this package). The bidder may only add or replace each key personnel position and major equipment once within an appropriate period of time. Any bidder found to declare key personnel and major equipment untruthfully will be ineligible to propose substitutes. Their bid will be disqualified, and they will be subject to fraud allegations as per Clause 4, Article 16 of the Bidding Law. This will be addressed under Point a, Clause 1, Article 125 of this Decree.
3. If the proposed similar contract in the bid does not meet requirements, the procuring entity may request the bidder to supplement or replace another similar contract for evaluation within a reasonable timeframe.
4. For a divided package, bid evaluation and award will prioritize the bid with lowest total proposed winning price (for least-cost selection); or prioritize the bid with the lowest total evaluated price (for evaluated price selection) and the winning bid price for the entire package not exceeding the approved package price, regardless of partial package estimates; for a package for procurement of drugs, chemicals, testing supplies, medical equipment, and medical procedures, the instructions of the Ministry of Health (if any) will apply.
5. The evaluation of a bid is done on photocopies, the bidder is responsible for the consistency between the original and the photocopies. In case there is a discrepancy between the original and the photocopy but does not change the bidder ranking order, the evaluation will be based on the original. In case there are discrepancies between the original and the photocopy, leading to a different evaluation result on the original than the evaluation result on the photocopy and causing a change in the bidder's ranking order, the bid will be rejected and the bidder will be subject to fraud allegations and will be addressed according to Point a, Clause 1, Article 125 of this Decree.
6. Deviation, reservation, omission in bids:
 - a) "deviations" means departures from the requirements specified in the bidding documents; "reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the bidding documents; "omission" is the failure to submit part or all of the information or documentation required in the bidding documents;
 - b) Provided that a bid is substantially responsive to the requirements of the bidding documents, the procuring entity may accept nonconformities that are not deviations, reservations, or omissions;
 - c) Provided that a bid is substantially responsive to the requirements of the bidding documents, the procuring entity may require the bidder to provide necessary information or documents within a reasonable duration for correction of nonconformities or non-material deviations in the bid related to the material requirements. Requests to provide information and documents to rectify these nonconformities or deviations must not affect any factor of the bid price. Failure to comply with this request of the procuring entity may result in disqualifying the bidder;
 - d) Provided that a bid is substantially responsive to the requirements of the bidding documents, the procuring entity or expert team may adjust nonmaterial and quantifiable nonconformities related to the bid price; the bid price will be adjusted to account for the cost of missing or non-compliant items; this adjustment is solely for bid comparison purposes.
7. In case the bidder does not meet one of the evaluation criteria of eligibility, capacity, experience, technique, finance or the bid has any deviations, reservations, or omissions which disqualifies the bid, other criteria will not be further evaluated.
8. The employer or procuring entity may not allow the bidder to use a subcontractor that provides consulting services for the package for which the bidder has won the bid. These consulting services include: preparation, evaluation of engineering design, design of construction drawing, estimates or design of Front-End Engineering Design (FEED); valuation; supervision of contract performance and appraisal; preparation, appraisal of the prequalification document or bidding documents; evaluation of prequalification applications or bids; appraisal of the prequalification result or contractor selection result; management of project or contract; other consulting services directly to the package.

Article 28. Clarification to bids

1. After bid opening, the bidder is responsible for clarifying the bids according to the request of the procuring entity. If a bid lacks required documents on eligibility, similar contracts, production capacity,

financial statements, tax declaration and payment obligations, personnel, and equipment, the procuring entity shall request clarification and additional documents to demonstrate the bidder's qualifications and experience.

2. After bid submission deadline, if a bidder finds that their bid lacks required documents on eligibility, similar contracts, production capacity, financial statements, tax declaration and payment obligations, personnel, and equipment, they will send clarification and additional documents to the procuring entity to demonstrate their qualifications and experience. The procuring entity shall receive the bidder's clarifications for review and evaluation; additional and clarifying documents are an integral part of the bid.

3. Clarifications regarding eligibility must not alter the nature of the participating bidder. Clarifications regarding validity of the bid (excluding eligibility), technical proposals, and financial proposals must ensure no changes to the basic content of the submitted bid or the bid price.

4. Clarification of a bid is only done between the procuring entity and the bidder whose bid needs to be clarified. The clarifications to bid must be made in writing and kept by the procuring entity as an integral part of the bid.

5. The procuring entity may verify the authenticity of any doubtful documents of the bidder with relevant organizations or individuals.

Article 29. Error correction and deviation adjustment

1. Error correction is the correction of errors in bids, including arithmetic errors and other errors, carried out according to the following principles:

a) Arithmetic errors include errors caused by performing addition, subtraction, multiplication, and division calculations incorrectly when calculating the bid price. For fixed unit price contracts, adjustable unit price contracts, time-based contracts, cost-plus-a-fee contracts, output-based contracts, percentage-based contracts, if there is a discrepancy between the unit price and the amount, the unit price will be used as the basis for error correction; if it is discovered that the unit price has an unusual difference due to a decimal error (10 times, 100 times, 1,000 times), the amount of money is the basis for error correction;

b) In case the total value of the items is incorrect due to an error when adding or subtracting the value of the items, the value of the items is the basis for correcting the error;

c) Discrepancies between the numerical and written bid price will be resolved as follows: if the written price has a clear meaning, it takes precedence; if the written price has no meaning or contains arithmetic errors, the numerical price is used after correction based on points (a) and (b) of this Clause (if applicable);

d) If the amount column has the full value filled in but there is no corresponding unit price, the unit price is determined by dividing the amount by the quantity; when there is a unit price but the amount column is blank, the value of the amount column will be determined by multiplying the quantity by the unit price; if a certain item has a unit price and value in the amount column but leaves the quantity blank, the quantity is determined by dividing the value in the amount column by the unit price of that item. In case the quantity determined according to this principle is different from the quantity stated in the bidding documents, that difference is a deviation in the scope of supply and is corrected according to Clause 2 of this Article, except for construction package that applies lump sum contract;

dd) Calculation unit errors: correct it to meet the requirements of the bidding documents.

2. Adjustment of deviations in scope of supply:

a) Deviations in the scope of supply for construction packages:

For a construction package that does not apply the lump sum contract, the bidder must state the bid unit price and total amount for all work items stated in the bid price schedule. If the bidder lists the work items as required in the bidding documents but omits the unit price and total amount for one or more work items, those items will not be considered underbid. The missing unit price will be assumed to be distributed proportionally among the other listed items in the bid price schedule and will not be separately payable by the employer.

Work items stated in the bidding documents that are not listed in the bidder's bid price schedule are considered missing offers, and deviations are adjusted according to Point c of this Clause for bid comparison and ranking. If a work item in the bidding documents appears in the bidder's price schedule with a unit price, but the quantity differs from the bidding document requirements (either less or more), this will be considered an underbid or excess offer. These deviations will be adjusted according to Point c of this Clause. Work items listed in the bidder's bid price schedule that are not within the scope of work stated in the bidding documents are considered excess offers, and these deviations are adjusted according to Point c of this Clause.

For construction packages applying the lump sum contract, the bidder's bid price is considered to

include all necessary costs to carry out the package in accordance with the design and technical requirements stated in the bidding documents and do not make adjustments in case the scope of work proposed by the bidder in the bidding documents is different from the requirements stated in the bidding documents, unless the other proposed work is outside the scope of the requirements in the bidding documents (in addition to the volume to be completed according to the design). In this case, the portion of work outside the scope of requirements in the bidding documents will be considered an excess offer and adjusted according to Point c of this Clause;

b) Deviations in the scope of supply for goods procurement and non-consulting packages:

In case the bidder lists the work items as required in the bidding documents but omits the bid unit price and total amount for one or several work items, it is considered an insufficient deviation and the deviation is adjusted according to Point c of this Clause for bid comparison and ranking.

Work items stated in the bidding documents that are not listed in the bidder's bid price schedule are considered missing offers, and the deviations are adjusted according to Point c of this Clause for bid comparison and ranking. If a work item in the bidding documents appears in the bidder's price schedule, but the quantity differs from the bidding document requirements (either less or more), this will be considered an underbid or excess offer. This deviation will be adjusted according to Point c of this Clause.

Work items listed in the bidder's bid price schedule that are not within the scope of work stated in the bidding documents are considered excess offers, and these deviations are corrected according to Point c of this Clause;

c) Adjust excess or insufficient deviations in the scope of supply:

If a bid lacks any required items (as specified in Points a and b of this Clause) and omits unit prices, the highest unit price of the item from technically-responsive bids will be used as the basis for deviation adjustment for those missing items; if the technically-responsive bids omit unit prices, the unit prices of the package estimate will be used as the basis for deviation adjustment; if the package estimate is unavailable, the unit prices forming the package price will be used as the basis for deviation adjustment, and for bidder comparison and ranking. The adjustment of insufficient deviations is only for bid comparison and ranking purpose.

If a bid proposes a lower volume of work than required in the bidding documents, the cost of the missing work will be added using the unit price from the bid.

If a bid proposes a higher volume of work than required in the bidding documents, the cost of the excess work will be deducted using the unit price from the bid.

3. If the bidder has a letter of discount, error correction and deviation adjustment are carried out on the basis of the bid price without deducting the discount. The percentage (%) of the insufficient deviation is determined on the basis of the bid price stated in the letter of bid.

4. Apply the unit price for the insufficient deviation to the first ranked bidder:

If a bid has insufficient deviations after adjustment according to Point c, Clause 2 of this Article, but remains ranked first, and lacks a unit price for the insufficient deviation, the proposed winning unit price will be determined based on the following priorities: the lowest unit price among the technically-responsive bids, the unit price in package estimate, unit price forming the package price (if package estimate is unavailable).

5. Following error correction, deviation adjustment, and application of unit prices for insufficient deviations (as outlined in Clauses 1, 2, 3, and 4), the procuring entity will notify the bidder of these adjustments in writing. Within 3 working days of receiving such a notice from the procuring entity, the bidder must notify the procuring entity in writing if they accept those adjustments from the procuring entity. If the bidder refuses those adjustments, their bid will be disqualified, unless the error correction, deviation adjustment, and application of unit prices are inappropriate or inaccurate.

Article 30. Checking and evaluation of bids

1. Check the validity of the bid, including:

a) Check the required documents of the bid, including: letter of bid; joint venture agreement (if any); power of attorney from the bidder's legal representative (if any); bid security; number of originals and photocopies of bidding documents;

b) Cross-check the original bid with its photocopies to ensure consistency before conducting the detailed bid evaluation.

2. Evaluate the validity of the bid:

a) The bid is considered valid when it fully meets the requirements of Clause 3, Article 24 of this Decree;

b) Bidders with valid bids will be evaluated for their capacity and experience.

3. Capacity and experience evaluation:

- a) The capacity and experience evaluation is carried out according to the evaluation criteria specified in the bidding documents;
- b) Bidders with qualified capacity and experience may undergo technical evaluation.

For goods procurement packages, bidders who are individuals or groups offering innovative products that meet the requirements in Clause 4, Article 5 of this Decree may be exempt from certain criteria outlined in Clause 3, Article 9.

4. Technical and financial evaluation:

- a) The technical evaluation is carried out according to the evaluation criteria and methods specified in the bidding documents;
- b) technically-responsive bidders may undergo financial evaluation using least-cost selection or evaluated price selection. The bidder who has the lowest bid price (after error correction, deviation adjustment, and any discounts) (for the least-cost selection) or has the lowest evaluated price (for the evaluated price selection) is ranked first. Discount letters that are not published in the bid opening minutes will not be evaluated.

If only one bidder is technically responsive, there is no need to determine the bidder ranking list. The employer does not have to approve the bidder ranking list.

5. The expert team prepares a report on the bid evaluation result and sends it to the procuring entity for review and submission to the employer for approval according to Article 31 of this Decree. The report on bid evaluation result must clearly state the following contents:

- a) Evaluation result for each bid;
- b) List of considered and ranked bidders and order of ranking of bidders;
- c) List of non-responsive and disqualified bidders; reasons for bidder disqualification;
- d) Name of the bidder proposed to win the bid, proposed winning price, type of contract, package performance duration and contract performance duration;
- dd) Comments on competitiveness, fairness, transparency and economic efficiency in the contractor selection process. If competitiveness, fairness, transparency, or economic efficiency cannot be assured, the procurement entity must clearly document the reasons and propose solutions;
- e) The contents of the bidding documents are not in accordance with law on bidding or the contents may lead to unclear or different interpretations during the implementation process or may distort the contractor selection result (if any); propose remedial measures;
- g) Key considerations (if any).

6. Based on the report on the bid evaluation result, the procuring entity shall send a request to the employer for approval according to Article 31 of this Decree. The request for approval for contractor selection result includes the contents specified in Clause 5 of this Article.

Article 31. Submission, appraisal of, approval for, and publication of contractor selection results

- 1. The procuring entity will submit the contractor selection result based on the bid evaluation report. This result, as specified in Clause 5, Article 30 of this Decree, will clearly outline the procuring entity's opinions on the expert team's evaluation findings.
- 2. The contractor selection result is evaluated according to Clauses 1 and 4, Article 130 of this Decree before approval.
- 3. The contractor selection result is approved in writing based on the approval request and appraisal report of the contractor selection result.
- 4. In case the successful bidder is selected, the approval for contractor selection result includes the following:
 - a) Name of successful bidder;
 - b) Successful bid;
 - c) Contract type;
 - d) Package performance duration as prescribed in Clause 7, Article 39 of the Bidding Law and contract performance duration according to civil law regulations;
 - dd) Key considerations (if any).
- 5. In case of bid cancellation in accordance with Clause 1, Article 17 of the Bidding Law, the approval for contractor selection results or decision on bid cancellation must clearly state the reason for the bid

cancellation and the responsibilities of related parties when canceling the bid. The decision on bid cancellation must be posted on VNEPS within 5 working days from signing date.

6. After the approval for contractor selection result is issued, the employer posts information about the contractor selection result according to Point a, Clause 1 and Clause 4, Article 8 of the Bidding Law; send a written notice of contractor selection result to participating bidders within 5 working days from approval date. Contents of the notice of contractor selection result:

- a) Contents specified in Points a, b, c and d, Clause 4 of this Article;
- b) List of unsuccessful bidders and the reasons for disqualification of each bidder;
- c) Plan for finalizing and signing contracts with the successful bidder:

Unsuccessful bidders can request a written or in-person explanation from the employer to understand why their bids were not chosen. The employer is responsible for responding to the bidder's request within 2 working days from the date of receiving the bidder's request.

If a bidder files a petition to the employer or competent person about issues before the announcement of the contractor selection result or about the contractor selection result, the employer is responsible for posting the petition resolution from employer and competent persons on VNEPS within 5 working days from the date of issuance of the petition resolution.

Article 32. Finalization and signing of contracts

1. The employer or procuring entity invites the successful bidder to finalize the contract. During the process of finalizing the contract, the parties complete the draft contract; specific conditions of the contract, contract appendices (any detailed list of scope of work, price schedule, performance schedule). Contract finalization is carried out on the basis of:

- a) The contract form filled out with specific information of the package;
- b) Approved contractor selection result;
- c) Requirements stated in the bidding documents;
- d) Contents stated in the bid and clarifications to bid of the successful bidder (if any);
- dd) Contents that need to be finalized in the contract.

2. The contract finalization result is the basis for the employer and bidder to sign the contract. If the bidder voluntarily reduces the price, the contract price is the value after the discount.

3. If the successful bidder does not come to finalize or refuses to finalize the contract or sign the contract, the bid security will be forfeited.

Article 33. Contract performance management

1. Contract performance management includes the following contents: performance progress, quality, costs and other aspects of the contract. The employer is responsible for managing contract performance.

2. The employer must update the actual progress of contract performance when completing the milestones specified in the contract on VNEPS.

3. The employer is responsible for publicizing the bidder's contract performance result on VNEPS according to Clauses 3 and 4, Article 18 of this Decree. For a package with good supply involvement, the employer must also publicly disclose on VNEPS the quality of goods provided by the bidder according to Clauses 5, 6 and 7, Article 18. of this Decree.

Section 2. SINGLE-STAGE AND TWO-ENVELOPE METHOD

Article 34. Detailed procedures

1. Contractor selection preparation, including:

- a) Shortlisting (if necessary);
- b) Prepare bidding documents;
- c) Appraise and approve bidding documents.

2. Contractor selection organization, including:

- a) Invitation to bid;
- b) Issue, modify and clarify bidding documents;
- c) Prepare, submit, receive, manage, modify, withdraw bids;
- d) Open technical proposals.

3. Evaluate technical proposals, including:

- a) Check and evaluate validity of technical proposals;
 - b) Evaluate technical proposals in details;
 - c) Submit, appraise, and approve the list of technically-responsive bidders.
 - 4. Open and evaluate financial proposals, including:
 - a) Open financial proposals of technically-responsive bidders;
 - b) Check and evaluate validity of financial proposals;
 - c) Evaluate financial proposals in details and rank bidders (if there is more than 1 bidder).
 - 5. Negotiate contracts (if any).
 - 6. Submit, appraise, approve, and publicize the contractor selection result and explain for unsuccessful bidders' disqualification upon their requests (if any).
 - 7. Finalize, sign, and manage contract performance.
- In addition to organizations, individuals and groups can bid on goods procurement packages with innovative products that meet the criteria of Clause 4, Article 5 of this Decree.

Article 35. Preparation of bidding documents

- 1. If the package applies shortlisting procedure, it shall comply with Article 23 of this Decree.
- 2. Bidding documents are prepared based on Clause 1 Article 24 of this Decree.
- 3. Bidding documents must provide all necessary information for bidders to prepare competitive bids. They cannot contain any restrictions that limit bidder participation or give any bidder an unfair advantage, which may cause unfair competition as prescribed in Point k, Clause 6, Article 16 and Clause 3, Article 44 of the Bidding Law. The Ministry of Planning and Investment clarifies that violations of Clause 3, Article 44 of the Bidding Law can invalidate bidding documents. This means such documents cannot be used to evaluate bids.
- 4. Bidding documents must specify evaluation criteria for the validity of technical proposals and financial proposals, including:

- a) Evaluation criteria for the validity of a technical proposal:

There is the original technical proposal;

There is a letter of bid in the technical proposal signed and stamped by the bidder's legal representative (if any) according to the requirements of the bidding documents; the signing date of the letter of bid must be after the issuance date of the bidding documents; do not include conditions that are disadvantageous to the employer. For a joint venture bidder, the letter of bid must be signed and sealed by the legal representative of each joint venture party (if any), or the party assigned to by the joint venture to sign the letter of bid according to the assigned responsibilities in the joint venture agreement;

The validity of the technical proposal meets the requirements as prescribed in the bidding documents;

There is a bid security with value and validity period and the beneficiary meets the requirements of the bidding documents. Bid security, in the form of a bank guarantee or certificate of guarantee insurance, may not violate any of the following requirements: their value or validity period must meet the minimums specified in the bidding documents, the beneficiary name must be correct, a valid signature must be present, the signature cannot be dated before the bidding documents were issued, the document cannot contain any conditions that disadvantage the employer or procuring entity. The bank guarantee or certificate of guarantee insurance must be signed and stamped by a legal representative of a domestic credit institution or foreign bank branch established under Vietnamese law, a domestic non-life insurer, branch of foreign non-life insurer established under Vietnamese law (if any). For insurance packages, participating bidders may not present their own certificate of guarantee insurance;

The bidder is not named in two or more technical proposals as an independent bidder or a joint venture party;

There is a joint venture agreement (in case of joint venture) signed and sealed by the legal representative of each joint venture party (if any); the joint venture agreement must clearly state the specific work each party will perform and the estimated value of each party's work. Work assignments within the joint venture will be determined by: items listed in the bid price schedule or tasks required to produce those items. Tasks unrelated to these items or the production of these items must not be assigned.

The bidder must meet the eligibility requirements in accordance with Article 5 of the Law on Bidding;

In the 3 years before the bid submission deadline, the bidder did not have employed personnel

(signed a labor contract with the bidder at the time they committed the violation) who were convicted by a court of a bidding violation leading to serious criminal consequences, with the intent for that bidder to win the contract;

b) Evaluate the validity of a financial proposal:

There is the original financial proposal;

There is a letter of bid in the financial proposal signed and stamped by the bidder's legal representative (if any) according to the requirements of the bidding documents; the signing date of the letter of bid must be after the issuance date of the bidding documents; do not propose different bid prices or include conditions that are disadvantageous to the employer. For a joint venture bidder, the letter of bid must be signed and sealed by the legal representative of each joint venture party (if any), or the party assigned to by the joint venture to sign the letter of bid according to the assigned responsibilities in the joint venture agreement;

The validity of the financial proposal meets the requirements as prescribed in the bidding documents.

5. Evaluation criteria of bids, including:

a) Evaluation criteria for capacity and experience;

b) Technical evaluation criteria;

c) Determine the lowest price (in case the least-cost selection is applied);

d) Criteria for determining evaluated price (in case of applying the evaluated price selection);

dd) Combined evaluation criteria (in case of applying the quality- and cost-based selection).

For packages that have been pre-qualified, the bidding documents can omit evaluation criteria for bidder capacity and experience. However, they must require an update on the bidder's current capacity information.

6. Evaluation criteria for capacity and experience; technical evaluation criteria will be based on Points a and b, Clause 4 and Points a, b, Clause 5, Article 24 of this Decree.

7. Determination of the lowest price (in case of applying the least-cost selection) is carried out according to Point c, Clause 4 and Point c, Clause 5, Article 24 of this Decree.

8. Determination of the evaluated price (in case of applying the evaluated price selection) is carried out according to Point d, Clause 4 and Point d, Clause 5, Article 24 of this Decree.

9. Determination of combined evaluation criteria (in case of applying the quality- and cost-based selection) is carried out according to Article 36 of this Decree.

10. Regulations on stating the trademark and origin of goods are specified in Clause 9, Article 24 of this Decree.

11. Regulations on labor use are specified in Clause 10, Article 24 of this Decree.

12. Regulations on additional purchase options are specified in Clause 11, Article 24 of this Decree.

13. For non-consulting and mixed packages, based on the scale and nature of the package and the provisions in this Article, determine evaluation criteria for capacity and experience; technical evaluation criteria; determine the lowest price (in case the least-cost selection is applied), or the criteria for determining the evaluated price (in case the evaluated price selection is applied), or combined evaluation criteria (in case the quality- and cost-based selection is applied) accordingly.

14. Regulations on sales permits are specified in Clause 12, Article 24 of this Decree.

Article 36. Combined evaluation criteria

1. Combined evaluation criteria apply to the quality- and cost-based selection on the basis of determining an aggregate score.

The aggregate score is determined as follows:

$$\text{Điểm tổng hợp}_{\text{đang xét}} = \left(\frac{G_{\text{thấp nhất}}}{G_{\text{đang xét}}} \times T + \frac{\text{Điểm kỹ thuật}_{\text{đang xét}}}{\text{Điểm kỹ thuật}_{\text{cao nhất}}} \times K \right) \times 100$$

Where:

Technical score under consideration: is the score determined at the technical evaluation step of the bid under consideration;

Highest technical score: is the highest technical score among technically-responsive bids;

Lowest G: is the bid price (after error correction, deviation adjustment, and any discounts) of

technically-responsive bids;

G under consideration: is the bid price (after error correction, deviation adjustment, and any discounts) of the bid under consideration;

K: Technical score weight given in the aggregate score scale;

T: Financial score weight given in the aggregate score scale;

$K + T = 100\%$. Technical score weight and financial score weight must be specifically determined in the bidding documents.

2. Combined evaluation criteria are built on the basis of a combination of technical and financial aspects. Depending on the scale and nature of each package, it is necessary to determine the technical score weight and financial score weight accordingly, ensuring that their total equals 100% according to the following principle:

a) For construction, procurement, non-consulting, and mixed packages: Technical score weight is from 10% to 30% and financial score weight is from 70% to 90%;

b) For drug procurement packages: Technical score weight is from 30% to 40% and financial score weight is from 60% to 70%.

3. If technical aspects need to be prioritized over financial aspects, the employer submits to the competent person to consider specific technical score weight and financial score weight accordingly, provided that the technical score weight does not exceed 50%.

Article 37. Appraisal of and approval for bidding documents

1. Bidding documents must be appraised according to Article 129 of this Decree before approval.

2. Approval for bidding documents must be based on the approval report and appraisal report of bidding documents.

Article 38. Organization of contractor selection

1. Invitation for bids:

a) Invitation to bid is applied according to Point b, Clause 1, Article 8 of the Bidding Law if the shortlisting procedure is not applied;

b) Send invitations to bid to bidders on the short list.

2. Issue, modify and clarify bidding documents:

The issuance, modification, and clarifications to bidding documents shall comply with Clause 2, Article 26 of this Decree.

3. Prepare, submit, receive, manage, modify, withdraw bids:

Preparation, submission, receipt, management, modification, and withdrawal of bids shall comply with Clause 3, Article 26 of this Decree.

4. Open technical proposals:

a) The opening of a technical proposal must be conducted publicly and begin within 2 hours from the bid submission deadline. The procuring entity only opens technical proposals received before the bid submission deadline according to the requirements of the bidding documents in the presence of representatives of bidders attending the bid opening ceremony, regardless of the presence or absence of bidders;

b) Technical proposals are opened in alphabetical order by bidder name and in the following order: check the seal; open the envelope and clearly read the bidder's name, check the number of originals and copies of the technical proposal and the letter of bid in the technical proposal; check validity period of the technical proposal; verify proposed performance duration; check value and validity of bid security and other related information;

c) The information specified in point b of this clause must be recorded in the minutes of technical proposal opening. The minutes will be signed by representatives of the procuring entity and bidders attending the opening ceremony of technical proposals and sent to participating bidders and posted on VNEPS within 24 hours upon bid opening;

d) The representative of the procuring entity signs the original letter of bid, and the authorization letter of the investor's legal representative (if any); joint venture agreement (if any); bid security; important contents of each technical proposal;

dd) The financial proposals of all bidders must be sealed in a separate envelope by the procuring entity and must be signed and sealed by representatives of the procuring entity and bidders attending the technical proposal opening ceremony.

Article 39. Principles for evaluation of and clarifications to bids, error correction and deviation adjustment

1. The evaluation of bids is carried out according to the principles specified in Clauses 1, 2, 3, 5, 6, 7 and 8, Article 27 of this Decree.

For a divided package, bid evaluation and award will prioritize the bid with lowest total proposed winning price (for least-cost selection); or prioritize the bid with the lowest total evaluated price (for evaluated price selection); or prioritize the bid with the highest aggregate score (for quality- and cost-based selection) and the winning bid price for the entire package not exceeding the approved package price, regardless of partial package estimates; for a package for procurement of drugs, chemicals, testing supplies, medical equipment, and medical procedures, the instructions of the Ministry of Health (if any) will apply.

2. The bid clarification shall comply with Article 28 of this Decree.

3. Error correction and deviation adjustment are carried out in accordance with Article 29 of this Decree.

Article 40. Checking and evaluation of validity of technical proposals

1. Evaluate criteria for the validity of a technical proposal:

a) Check the required documents in the technical proposal, including: letter of bid in the technical proposal; joint venture agreement (if any); power of attorney from the bidder's legal representative (if any); bid security; number of originals and photocopies of the technical proposal;

b) Cross-check the original bid with its photocopies to ensure consistency before conducting the detailed technical proposal evaluation.

2. Evaluate the validity of the technical proposal:

The technical proposal is considered valid when it fully meets the requirements of Point a, Clause 4, Article 35 of this Decree.

Bidders with valid technical proposals will be evaluated for their capacity and experience. For packages that have been pre-qualified, no evaluation of the bidder's capacity and experience is conducted.

3. Evaluation of capacity and experience:

a) The evaluation of capacity and experience is carried out according to the evaluation criteria specified in the bidding documents;

b) Bidders with qualified capacity and experience may undergo technical evaluation;

c) For packages with prequalification, the bidder who has passed the prequalification step, has a valid technical proposal, and has updated capacity to meet the requirements of the package will undergo the technical evaluation.

For goods procurement packages, bidders who are individuals or groups offering innovative products that meet the requirements in Clause 4, Article 5 of this Decree may be exempt from certain criteria outlined in Clause 3, Article 9.

4. Technical evaluation:

a) The technical evaluation is carried out according to the evaluation criteria specified in the bidding documents;

b) Open and evaluate financial proposals of technically-responsive bidders.

5. The list of technically-responsive bidders must be approved in writing by the employer based on the approval report and appraisal report of technical evaluation result. The procuring entity announces the list of technically-responsive bidders and technically-nonresponsive bidders, states the reasons for technically-nonresponsive bidders, and invites all participating bidders to open their financial proposals. The procuring entity must post a list of technically-responsive bidders on VNEPS within 5 working days from the date of approval for this list.

Article 41. Opening of financial proposals

1. The procuring entity checks the seal of the envelope containing the financial proposals.

2. The opening of financial proposals is carried out as follows:

a) Only open financial proposals of bidders whose names are on the list of technically-responsive bidders in the presence of representatives of bidders attending the financial proposal opening ceremony, regardless of the presence or absence of bidders;

b) The opening of financial proposals is carried out for each financial proposal according to the alphabetical order of the bidder's name in the list of technically-responsive bidders and according to

the following order: check the seal; read the technical scores of technically-responsive bids (If the scoring method is used); open the envelope and clearly read the information: check the seal; read the technical scores of technically-responsive bids (If the scoring method is used); open the envelope and clearly read the information: name of the bidder, number of originals, copies of the financial proposal, letter of bid included in the financial proposal, validity period of the financial proposal, bid price stated in the letter of bid, discount (if any), and other related information.

3. Minutes of opening financial proposals:

a) The information specified in Clauses 1 and 2 of this Article must be recorded in the minutes of opening financial proposals. The minutes of opening financial proposals must be signed by representatives of the procuring entity and bidder participating in the opening of financial proposals. The minutes will be sent to technically-responsive bidders and posted on VNEPS within 24 hours upon bid opening;

b) The representative of the procuring entity must sign all original pages of the financial proposal.

Article 42. Checking and evaluation of financial proposals

1. Check the validity of the financial proposal, including:

a) Check the number of originals and photocopies of the financial proposal;

b) Check the required documents in the financial proposal, including: the letter of bid in the financial proposal; bid price schedule; other documents in the financial proposal;

c) Cross-check the original with its photocopies to ensure consistency before conducting the detailed financial proposal evaluation.

2. Evaluate the validity of the financial proposal:

The financial proposal is considered valid when it fully meets the requirements of Point b, Clause 4, Article 35 of this Decree.

Bidders with valid financial proposals will undergo a detailed financial evaluation.

3. Evaluate financial proposals in details and rank bidder:

a) Detailed evaluation of financial proposals and bidder ranking are carried out according to the evaluation criteria specified in the bidding documents. Any letter of discount that is not published in the bid opening minutes will not be evaluated;

b) After forming the bidder ranking list, the expert team prepares a report and sends it to the procuring entity for consideration. The report includes the following contents: list of responsive bidders and their ranks; list of nonresponsive and disqualified bidders, with explanations for disqualification; comments on competitiveness, fairness, transparency and economic efficiency in the contractor selection process. If competitiveness, fairness, transparency and economic efficiency are not guaranteed, the reasons must be clearly stated and solutions proposed; the contents of the bidding documents are not in accordance with the law on bidding or the contents may lead to unclear or different interpretations during implementation or may distort the contractor selection result (if any); propose remedial measures.

The employer does not have to approve the bidder ranking list.

Article 43. Contract negotiation

1. If the package applies contract negotiation, the first-ranked bidder is invited by the procuring entity to negotiate the contract.

2. Bases for contract negotiation:

a) Bid evaluation report;

b) The bid and clarifications to bid (if any) of the bidder;

c) Bidding documents, which contain general conditions, specific conditions of the contract and modifications of and clarifications to the bidding documents (if any).

3. Principles of contract negotiation:

a) Do not negotiate the content of a bid that complies with the bidding documents;

b) Do not change the unit price determined at the financial evaluation step.

4. Matters to be negotiated:

a) Contents that are insufficiently detailed, unclear, or inconsistent between the bidding documents and the bid, or within different sections of the bid, which can lead to issues and disputes or affect the responsibilities of the parties during contract performance;

b) Deviations identified and proposed by the bidder in their bid (if applicable). This includes proposals for changes or alternative technical solutions, if the bidding documents allowed bidders to submit such alternatives;

c) Key personnel:

Bidders cannot replace key personnel who have been proposed or have been replaced once according to Clause 2, Article 27 of this Decree. Exceptions are allowed only in two situations: the bid evaluation takes longer than originally anticipated in the specific contractor selection plan, or force majeure prevents the proposed key personnel from performing the contract. In this case, the bidder can replace other personnel but the replacements must possess qualifications, experience and capacity equivalent to or higher than the originally proposed personnel and the bidder is not allowed to change their bid price;

d) Issues that arise during the contractor selection process (if any) to finalize the detailed contents of the package;

dd) Other necessary contents.

5. During the contract negotiation process, the parties complete the draft contract; specific conditions of the contract, contract appendices (any detailed list of scope of work, price schedule, performance schedule).

6. Following the contract negotiation completion, the procuring entity shall send a request for approval for contractor selection result the employer according to Article 31 of this Decree. The request for approval for contractor selection result includes the following contents:

a) Evaluation result for each bid;

b) List of considered and ranked bidders and order of ranking of bidders;

c) Contract negotiation result;

d) List of non-responsive and disqualified bidders; reasons for bidder disqualification;

dd) Name of the bidder proposed to win the bid, proposed winning price, type of contract, package performance duration and contract performance duration;

e) Comments on competitiveness, fairness, transparency and economic efficiency in the contractor selection process. If competitiveness, fairness, transparency, or economic efficiency cannot be assured, the procurement entity must clearly document the reasons and propose solutions;

g) The contents of the bidding documents are not in accordance with law on bidding or the contents may lead to unclear or different interpretations during the implementation process or may distort the contractor selection result (if any); propose remedial measures;

h) Key considerations (if any).

7. . If the bidder participates in negotiations but fails to conduct negotiations in accordance with the principles and contents specified in Clauses 3 and 4 of this Article or has conducted negotiations but fails to sign the contract negotiation minutes, signifying their withdrawal from the bidding process; or causes disadvantages to the employer, the bidder will be disqualified and the bid security will be forfeited.

8. The bidder has the right to refuse to negotiate and has the bid security refunded if the procuring entity or employer fails to conduct negotiations according to the principles and contents specified in Clauses 3 and 4 of this Article.

9. If the negotiation is not successful, the procuring entity will report to the employer for consideration and decide whether to invite the next ranked bidder to negotiate.

Article 44. Submission, appraisal of, approval for, and publication of contractor selection result, finalization, signing, and management of contract

1. The submission, appraisal of, approval for, and publicization of contractor selection result shall comply with Article 31 of this Decree.

2. The finalization, signing, and management of contracts shall comply with Article 32 and Article 33 of this Decree.

Chapter III

OFFLINE LIMITED BIDDING, COMPETITIVE BIDDING FOR GOODS PROCUREMENT, CONSTRUCTION, MIXED PACKAGES UNDER TWO-STAGE METHOD

Section 1. TWO-STAGE AND ONE-ENVELOPE METHOD

Article 45. Preparation for bidding in first stage

1. Shortlisting procedure for competitive bidding and limited bidding shall comply with Article 23 of this Decree.

2. Prepare bidding documents in first stage:

a) The bidding documents are prepared in accordance with Clauses 1 and 2, Article 24 of this Decree;

b) Bidding documents in first stage include the following contents: Summary about the project and package; instructions for preparing and submitting bids in first stage; technical requirements of the package based on the approved basic design or technical specifications; technical evaluation criteria of the package.

Bidding documents must allow bidders to propose alternatives to the technical options offered in the bidding documents, without requiring them to propose corresponding bid prices and bid security for these alternatives.

3. Appraise and approve bidding documents:

a) Bidding documents must be appraised according to Article 129 of this Decree before approval;

b) Approval for bidding documents must be based on the approval report and appraisal report of bidding documents.

Article 46. Organization of bidding in first stage

1. The invitation to bid in first stage shall comply with Clause 1, Article 26 of this Decree.

2. Issue, modify and clarify bidding documents:

The issuance, modification, and clarification of the bidding documents shall comply with Clause 2, Article 26 of this Decree.

3. Prepare, submit, receive, manage, modify, withdraw bids:

Preparation, submission, receipt, management, modification, and withdrawal of bids shall comply with Clause 3, Article 26 of this Decree.

4. Bid opening:

The bid opening shall comply with Clause 4 Article 26 of this Decree.

The bid opening minutes in first stage do not include information about bid security, bid prices and discounts (if any) of bidders.

Article 47. Evaluation of technical proposals, submission of, approval for, and publicization of the list of bidders that meet the requirements of bidding documents in first stage

1. The bid evaluation principles shall comply with Article 27 of this Decree.

2. The bid clarification shall comply with Article 28 of this Decree.

3. The submission of, approval for and publicization of the list of bidders that meet the requirements of bidding documents in first stage shall comply with Article 31 of this Decree. The list of bidders that meet the requirements of bidding documents in first stage must be posted on VNEPS no later than 5 working days from the date of approval.

Article 48. Preparation for and organization of bidding in second stage

1. Discussion about the bids in first stage:

The procuring entity invites each bidder on the list of technically-responsive bidders in first stage to clarify the contents of the technical proposal. The clarifications to the technical proposal includes requirements for technical adjustments compared to the bidder's proposal in first stage and comments on the content of the bidding documents and the alternative technical plan. The detailed clarifications are recorded by the procuring entity and each bidder in writing. The procuring entity must ensure that bidders' information in the first stage is not disclosed.

Based on the clarifications to technical proposals for each bidder, the procuring entity synthesizes and reports to the employer the contents that need to be adjusted and supplemented in terms of instructions to bidders, evaluation criteria, and technical requirements, contract conditions and other contents of the bidding documents in first stage. The employer is responsible for reviewing and deciding on adjustment and supplementations based on the proposal of the procuring entity.

2. Prepare bidding documents in second stage:

a) Grounds for preparing bidding documents:

In addition to the grounds specified in Clauses 1 and 2, Article 24 of this Decree, the bidding documents in second stage must be based on adjustment and supplementations related to instructions to bidders, evaluation criteria, and technical requirements, contract conditions and other contents of the bidding documents in first stage.

b) Contents of bidding documents:

Bidding documents include the following contents: instructions to bidders, additional purchase options (if any); bid data sheet; evaluation criteria for the validity of bids; bidder's capacity and experience; technique; finance, trade; information about the bidder's contract performance result and the quality of similar goods used; bidding and bid forms; scope of supply, technical requirements; contract conditions and forms; documents, drawings and other contents (if any).

3. Appraise and approve bidding documents;

a) Bidding documents must be appraised according to Article 129 of this Decree before approval;

b) Approval for bidding documents must be based on the approval report and appraisal report of bidding documents.

4. Organization of bidding:

a) Bidding documents in second stage are issued to bidders in the list of bidders that meet the requirements of bidding documents in first stage.

The clarifications to the bidding documents shall comply with Clause 2, Article 26 of this Decree;

b) Prepare, submit, receive, manage, modify, withdraw bids:

Preparation, submission, receipt, management, modification, and withdrawal of bids shall comply with Clause 3, Article 26 of this Decree.

5. Bid opening:

The bid opening shall comply with Clause 4 Article 26 of this Decree.

Article 49. Evaluation of bids in second stage

1. The bid evaluation principles shall comply with Article 27 of this Decree.

2. The bid clarification shall comply with Article 28 of this Decree.

3. Error correction and deviation adjustment are carried out in accordance with Article 29 of this Decree.

4. The bid evaluation shall comply with Article 30 of this Decree.

Article 50. Negotiation, submission, appraisal of, approval for, and publication of contractor selection result, finalization, signing, and management of contract

1. The first-ranked bidder is invited by the procuring entity to negotiate the contract.

2. The contract negotiation shall comply with Article 43 of this Decree.

3. The submission, appraisal of, approval for, and publicization of contractor selection result shall comply with Article 31 of this Decree.

4. The finalization, signing, and management of contracts shall comply with Article 32 and Article 33 of this Decree.

Section 2. TWO-STAGE AND TWO-ENVELOPE METHOD

Article 51. Preparation for bidding in first stage

1. Shortlisting procedure for competitive bidding and limited bidding shall comply with Article 23 of this Decree.

2. Prepare bidding documents in first stage:

a) The bidding documents are prepared in accordance with Clauses 1 and 2, Article 24 of this Decree;

b) Bidding documents in first stage include the following contents: Summary about the project and package; instructions for preparing and submitting bids in first stage; technical requirements of the package based on the approved basic design or technical specifications; technical evaluation criteria of the package. Bidding documents must allow bidders to propose alternatives to the technical options offered in the bidding documents, without requiring them to propose corresponding bid prices and bid security for these alternatives.

3. Appraise and approve bidding documents:

a) Bidding documents must be appraised according to Article 129 of this Decree before approval;

b) Approval for bidding documents must be based on the approval report and appraisal report of bidding documents.

Article 52. Organization of bidding in first stage

1. The invitation to bid in first stage shall comply with Clause 1, Article 26 of this Decree.

2. The issuance, modification, and clarification of the bidding documents shall comply with Clause 2, Article 26 of this Decree.

3. Preparation, submission, receipt, management, modification, and withdrawal of bids shall comply with Clause 3, Article 26 of this Decree.

4. Bid opening:

a) The bid opening shall comply with Clause 4 Article 26 of this Decree;

b) The bid opening minutes in first stage do not include information about bid security, bid prices and discounts (if any) of bidders.

Article 53. Evaluation of technical proposals, submission of, approval for, and publicization of the list of bidders that meet the requirements of bidding documents in first stage

1. The bid evaluation principles shall comply with Article 27 of this Decree.

2. The bid clarification shall comply with Article 28 of this Decree.

3. The submission, appraisal of, approval for and publicization of the list of bidders that meet the requirements of bidding documents in first stage shall comply with Article 31 of this Decree. The list of bidders that meet the requirements of bidding documents in first stage must be posted on VNEPS no later than 5 working days from the date of approval.

Article 54. Preparation for and organization of bidding in second stage

1. Discussion about the bids in first stage:

The procuring entity invites each bidder on the list of technically-responsive bidders in first stage to clarify the contents of the technical proposal. The clarifications to the technical proposal includes requirements for technical adjustments compared to the bidder's proposal in first stage and comments on the content of the bidding documents and the alternative technical plan. The detailed clarifications are recorded by the procuring entity and each bidder in writing. The procuring entity must ensure that bidders' information in the first stage is not disclosed.

Based on the clarifications to technical proposals for each bidder, the procuring entity synthesizes and reports to the employer the contents that need to be adjusted and supplemented in terms of instructions to bidders, evaluation criteria, and technical requirements, contract conditions and other contents of the bidding documents in first stage. The employer is responsible for reviewing and deciding on adjustment and supplementations based on the proposal of the procuring entity.

2. Prepare bidding documents in second stage:

a) Grounds for preparing bidding documents:

In addition to the grounds specified in Clauses 1 and 2, Article 24 of this Decree, the bidding documents in second stage must be based on adjustment and supplementations related to instructions to bidders, evaluation criteria, and technical requirements, contract conditions and other contents of the bidding documents in first stage;

b) Contents of bidding documents:

Bidding documents include the following contents: instructions to bidders, additional purchase options (if any); bid data sheet; evaluation criteria for the validity of bids; bidder's capacity and experience; technique; finance, trade; information about the bidder's contract performance result and the quality of similar goods used; bidding and bid forms; scope of supply, technical requirements; contract conditions and forms; documents, drawings and other contents (if any).

3. Appraise and approve bidding documents:

a) Bidding documents must be appraised according to Article 129 of this Decree before approval;

b) Approval for bidding documents must be based on the approval report and appraisal report of bidding documents.

4. Organization of bidding:

a) Bidding documents in second stage are issued to bidders in the list of bidders that meet the requirements of bidding documents in first stage.

The clarifications to the bidding documents shall comply with Clause 2, Article 26 of this Decree;

b) Prepare, submit, receive, manage, modify, withdraw bids: Preparation, submission, receipt, management, modification, and withdrawal of bids shall comply with Clause 3, Article 26 of this Decree. Bidders submit bids including separate technical proposals and financial proposals according to the requirements of the bidding documents in second stage, including the bid price and bid security. Financial proposals are offered according to the main technical proposal of the bidder; if the bidder offers an alternative technical plan, it must be enclosed with the financial proposal for this alternative.

5. Open technical proposals:

The technical proposal opening shall comply with Clause 4 Article 38 of this Decree.

Article 55. Evaluation of technical proposals in second stage

1. The bid evaluation principles shall comply with Article 27 of this Decree.
2. The bid clarification shall comply with Article 28 of this Decree.

Article 56. Submission, appraisal of, and approval for the list of technically-responsive bidders in second stage

1. The submission, appraisal of, approval for and publicization of the list of technically-responsive bidders in first stage shall comply with Clause 1 and Clause 3 Article 130 of this Decree.
2. The procuring entity shall notify and post a list of technically-responsive bidders on VNEPS no later than 5 working days from the date this list is approved and open financial proposals of these technically-responsive bidders.

Article 57. Evaluation of financial proposals in second stage

1. The bid evaluation principles shall comply with Article 27 of this Decree.
2. The bid clarification shall comply with Article 28 of this Decree.
3. Error correction and deviation adjustment are carried out in accordance with Article 29 of this Decree.
4. Principles for evaluating financial proposals comply with Article 42 of this Decree.

Article 58. Submission, appraisal of, approval for, and publication of contractor selection result, finalization, signing, and management of contract

1. The first-ranked bidder is invited by the procuring entity to negotiate the contract.
2. The contract negotiation shall comply with Article 43 of this Decree.
3. The submission, appraisal of, approval for, and publicization of contractor selection result shall comply with Article 31 of this Decree.
4. The finalization, signing, and management of contracts shall comply with Article 32 and Article 33 of this Decree.

Chapter IV

OFFLINE LIMITED BIDDING, COMPETITIVE BIDDING FOR CONSULTING PACKAGES

Section 1. CORPORATE BIDDERS

Article 59. Detailed procedures

1. Contractor selection preparation, including:
 - a) Shortlisting (if necessary);
 - b) Prepare bidding documents;
 - c) Appraise and approve bidding documents.
2. Contractor selection organization, including:
 - a) Invitation to bid;
 - b) Issue, modify and clarify bidding documents;
 - c) Prepare, submit, receive, manage, modify, withdraw bids;
 - d) Open technical proposals.
3. Evaluate the technical proposal, including:
 - a) Check and evaluate the validity of the technical proposal;
 - b) Evaluate the technical proposal in details;
 - c) Submit, appraise, and approve the list of technically-responsive bidders.
4. Open and evaluate financial proposals, including:
 - a) Open financial proposals of technically-responsive bidders;
 - b) Check and evaluate validity of financial proposals;
 - c) Evaluate financial proposals in details;

- d) Rank bidders (if there is more than 1 bidder).
- 5. Negotiate contract.
- 6. Submit, appraise, approve, and publicize the contractor selection result and explain for unsuccessful bidders' disqualification upon their requests (if any).
- 7. Finalize, sign, and manage contract performance.

Article 60. Shortlisting

1. Based on the scale and nature of the package, the competent person decides to apply the shortlist selection procedure. The application of shortlisting procedure must be recorded in the specific contractor selection plan.

2. For competitive bidding:

a) Prepare EOI request:

The EOI request includes the following contents: summary about the project, procurement estimate, package; instructions on preparing and submitting EOI responses; evaluation criteria for the validity of EOI responses; criteria for bidder capacity and experience; personnel standards (if any). Criteria for evaluating EOI responses are built on the basis of using the scoring method, which stipulates the minimum required score not lower than 60% of the aggregate score;

b) EOI request must be appraised according to Article 129 of this Decree before approval;

c) Approval for EOI request must be based on the approval report and appraisal report of EOI request;

d) Invitation for EOI responses shall comply with Point b, Clause 1, Article 8 of the Bidding Law;

dd) The EOI request is published on VNEPS free of charge;

e) The procuring entity confidentially receives and manages EOI responses until the EOI result is announced;

g) Open and evaluate EOI responses:

EOI responses are submitted by the deadline and at the location specified in the EOI request and are opened immediately after the bid submission deadline. The record of the EOI opening will be sent to participating bidders and posted on VNEPS within 24 hours upon bid opening. EOI responses submitted after the bid submission deadline are invalid, cannot be opened and will be disqualified.

The evaluation of EOI responses is carried out according to the evaluation criteria specified in the EOI request. Bidders' EOI responses with a score not lower than the minimum required score will be included in the shortlist; the bidder's EOI response with the highest score is ranked first; if there are more than 6 qualified bidders, 6 highest-ranked bidders will be selected for the shortlist;

h) Submit, appraise, and approve the EOI result:

The procuring entity submits the EOI evaluation result for approval, including their opinions on of the expert team's evaluation findings.

The EOI result is appraised against Clauses 1 and 2 of Article 130 of this Decree. Following this appraisal, a written approval is granted based on the EOI approval proposal and appraisal report. If a shortlist is created, the EOI result approval will identify the successful bidders and include any relevant notes. If a shortlist is not created, the EOI result approval must clearly state the reason a shortlist was not created;

i) The shortlist will be posted as required in Point b, Clause 1, Article 8 of the Bidding Law and shared with bidders who submitted EOI responses.

3. For limited bidding:

a) Identify and approve a shortlist of at least 3 bidders who have the capacity and experience to meet the requirements of the package and wish to participate in the bidding. If less than 3 bidders meet the requirements, follow the procedures outlined in Clause 3, Article 131 of this Decree;

b) After approval, the shortlist is posted according to Point b, Clause 1 and Clause 4, Article 8 of the Bidding Law.

4. Shortlisted bidders cannot form a joint venture for this bidding process. However, they may participate as a joint venture with a non-shortlisted bidder, but only with the employer's approval before the bid deadline.

Article 61. Preparation of bidding documents

1. Grounds for preparing bidding documents:

a) Approved overall contractor selection plan (if any);

- b) Approved specific contractor selection plan;
- c) Scope and requirements of work; experience and personnel requirements of the consultant and other necessary requirements (if any);
- d) Legal regulations on bidding and related laws; international treaties and loan agreements (if any) for ODA-funded projects and concessional loans;
- dd) Legal regulations on taxes, fees, incentives in contractor selection;
- e) Other related grounds.

2. Bidding documents must provide all necessary information for bidders to prepare competitive bids. They cannot contain any restrictions that limit bidder participation or give any bidder an unfair advantage, which may cause unfair competition as prescribed in Point k, Clause 6, Article 16 and Clause 3, Article 44 of the Bidding Law. The Ministry of Planning and Investment clarifies that violations of Clause 3, Article 44 of the Bidding Law can invalidate bidding documents. This means such documents cannot be used to evaluate bids.

3. Bidding documents must specify evaluation criteria for the validity of technical proposals and financial proposals, including:

- a) The technical proposal is considered valid when it fully meets the following requirements:

There is the original technical proposal;

There is a letter of bid in the technical proposal signed and stamped by the bidder's legal representative (if any) according to the requirements of the bidding documents; the signing date of the letter of bid must be after the issuance date of the bidding documents; do not include conditions that are disadvantageous to the employer. For a joint venture bidder, the letter of bid must be signed and sealed by the legal representative of each joint venture party (if any) or the party assigned to by the joint venture to sign the letter of bid according to the assigned responsibilities in the joint venture agreement;

The tax declaration and tax payment obligations have been fulfilled;

The validity of the technical proposal meets the requirements as prescribed in the bidding documents;

The bidder is not named in two or more technical proposals as an independent bidder or a joint venture party;

There is a joint venture agreement (in case of joint venture) signed and sealed by the legal representative of each joint venture party (if any); the joint venture agreement must clearly state the specific work each party will perform and the estimated value of each party's work. Work assignments within the joint venture will be determined by: items listed in the terms of reference or technical proposal. Tasks unrelated to these items must not be assigned;

The bidder must meet the eligibility requirements in accordance with Article 5 of the Law on Bidding;

In the 3 years before the bid submission deadline, the bidder did not have employed personnel (signed a labor contract with the bidder at the time they committed the violation) who were convicted by a court of a bidding violation leading to serious criminal consequences, with the intent for that bidder to win the contract;

- b) The financial proposal is considered valid when it fully meets the following requirements:

There is the original financial proposal;

There is a letter of bid in the financial proposal signed and stamped by the bidder's legal representative (if any) according to the requirements of the bidding documents; the signing date of the letter of bid must be after the issuance date of the bidding documents; do not propose different bid prices or include conditions that are disadvantageous to the employer. For a joint venture bidder, the letter of bid must be signed and sealed by the legal representative of each joint venture party (if any) or the party assigned to by the joint venture to sign the letter of bid according to the assigned responsibilities in the joint venture agreement;

The validity of the financial proposal meets the requirements as prescribed in the bidding documents.

4. Evaluation criteria of bids, including: technical evaluation criteria; determine the lowest price (if the least-cost selection is applied); combined evaluation criteria (if the quality-and cost-based selection is applied).

5. Technical evaluation criteria: using scoring methods, including:

- a) Bidder experience and capacity: from 0% to 15% of total score;

b) Bidder's reputation through bidding participation, bidder's contract performance result as prescribed in Articles 17 and 18 of this Decree: 5% of total score;

- c) Solutions and methodology to perform the package: from 30% to 40% of total score;
- d) Personnel performing the package: from 50% to 60% of total score;
- dd) Depending on the nature of the package, the bidding documents may require technology transfer with a weight of from 0% to 10% of the total score;
- e) The total weight of score for the items specified in Points a, b, c and d of this Clause is 100%.

Technical proposals are evaluated to meet technical requirements when the technical score is not lower than 70% of the aggregate score (or 80% for consulting service packages with high and special technical requirements) and the score of each required item on solutions and methodology, personnel, and technology transfer (if any) is not lower than 60% of the maximum score of that item (not lower than 70% for that item for consulting service packages with high and specific technical requirements). The procuring entity should determine whether a minimum score is necessary for the "bidder experience and capacity" criterion, based on the nature of the procurement package.

6. Based on the scale and nature of the package, the bidding documents stipulate the financial evaluation method according to one of the following methods:

- a) Least-cost selection;
- b) Quality- and cost-based selection;
- c) Quality-based selection.

7. Determination of the lowest price (in case of applying the least-cost selection) is carried out according to Point c, Clause 4 of this Article.

8. Combined evaluation criteria (in case of applying the quality- and cost-based selection):

- a) Determine cost-based score:

Use a scale consistent with the quality-based scale to determine the cost-based price. The cost-based score is determined as follows:

$$\text{Cost-based score under consideration} = \frac{\text{Lowest price x (technical scale)}}{\text{Price under consideration}}$$

Where:

Cost-based score under consideration: Cost-based score of the financial proposal under consideration;

Lowest price: The lowest bid price (after error correction, deviation adjustment, and any discounts) among bidders with detailed financial evaluation;

Price under consideration: The bid price (after error correction, deviation adjustment, and any discounts) of the bid under consideration.

- b) Combined evaluation criteria:

The aggregate score is determined according to the following formula:

Aggregate score under consideration = K x Quality-based score under consideration + G x Cost-based score under consideration

Where:

Quality-based score under consideration: is the score determined at the technical evaluation step;

Cost-based score under consideration: is the score determined at the financial evaluation step;

K: Quality-based score weight given in the aggregate score scale; accounting for 70% to 80%;

G: Cost-based score weight given in the aggregate score scale; accounting for 20% to 30%;

K + G = 100%.

Article 62. Appraisal of and approval for bidding documents

1. Bidding documents must be appraised according to Article 129 of this Decree before approval.
2. Approval for bidding documents must be based on the approval report and appraisal report of bidding documents.

Article 63. Organization of contractor selection

1. Invitation for bids:

a) Invitation to bid is applied according to Point b, Clause 1, Article 8 of the Bidding Law if the shortlisting procedure is not applied;

b) In case the package applies the shortlisting procedure, invitations to bid will be sent to the bidders named on the shortlist.

2. The issuance, modification, and clarification of the bidding documents shall comply with Clause 2, Article 26 of this Decree.

3. Preparation, submission, receipt, management, modification, and withdrawal of bids shall comply with Clause 3, Article 26 of this Decree.

4. The technical proposal opening shall comply with Clause 4 Article 38 of this Decree but exclude the bid security. The bid opening minutes will be sent to participating bidders and posted on VNEPS within 24 hours upon bid opening.

Article 64. Principles for evaluating bids

1. The evaluation of bids must be based on the bid evaluation criteria and other requirements in the bidding documents, based on the submitted bids and clarifications to bids to ensure the selection of a bidder with sufficient capacity and experience and a feasible solution to perform the package; any content within the bidding documents that restricts competition, as defined in Clause 2, Article 61 of this Decree, will be disregarded during bid evaluation.

2. If the proposed similar contract in the bid does not meet requirements of the bidding documents, the procuring entity may request the bidder to supplement or replace another similar contract for evaluation within a reasonable timeframe.

3. The evaluation of a bid is done on photocopies, the bidder is responsible for the consistency between the original and the photocopies. In case there is a discrepancy between the original and the photocopy but does not change the bidder ranking order, the evaluation will be based on the original. In case there are discrepancies between the original and the photocopy, leading to a different evaluation result on the original than the evaluation result on the photocopy and causing a change in the bidder's ranking order, the bid will be rejected and the bidder will be subject to fraud allegations and will be addressed according to Point a, Clause 1, Article 125 of this Decree.

Article 65. Clarification to bids

1. After bid opening, the bidder is responsible for clarifying the bids according to the request of the procuring entity. If a bid lacks required documents on eligibility, similar contracts, tax declaration and payment obligations, personnel, the procuring entity shall request clarification and additional documents,

2. After bid submission deadline, if a bidder finds that their bid lacks required documents on eligibility, similar contracts, tax declaration and payment obligations, personnel, they will send clarification and additional documents to the procuring entity. The procuring entity shall receive the bidder's clarifications for review and evaluation; additional and clarifying documents are integral part of the bid.

3. Clarifications regarding eligibility must not alter the nature of the participating bidder. Clarifications regarding validity of the bid (excluding eligibility), technical proposals, and financial proposals must ensure no changes to the basic content of the submitted bid or the bid price.

4. Clarification of a bid is only done between the procuring entity and the bidder whose bid needs to be clarified. The clarification of the bid must be made in writing and kept by the procuring entity as an integral part of the bid.

5. The procuring entity may verify the authenticity of any doubtful documents of the bidder with relevant organizations or individuals.

Article 66. Error correction and deviation adjustment

1. For types of contracts in Article 64 of the Bidding Law, if the bidder omits the unit price for one or more work items in the financial proposal although these work items have been stated in the technical proposal as required in the bidding documents, the missing unit price will be assumed to be distributed proportionally among the other listed item in the bid.

2. For time-based contracts:

a) In case the total value of the items is incorrect due to an error when adding or subtracting the value of the items, the value of the items is the basis for correcting the error;

b) In case of an error in the total bid price due to addition or subtraction mistakes within the "Amount" column, the individual values in the "Amount" column will be used to correct the error;

c) If there is a discrepancy between the unit price and the amount, the unit price will be used as the basis for error correction. Discrepancies between the numerical and written bid price will be resolved as follows: if the written price contains arithmetic errors, the numerical price is used after correction based on points (a) and (b) of this Clause (if applicable); otherwise, the written price will prevail;

d) In case of discrepancies between the technical proposal and the financial proposal regarding: the number of personnel involved, the number of working days, the quantity of each non-salary cost item, the number of other input factors offered in the technical proposal and financial proposal, the quantities specified in the technical proposal will be used as the basis for error correction and deviation adjustment. Deviation adjustment in this case is done according to the quantity and volume stated in the technical proposal with the unit price stated in the financial proposal.

3. For lump-sum contracts:

In case of applying a lump-sum contract, the bid price after discount (if any) proposed by the bidder in the letter of bid included in the financial proposal is considered to include all necessary costs to Perform the package according to the scope of work stated in the bidding documents, without error correction and deviation adjustment. Discrepancies between the numerical and written bid price will be resolved as follows: if the written price has a clear meaning, it takes precedence; if the written price has no meaning, the numerical price is used.

4. For fixed unit price contracts and adjustable unit price contracts:

Error correction and deviation adjustment are carried out in accordance with Article 29 of this Decree.

5. Following error correction and deviation adjustment (as outlined in Clauses 1, 2, 3, and 4), the procuring entity will notify the bidder of these adjustments in writing. Within 3 working days of receiving such a notice from the procuring entity, the bidder must notify the procuring entity in writing if they accept those adjustments from the procuring entity. If the bidder refuses those adjustments, their bid will be disqualified, unless the error correction and deviation adjustment are inappropriate or inaccurate.

Article 67. Checking and evaluation of the validity of technical proposals

1. Evaluate criteria for the validity of a technical proposal:

The evaluation of validity of the technical proposal shall comply with Clause 1 Article 40 of this Decree but exclude the bid security.

2. Evaluate the validity of the technical proposal:

The technical proposal is considered valid when it fully meets the requirements of Point a, Clause 3, Article 61 of this Decree. Bidders with valid technical proposals will be evaluated for their technical aspect.

3. Technical evaluation:

a) The technical evaluation is carried out according to the evaluation criteria specified in the bidding documents;

b) If a bid proposes a quantity of personnel for a key position that deviates from the amount required in the bidding documents (either exceeding or falling short), it will be considered non-compliant with the technical requirements.

c) The bidder that meets the technical requirements or achieves the highest technical score (for the quality-based selection) may have their financial proposal opened and evaluated.

4. The list of technically-responsive bidders must be approved in writing by the employer based on the approval report and appraisal report of technical evaluation result. The procuring entity announces the list of technically-responsive bidders and technically-nonresponsive bidders, states the reasons for technically-nonresponsive bidders, and invites all participating bidders to open their financial proposals. The procuring entity must post a list of technically-responsive bidders on VNEPS within 5 working days from the date of approval for this list.

Article 68. Opening, checking, and evaluation of financial proposals

1. The opening of financial proposals shall comply with Article 41 of this Decree; for packages applying the quality-based selection, only open the financial proposal of the bidder with the highest technical score.

2. The evaluation of validity of financial proposals shall comply with point b clause 3 Article 61 of this Decree.

Bidders with valid financial proposals will undergo a detailed financial evaluation.

3. The detailed evaluation of financial proposals and bidder ranking shall comply with Clause 3 Article 42 of this Decree.

Article 69. Contract negotiation

1. The first-ranked bidder is invited by the procuring entity to negotiate the contract. The contract negotiation shall comply with Clause 2 Article 43 of this Decree.

2. Matters to be negotiated:

- a) Contents that are insufficiently detailed, unclear, or inconsistent between the bidding documents and the bid, or within different sections of the bid, which can lead to issues and disputes or affect the responsibilities of the parties during contract performance;
- b) Deviations identified and proposed by the bidder in their bid (if applicable). This includes proposals for changes or alternative technical solutions, if the bidding documents allowed bidders to submit such alternatives;

c) Personnel:

Bidders cannot change key personnel who have been proposed. Exceptions are allowed only in two situations: the bid evaluation takes longer than originally anticipated in the specific contractor selection plan, or force majeure prevents the proposed key personnel from performing the contract. In this case, the bidder can replace other personnel but the replacements must possess qualifications, experience and capacity equivalent to or higher than the originally proposed personnel and the bidder is not allowed to change their bid price;

d) Issues that arise during the contractor selection process (if any) to finalize the detailed contents of the package;

dd) Costs related to consulting services in accordance with the requirements of the package and actual conditions;

e) Other necessary matters.

3. During the contract negotiation process, the parties complete the draft contract; specific conditions of the contract.

4. Following the contract negotiation completion, the procuring entity shall send a request for approval for contractor selection result the employer according to Article 70 of this Decree. The request for approval for contractor selection result includes the following contents:

a) Evaluation result for each bid;

b) List of considered and ranked bidders and order of ranking of bidders;

c) Contract negotiation result;

d) List of non-responsive and disqualified bidders; reasons for bidder disqualification;

dd) Name of the bidder proposed to win the bid, proposed winning price, type of contract, package performance duration and contract performance duration;

e) Comments on competitiveness, fairness, transparency and economic efficiency in the contractor selection process. If competitiveness, fairness, transparency, or economic efficiency cannot be assured, the procurement entity must clearly document the reasons and propose solutions;

g) The contents of the bidding documents are not in accordance with law on bidding or the contents may lead to unclear or different interpretations during the implementation process or may distort the contractor selection result (if any); propose remedial measures;

h) Key considerations (if any).

5. If the negotiation is not successful, the procuring entity will report to the employer for consideration and decide whether to invite the next ranked bidder to negotiate.

Article 70. Submission, appraisal of, approval for, and publication of contractor selection result, finalization, signing, and management of contract

The submission, appraisal of, approval for, and publicization of contractor selection result, finalization, signing, and management of contracts shall comply with Articles 31, 32, 33 of this Decree.

Section 2. INDIVIDUAL BIDDERS

Article 71. Selection of individual consultants

1. Individual consultant may include one or a group of experts. If the consultant is a group of experts, the experts will appoint a representative to deal with the procuring entity or the employer. If the group of experts wins the bid, all of the members must sign a contract with the employer in person. Individual consultants are selected based on their capacity and experience, and a fixed price is agreed upon.

2. For individual consulting service packages with a package price not exceeding 200 million VND, contractor selection is carried out according to the shortened process specified in Article 74 and Article 75 of this Decree. For individual consulting service packages with a package price of over 200 million VND, contractor selection is carried out according to the ordinary process specified in Article 72 and Article 73 of this Decree.

Article 72. Preparation, submission of and approval for terms of reference under ordinary procedures

1. The procuring entity prepares terms of reference for the individual consultant that needs to be selected and submit them to the employer for approval. The terms of reference include:

- a) Brief description of the project, procurement estimate;
- b) Requirements on scope, volume, quality and performance duration of the package;
- c) Requirements on capacity and qualifications of consultants;
- d) Conditions and location of contract performance;
- dd) Package price according to the fixed price method;
- e) Other necessary matters (if any).

2. Based on the documents submitted by the procuring entity, the employer considers approving the terms of reference.

Article 73. Posting of invitations to bid and evaluation of individual consultants' scientific resumes; approval for the contractor selection result; signing of contract; posting of individual consultant selection result under ordinary procedures

1. After the terms of reference are approved, the procuring entity posts an invitation to bid along with the terms of reference on VNEPS, clearly stating the deadline for receiving scientific resumes. Individual consultants need at least five working days to prepare a scientific resume.

Organizations and individuals can request clarification on the terms of reference through VNEPS. Any clarification requests must be submitted at least 3 working days before the bid submission deadline for consideration. The procuring entity shall respond to the clarification request on the VNEPS at least 2 working days before the bid submission deadline.

If the terms of reference need to be amended after they are issued, the procuring entity must post the decision to amend them, along with the amended version and detailed amendments, on VNEPS at least 3 working days before the bid submission deadline.

2. Submission of scientific resumes:

Individual consultants prepare scientific resumes according to the requirements stated in the terms of reference, technical proposals (if any) and submit them on VNEPS.

3. Evaluation of scientific resumes:

Based on the terms of reference, the procuring entity evaluates the scientific resume of each individual consultant. An individual consultant will be ranked first if they meet all the following criteria: fulfill the eligibility requirement outlined in Clause 3, Article 5 of the Bidding Law; have the best scientific resume and technical proposal (if any), and meet the requirements of the terms of reference.

4. Contract negotiation:

The procuring entity invites the first-ranked individual consultant to negotiate the contract according to the approved terms of reference, including the scope of work, performance schedule, reporting requirements, consulting costs, contract prices and other necessary matters. The result of contract negotiation is recorded in writing and must be signed by the procuring entity and the individual consultant.

5. Approval for individual consultant selection result is based on the approval request, report on the result of evaluating the individual consultants' scientific resumes, and contract negotiation result. The contract signed between the parties must be consistent with the decision on approval for individual consultant selection result, the contract negotiation result, the content of the terms of reference and other related documents.

6. The individual consultant selection result is posted on VNEPS according to Point a, Clause 1 and Clause 4, Article 8 of the Bidding Law.

Article 74. Preparation, submission of and approval for terms of reference and list of individual consultants under shortened procedures

1. The preparation, submission of and approval for terms of reference are carried out in accordance with Article 72 of this Decree.

2. The procuring entity identifies a list of at least 3 individual consultants to submit to the employer for approval.

3. Based on the documents submitted by the procuring entity, the employer considers approving the terms of reference and the list of individual consultants.

Article 75. Sending of invitation letters and evaluation of individual consultants' scientific resumes; approval for the contractor selection result; signing of contract; posting of individual consultant selection result under shortened procedures

1. After the terms of reference and list of individual consultants are approved, the procuring entity sends invitation letters and terms of reference to the individual consultants named on the list, clearly stating the deadline and location for receiving scientific resumes. Individual consultants need at least three working days to prepare a scientific resume.

2. Submission of scientific resumes:

Individual consultants prepare scientific resumes according to the requirements stated in the terms of reference and technical proposals (if any) and submit them to the procuring entity within the time limit and address stated in the invitation letter.

3. Evaluation of the individual consultant's scientific resumes; contract negotiation; approval for the contractor selection result; signing of contracts; posting of individual consultant selection result shall comply with Clauses 3, 4, 5 and 6, Article 73 of this Decree.

Chapter V

DIRECT CONTRACTING, SHOPPING METHOD, DIRECT PROCUREMENT, SELF-PERFORMANCE, CONTRACTOR SELECTION IN SPECIAL CASES AND CONTRACTOR SELECTION TO PERFORM COMMUNITY-INVOLVED PACKAGE

Section 1. DIRECT CONTRACTING

Article 76. Ordinary procedures for direct contracting if only one bidder is identified to receive request for proposal (RFP)

1. Direct contracting must be approved in the specific contractor selection plan. The ordinary procedures for direct contracting are applied to packages specified in Points d, dd, e, g, h, i, k and l, Clause 1, Article 23 of the Bidding Law; the employer decides to send the RFP to a bidder.

2. Contractor selection preparation, including:

a) Preparation of RFP:

Contents of the RFP: brief description of the project, procurement estimate, package; instructions for preparing and submitting proposals; evaluation criteria for bidder's capacity and experience; technical evaluation criteria; determine the package price for direct contracting; contract conditions.

Use pass and fail criteria for capacity and experience evaluation and technical evaluation. The RFP must clearly state the marking, trademark, specific origin of the goods, and relevant technical and service requirements (if any);

b) Submission, appraisal of and approval for the RFP: The RFP must be appraised according to Article 129 of this Decree before approval. Approval for RFP must be based on the approval report and appraisal report of RFP.

c) Identification of the bidder expected to receive the RFPs:

Based on the scale and nature of the package and preliminary information about the bidder capable of performing the package, the employer determines a bidder expected to receive the RFP. No detailed evaluation of a bidder's capacity or experience is needed at this stage.

The expected bidder for direct contracting and RFP if they meet eligibility requirements as prescribed in Points a, b, c, d, e, g and i, Clause 1, Article 5 of the Bidding Law (for non-household businesses); or if they meet eligibility requirements specified in Points a and b, Clause 2 and Points d, e, Clause 1, Article 5 of the Bidding Law (for household businesses). Individuals and groups that bid on goods procurement packages with innovative products will qualify for direct contracting and RFP if they meet the eligibility requirements of Clause 3, Article 5 of this Decree.

3. Organization of contractor selection:

a) RFP is issued to the expected bidder for direct contracting;

b) The bidder prepares and submits the proposal based on the RFP.

4. Evaluation of the proposal and negotiation of the bidder's proposal details:

a) The evaluation of the proposal is carried out according to the evaluation criteria specified in the RFP. During the evaluation process, the procuring entity invites the bidder to negotiate (if any), clarify or amend the proposal details to demonstrate that they meet the requirements of capacity, experience and progress, volume, quality, technical solutions and measures to perform the package;

b) A bidder is expected to receive direct contracting when they fully meet the following requirements: have valid proposals; have capacity, experience and technical proposals that meet the requirements of the RFP; their successful bid does not exceed the approved package price.

5. Submission, appraisal of, approval for, and publication of direct contracting result

The submission, appraisal of, approval for, and publicization of direct contracting result shall comply with Article 31 of this Decree.

6. Finalization, signing, and management of contract performance:

The contract signed between the parties must be consistent with the decision on approval for the direct contracting result, proposal, RFP and other related documents. The finalization, signing, and management of contracts shall comply with Article 32 and Article 33 of this Decree.

Article 77. Ordinary procedures for direct contracting if the employer sends RFPs to more than one bidder

1. Direct contracting must be approved in the specific contractor selection plan. For packages specified in Points dd, e, h, k and l, Clause 1, Article 23 of the Bidding Law, the employer decides whether to choose a single expected bidder for direct contracting and send the RFP to that bidder following the process specified in Article 76 of this Decree, or determine and approve a list of multiple expected bidders for RFPs according to the process specified in this Article.

2. Preparation, appraisal of and approval for the RFPs:

Contents of the RFPs: brief description of the project, procurement estimate, package; instructions for preparing and submitting proposals; evaluation criteria for bidder's capacity and experience; technical evaluation criteria; determination of the least cost; contract conditions.

Use pass and fail criteria for capacity and experience evaluation and technical evaluation. The RFP must clearly state the marking, trademark, specific origin of the goods, and relevant technical and service requirements (if any);

b) Submission, appraisal of and approval for the RFPs:

RFPs must be appraised according to Article 129 of this Decree before approval. Approval for RFPs must be based on the approval report and appraisal report of RFPs.

c) Identification of the list of bidders expected to receive the RFPs:

Based on the scale and nature of the package and preliminary information about the bidders capable of performing the package, the employer determines at least 3 bidders expected to receive the RFPs. No detailed evaluation of these bidder's capacity or experience is needed at this stage.

Bidders expected to receive RFPs if they meet eligibility requirements as prescribed in Points a, b, c, d, e, g and i, Clause 1, Article 5 of the Bidding Law (for non-household businesses); or if they meet eligibility requirements specified in Points a and b, Clause 2 and Points d, e, Clause 1, Article 5 of the Bidding Law (for household businesses). Individuals and groups that bid on goods procurement packages with innovative products will qualify for receiving RFPs if they meet the eligibility requirements of Clause 3, Article 5 of the Bidding Law.

3. Organization of contractor selection:

a) The RFPs are issued to bidders on the list of bidders expected to receive the RFPs;

b) The bidder prepares and submits the proposal based on the RFPs.

4. Evaluation of and clarifications to proposals, error correction and deviation adjustment, bidder ranking:

a) Principles for evaluating a proposal comply with Article 27 or Article 64 of this Decree;

b) The proposal clarification shall comply with Article 28 or Article 65 of this Decree;

c) Error correction and deviation adjustment are carried out in accordance with Article 29 or Article 66 of this Decree;

d) The proposal evaluation shall comply with Article 30 or Article 67, Article 68 of this Decree;

dd) Bidder ranking is carried out according to regulations in the RFPs.

5. Contract negotiations (if any):

If the package applies contract negotiation, the first-ranked bidder is invited by the procuring entity to negotiate the contract. During the negotiation process, the procuring entity may request the bidder to clarify or amend the proposal details to demonstrate that they meet the requirements of capacity, experience and progress, volume, quality, technical solutions and measures to perform the package. If the negotiation is not successful, the procuring entity will report to the employer for consideration and decide whether to invite the next ranked bidder to negotiate.

6. Submission, appraisal of, approval for, and publication of direct contracting result:

The submission, appraisal of, approval for, and publicization of direct contracting result shall comply with Article 31 of this Decree.

7. Finalization, signing, and management of contract performance:

The contract signed between the parties must be consistent with the decision on approval for the direct contracting result, proposal, RFPs and other related documents. The finalization, signing, and management of contracts shall comply with Article 32 and Article 33 of this Decree.

Article 78. Shortened direct contracting procedures

1. The shortened direct contracting of bidders in the cases specified in Points a, b and c, Clause 1, Article 23 of the Bidding Law does not require approval in the specific contractor selection plan.

2. Based on the scale and nature of the package and preliminary information about the bidder capable of performing the package, the employer or the agency directly managing the package will identify and assign it to a bidder capable of immediately performing the package. Within 15 days from the start date of performing the package, the parties must complete the direct contracting procedure including the following steps:

a) Prepare and send a draft contract to the bidder that defines the requirements for the scope and content of the work to be performed, performance duration, quality of work to be achieved and corresponding value;

b) Finalize the contract;

c) Submit and approve the direct contracting result;

d) Sign a contract with the appointed bidder;

dd) Manage contract performance;

e) Publicize the direct contracting result on VNEPS.

3. Direct contracting for packages within the direct contracting limit as prescribed in Point m, Clause 1, Article 23 of the Bidding Law must be approved in the specific contractor selection plan. The shortened direct contracting is carried out as follows:

a) Prepare and send a draft contract to the bidder:

The procuring entity, based on the objectives and scope of work, prepares and sends the draft contract to a bidder capable of performing the package. The content of the draft contract includes requirements on the scope and content of work to be performed, performance duration, quality of work to be achieved, corresponding value and other necessary matters;

b) Finalize the contract, submit, approve and publicize the contractor selection result:

Based on the draft contract, the procuring entity and the bidder proposed for direct contracting finalize the contract as a basis for submitting and approving the contractor selection result and signing the contract. The publicization of direct contracting result shall comply with Clause 6 Article 31 of this Decree;

c) Signing and management of contract performance:

The contract signed between the parties must be consistent with the decision on approval for contractor selection result and other related documents. The management of contract performance shall comply with Article 33 of this Decree.

If the employer does not apply the shortened procedures specified in Clause 2 of this Article but applies the ordinary procedures, they shall comply with Article 76 or Article 77 of this Decree.

Section 2. SHOPPING METHOD, DIRECT PROCUREMENT, SELF-PERFORMANCE

Article 79. Shopping method process

1. Contractor selection preparation, including:

a) The bidding documents are prepared in accordance with Clauses 1 and 2, Article 24 of this Decree. Bidding documents include the following contents: brief description of the project, procurement estimate, package; instructions to bidders; bid data sheet; evaluation criteria for the validity of bids; evaluation criteria for capacity, experience and technical evaluation using pass and fail criteria; financial evaluation criteria according to the least-cost selection or evaluated price selection method.

For goods procurement and construction packages, depending on the scale and nature of the package, bidding documents may or may not include evaluation criteria for capacity and experience, but bidders must commit to having sufficient capacity and experience to perform the package. For non-consulting service packages, bidding documents do not require evaluation criteria of capacity and experience.

For goods procurement packages, bidders who are individuals or groups offering innovative products that meet the requirements in Clause 4, Article 5 of this Decree may be exempt from certain criteria outlined in Clause 3, Article 9 of this Decree. Bidders being household businesses are exempt from

submitting financial statements and meeting net asset value requirements;

b) Appraisal of and approval for bidding documents:

Bidding documents must be appraised according to Article 129 of this Decree before approval.

Approval for bidding documents must be based on the approval report and appraisal report of bidding documents.

2. Organization of contractor selection:

a) The procuring entity posts the invitation to bid and bidding documents on VNEPS according to Point b, Clause 1, Article 8 of the Bidding Law;

b) The amendments or clarifications to the bidding documents shall comply with Clause 2, Article 26 of this Decree;

c) Bidders submit bids according to the requirements of the bidding documents on VNEPS;

d) The procuring entity shall open bids on VNEPS within 2 hours from the bid submission deadline. The minutes of bid opening includes the following contents: name of bidder; bid price; discount (if any); validity period of bid; value and validity period of bid security; package performance duration. Bid opening minutes are posted on VNEPS within 24 hours from the time of bid opening.

3. Evaluation of bids:

a) The bid evaluation principles shall comply with Article 27 of this Decree;

b) The bid clarification shall comply with Article 28 of this Decree;

c) Error correction and deviation adjustment are carried out in accordance with Article 29 of this Decree;

d) The bid evaluation shall comply with Article 30 of this Decree;

dd) Bidder ranking is carried out according to regulations in the bidding documents. The bidder who has the lowest bid price (after error correction, deviation adjustment, and any discounts) (for the least-cost selection) or has the lowest evaluated price (for the evaluated price selection) is ranked first.

4. Submission, appraisal of, approval for, and publication of contractor selection result:

The submission, appraisal of, approval for, and publicization of contractor selection result shall comply with Article 31 of this Decree.

5. Finalization, signing, and management of contract performance:

The contract signed between the parties must be consistent with the decision on approval for contractor selection result, the bid, the bidding documents, and other related documents. The finalization, signing, and management of contracts shall comply with Article 32 and Article 33 of this Decree.

Article 80. Direct procurement process

1. The employer may only apply direct procurement once for goods in the package expected to apply direct procurement within the project execution duration or within a budget year or fiscal year of the procurement estimate; regarding procurement estimates, if the package expected to apply direct procurement has an execution period longer than one year, direct procurement may only be applied once for the goods in that package in all years of the procurement estimate.

2. Contractor selection preparation, including:

a) Preparation of RFPs:

The RFPs includes brief description of the project, procurement estimate, and package; requirements on updated information on bidder's eligibility, capacity and experience; requirements on supply schedule and commitment to provide goods to ensure technical specifications and quality as required by previous bidding documents; requirements on unit prices of goods and other necessary matters.

In case of direct procurement with other bidders according to Clause 3, Article 25 of the Bidding Law, the RFPs includes evaluation criteria for eligibility, capacity, experience, and technique prescribed in Article 24 of this Decree;

b) Appraisal of and approval for the RFPs:

The RFPs must be appraised according to Article 129 of this Decree before approval. Approval for RFPs must be based on the approval report and appraisal report of RFPs.

3. The RFPs is issued to the pre-selected bidder. If this bidder is unable to continue performing or refuses to perform the direct procurement package, the employer shall select replacement bidder in this order of priority: a bidder ranked on the previous package's list, or another bidder who meets the requirements in Clause 3, Article 25 of the Bidding Law.

4. The bidder prepares and submits the proposal based on the RFPs.

5. Evaluation of the proposal and negotiation of the bidder's proposal:

a) Evaluation of the proposal, including: checking the technical aspect and unit price; update information about bidders' capabilities; if choosing a bidder for direct procurement different from the previous successful bidder, the procuring entity must evaluate the eligibility, capacity and experience of that bidder according to Article 30 of this Decree; evaluate performance progress, measures to provide goods, technical solutions and measures to perform the package; other matters (if any);

b) During the evaluation process, the procuring entity invites the bidder to negotiate (if any), clarify or amend the proposal details to demonstrate that they meet the requirements of capacity, experience and progress, quality, technical solutions and measures to perform the package.

If the VAT law changes after a direct procurement contract is signed, the unit price (including VAT) for the goods cannot exceed the sum of the pre-tax value in the contract and the new VAT amount at the time of applying the direct procurement contract;

A bidder is proposed to win the bid if they meet the requirements of Article 61 of the Bidding Law and the offered goods are identical to the previously awarded goods in terms of manufacturer, origin, marking, and trademark. If the offered goods have a new production version and production year compared to the goods stated in the contract, the situation shall be handled according to Clause 27, Article 131 of this Decree.

6. Submission, appraisal of, approval for and publication of direct procurement result:

a) The contractor selection result is appraised according to Clauses 1 and 4, Article 130 of this Decree before approval.

b) The contractor selection result is approved based on the approval report and report on appraisal of contractor selection result;

c) The contractor selection result must be made public according to Article 31 of this Decree.

7. Finalization, signing, and management of contract performance:

The contract signed between the parties must be consistent with the decision on approval for the direct procurement result, proposal, RFPs and other related documents. The finalization and management of contracts shall comply with Article 32 and Article 33 of this Decree.

Article 81. Self-performance process

1. Prepare self-performance plan and draft assignment agreement and assignment document:

The self-performance plan includes requirements on scope and content of work; value and performance duration; quality of work to be performed; acceptance and payment conditions; work assignment agreement or work assignment document for a dependent accounting unit or affiliated unit (hereinafter referred to as the unit assigned to perform the package).

Payment of salaries, allowances, management costs and other costs shall be agreed upon by the employer and the unit assigned to perform the package.

2. Finalize the self-performance plan:

The employer and the assigned unit will work together to finalize any unclear, incomplete, or unsuitable details in the self-performance plan, draft assignment agreement, assignment documents, and any other relevant matters.

3. Approve and publicize contractor selection result.

4. Sign the work assignment agreement and manage the package performance:

a) The organization that directly manages and uses the package shall sign a work assignment agreement with the unit assigned to perform the package or issue a work assignment document;

b) If the law requires on-site supervision for the package, the organization that directly manages and uses the package will select a consultant which is legally and financially independent from that organization (following the Bidding Law) to supervise the package performance process;

c) The organization that directly manages and uses the package must supervise the package performance on their own in the following cases: the law does not require independent supervision, no independent supervision consultant is interested or available as the package is performed in a disadvantaged area, or the package price of the package is under 1 billion VND.

Section 3. CONTRACTOR SELECTION IN SPECIAL CASES

Article 82. Documents, procedures for contractor selection in special case specified in Points a, b, c and i, Clause 1, Article 29 of the Bidding Law

1. For a case specified in Points a and b, Clause 1, Article 29 of the Bidding Law:

a) An agency shall be assigned by the Minister of Health to make a plan for contractor selection in special case for consideration;

b) The Minister of Health shall assign an affiliated agency to appraise the request before decision;

c) Required documents in the plan for contractor selection in special case for appraisal and approval includes a request for approval and related documents. The request for approval for contractor selection plan in special case includes the following contents: basic information about the project, procurement estimate, package (name of the project, procurement estimate, package); capital sources, total investment of the project, estimated value of procurement, package price of package; expected performance duration; other necessary matters); explanation of the project's or package's necessity and specific conditions in terms of processes, procedures, criteria for selecting bidders, conditions for signing and performing the contract, and other conditions (if any) leading to the inability to meet the conditions for contractor selection specified in Articles 21, 22, 23, 24, 25, 26, 27 and 28 of the Bidding Law; the draft specific contractor selection plan includes the following main contents: procedures for contractor selection; conditions for signing and performing the contract and other related contents to meet the specific conditions of the package or project, ensuring the selection of contractors with sufficient capacity, experience and feasible and effective solutions.

2. For the cases specified in Point c, Clause 1, Article 29 of the Bidding Law:

a) Ministers, Heads of ministerial-level agencies, Governmental agencies, other central agencies (hereinafter referred to as heads of central agencies), President of the Provincial People's Committee prepare documents to submit to the Prime Minister and to the Ministry of Planning and Investment for appraisal;

b) Documents submitted to the Prime Minister include the request for approval and related documents. The request for approval for contractor selection in special case includes the following contents: basic information about the project, procurement estimate, package (name of the project, procurement estimate, package); capital sources, total investment of the project, estimated value of procurement, package price of package; expected performance duration; other necessary matters); explanation of the project's or package's necessity and specific conditions in terms of national defense, security, foreign affairs, and territorial borders leading to the inability to meet the conditions for contractor selection specified in Articles 21, 22, 23, 24, 25, 26, 27 and 28 of the Bidding Law; opinions of the Ministry of National Defense, Ministry of Public Security, and Ministry of Diplomacy on factors that need to ensure national defense, security, foreign affairs, and territorial borders for the package, project, and procurement estimate; opinions of other relevant agencies (if necessary);

c) Within 5 working days of receiving valid documents as prescribed in Point b of this Clause, the Ministry of Planning and Investment shall forward them to seek opinions from relevant ministries and agencies on the matters within their scope of management (if necessary). Within 7 working days of receiving the request from the Ministry of Planning and Investment, the consulted agency must send their opinions to the Ministry of Planning and Investment;

d) Within 10 days of receiving valid documents as prescribed in Point b of this Clause, the Ministry of Planning and Investment shall prepare an appraisal report and Prime Minister's draft decision on the contractor selection in special case (if qualified), and then submit them to the Prime Minister for decision. The appraisal report evaluates the following: the project's or package's necessity; if they meet special conditions in terms of national defense, security, foreign affairs, territorial borders; reasons for being unable to meet the conditions for contractor selection specified in Articles 21, 22, 23, 24, 25, 26, 27 and 28 of the Bidding Law;

dd) The Prime Minister shall consider applying the contractor selection in special case based on the documents submitted by the head of central agency, President of the Provincial People's Committee, and the appraisal report of the Ministry of Planning and Investment;

The Prime Minister's decision on application of contractor selection in special case includes: the package of the project or procurement estimate that applies the contractor selection in special case; responsibilities of the competent person, employer, procuring entity, and relevant agencies in the process of organizing contractor selection; other requirements during the performance of package or project (if any).

e) Based on the decision of the Prime Minister, the head of central agency, President of the Provincial People's Committee shall develop and approve a contractor selection plan in special case including the main contents following: procedures for contractor selection; conditions for signing and performing the contract and other related contents to meet the specific conditions of the packages or project, ensuring the selection of contractors with sufficient capacity, experience and feasible and effective solutions.

3. For the cases specified in Point i, Clause 1, Article 29 of the Bidding Law:

a) The head of central agency, President of the Provincial People's Committee prepare documents to submit to the Prime Minister and to the Ministry of Planning and Investment for appraisal;

b) The contractor selection plan in special case submitted for appraisal includes the contents in point c clause 1 of this Article;

c) Based on the request of the head of central agency, President of the Provincial People's Committee, and the appraisal report of the Ministry of Planning and Investment, the Government may propose the Standing Committee of the National Assembly to supplement the method of contractor selection in special case. The procedures for developing a resolution to submit to the Standing Committee of National Assembly comply with the Law on Promulgation of Legal Documents.

Article 83. Documents, procedures for selecting bidders in special cases specified in Points d, dd, e, g, and h, Clause 1, Article 29 of the Bidding Law

1. The head of central agency or Provincial People's Committee shall consider applying the contractor selection in special case for any cases specified in Points d, dd, e, g and h, Clause 1, Article 29 of the Bidding Law and the corresponding selection process as prescribed in Clauses 3, 4 and 5 of this Article for general application to packages under their scope of management.

2. Based on the decision of the head of the central agency and the Provincial People's Committee as prescribed in Clause 1 of this Article, the competent person or the employer shall organize the contractor selection as outlined in Clauses 3, 4 and 5 of this Article.

3. For a package specified in Point d, Clause 1, Article 29 of the Bidding Law:

a) The agency handling the lawsuit shall establish criteria, terms of reference, and control mechanism for law-practicing organizations, lawyers to determine a list of (no less than 03) law-practicing organizations, lawyers expected to be hired; only law-practicing organizations and reputable, experienced lawyers are named in this list;

b) The agency handling the lawsuit will negotiate legal service contracts with the most advantageous law-practicing organizations and lawyers based on the criteria, terms of reference and control mechanism of law-practicing organizations and lawyers in the lawsuit;

c) The head of the agency handling the lawsuit approves and announces the result of selecting law-practicing organization, lawyer;

d) The agency handling the lawsuit finalizes and signs a legal service contract with the chosen law-practicing organization, lawyer.

4. For the cases specified in Points dd, e, g and h, Clause 1, Article 29 of the Bidding Law, except for the package specified in Clause 5 of this Article, the contractor selection process includes the following steps:

a) Prepare, evaluate, and approve the specific contractor selection plan;

b) Negotiate contract with a bidder which has sufficient capacity and experience;

c) Approve and publicize contractor selection result;

d) Finalize and sign the contract with the bidder;

The content of the draft contract includes requirements on the scope and content of work to be performed, performance duration, quality of work to be achieved, and contract value;

dd) Specific contractor selection plans, contractor selection result and other bidding information are posted in accordance with Article 7 and Article 8 of the Bidding Law.

5. For a package to buy air tickets for domestic and international business trips as prescribed in Point dd, Clause 1, Article 29 of the Bidding Law:

a) For international business trips, the agency receiving budget and responsible for buying air tickets (based on the approved work plan and flight itinerary) must obtain at least two quotes from two different air ticket agents (or quotes from one air ticket agent representing at least two airlines, with at least one being Vietnam national airline). These quotes should be for the same flight itinerary and will be compared to select the most suitable provider on the basis of meeting the requirements: direct flight, suitable for work schedule; offers the lowest total price, including airfare (taxes and surcharges), travel expenses, and airport wait time fees. The agency head responsible for airfare purchases must prioritize cost-effectiveness when contracting with the airline and remains accountable for their decisions. In case of changing flight routes abroad due to business needs, the agency head shall decide the airfare purchases based on the request of the head of the mission;

b) For groups going on domestic business trips:

The agency head responsible for airfare purchases must prioritize cost-effectiveness when contracting with the airline and remains accountable for their decisions;

c) Airfare purchases for domestic and international business trips according to Points a and b of this Clause do not require the preparation, appraisal, and approval for a specific contractor selection plan.

Section 4. CONTRACTOR SELECTION TO PERFORM COMMUNITY-INVOLVED PACKAGE

Article 84. Eligibility of residential communities, unions, and worker group in local areas

1. Residential communities, unions, and worker groups in local areas are eligible to participate in the performance of a package specified in Article 27 of the Bidding Law if citizens in the residential communities, local workers, or union members live and reside in the local area where the package is performed and benefit from the package.
2. The designated representative of a residential community, union, or worker group must meet the following criteria to sign a contract on their behalf: have active legal capacity according to the law, not be subject to criminal prosecution, and be recognized by the residential community, union, worker group.

Article 85. Process for selecting bidders being residential communities, unions, and worker groups

1. After obtaining an approved specific contractor selection plan, the employer drafts a contract including requirements on the scope and content of work to be performed, quality and progress of work to be achieved, contract price, rights and obligations of the parties.
2. The employer posts a public notice of invitation to perform the package at the headquarters of the Commune People's Committee and announces it on commune-level media so that residential communities, unions, and worker groups in the area know. The notice must clearly state the meeting time to discuss the plan for package performance.
3. Interested communities, organizations, and worker groups receive a draft contract to research and prepare an eligibility documentation including the following contents: full name, age, capacity and experience suitable for the nature of the package of the members participating in package performance.
4. The employer organizes a review and selects the best residential community, union, or worker group and invites their representative to negotiate and sign the contract.

If there is only one interested residential community, union, or worker group, the employer may consider assigning the package to that residential community, union, or worker group. Where it is not possible to assign the package to the residential community or union, or there is no interested residential community or union, the package will be assigned to a worker group.

5. The maximum duration from the public announcement of the invitation to participate in the package performance to the signing of the contract is 30 days.
6. The employer publicly announces the selected residential community, union, or worker group on VNEPS, at the headquarters of the Commune People's Committee and announces it via other means of commune-level media.

Article 86. Advance, payment, supervision and taking-over inspection of packages

1. The residential community, union, or worker group will receive advances and direct payments in cash or bank transfer from the employer through their representative.
2. The employer shall directly supervise the package performance, the Commune People's Committee and other unions shall jointly supervise the package performance by the residential community, union, or worker group.
3. The employer organizes the taking-over inspection of the completed package. Parties that join the taking-over inspection:
 - a) Representative of the employer;
 - b) Representative(s) of the residential community, union, or worker group that performed the package;
 - c) Representative(s) of the local community that benefits from the products and works of the package;
 - d) Other relevant parties decided by the employer.

Chapter VI

CONCENTRATED PROCUREMENT, PROCUREMENT UNDER PROCUREMENT ESTIMATES, PROCUREMENT OF DRUGS, CHEMICALS, TESTING MATERIALS, MEDICAL EQUIPMENT

Section 1. CENTRALIZED PROCUREMENT

Article 87. Principle of centralized procurement

1. Centralized procurement is carried out through centralized procurement units under ministries, ministerial-level agencies, Governmental agencies, other central agencies, provincial-level People's Committees, and enterprises, except cases specified in Clause 5, Article 53 of the Bidding Law. If the

centralized procurement unit lacks sufficient capacity, a bidding consultant can be engaged to assist in selecting the bidder.

2. For goods and services that are required to be centrally procured through a framework agreement, the unit with procurement needs must sign a contract with the pre-selected vendor chosen during that process. If a framework agreement remains in effect and the procurement unit enters into a contract with a bidder other than the bidder selected through centralized procurement, the contract will not be paid unless an exception is specified in Clause 22 or Clause 23 of Article 131 of this Decree.

Article 88. Responsibilities in centralized procurement

1. The centralized procurement unit shall fulfill the responsibilities of the employer specified in Article 78 of the Bidding Law.

2. The superior of the centralized procurement unit shall fulfill the responsibilities of the competent person specified in Article 77 of the Bidding Law.

Article 89. Centralized procurement process under competitive bidding

1. Centralized procurement process:

Centralized procurement under competitive bidding is carried out according to Article 22 and Article 34 of this Decree, including the following steps:

a) Determine procurement volume:

There are two methods for determining the volume of goods and services to be procured centrally: Units with procurement needs can submit a list of required goods and services to the centralized procurement unit, or the centralized procurement unit can independently determine the required volume based on the actual usage data (volume and quantity) from the previous procurement period. For asset procurement under the Law on Management and Use of Public Assets, except for drugs, chemicals, testing supplies, and medical equipment, the determination of centralized procurement volume is based on the list of goods and services sent by the unit with procurement needs to the centralized procurement unit as per the law on management and use of public assets.

The centralized procurement and price negotiation unit shall gather information on the procurement needs of private health facilities (if any) and then procure drugs, chemicals, testing supplies, and medical equipment for private health facilities as prescribed for public health facilities in the area;

b) The preparation, appraisal of and approval for specific contractor selection plans are carried out in accordance with Articles 37, 38, 39 and 41 of the Bidding Law;

c) The contractor selection organization shall comply with Article 26 and Article 38 of this Decree.

If it is necessary to select more than 1 successful bidder in one package's part or an undivided package, the bidding documents must specify: bidding conditions, evaluation and ranking methods of bidders;

d) The evaluation of bids is carried out according to Articles 27, 28, 29, 30 or Articles 39, 40, 41, 42 and 43 of this Decree;

dd) The submission, appraisal of, approval for, and publication of the contractor selection result and explanation for unsuccessful bidders' disqualification upon their requests comply with Article 31 and Article 44 of this Decree;

e) Finalize and sign the framework agreement:

The centralized procurement unit and the successful bidder finalize the content of the framework agreement as prescribed in Article 90 of this Decree, as a basis for signing the framework agreement. If a bidder wins multiple parts of a package or wins many different packages, the bidder must submit a commitment to ensure that the bidder has sufficient capacity and experience to complete the work according to the quality and performance schedule; this commitment is an integral part of the contract;

g) Finalize, sign, and perform the contract with the successful bidder:

If the centralized procurement unit directly signs a contract with the successful bidder, it is not required to sign a framework agreement as prescribed in Point e of this Clause. The bidder who has signed the framework agreement must furnish a performance security before or at the same time the contract takes effect for the unit with the procurement need. The bidder furnishes performance security for each unit with procurement unit or for the total number of package parts that the bidder sign a contract according to the form specified in the bidding documents or another form approved by the employer.

The unit with procurement needs shall notify the centralized procurement unit if the bidder does not sign the contract. The bidder has signed a framework agreement and has been asked by the procurement unit to sign a contract, but does not sign the contract or does not furnish a performance security, except for force majeure, his VNEPS account will be locked within 06 months from the date the Ministry of Planning and Investment receives the written request from the centralized procurement

unit;

h) Conduct final settlement and contract liquidation.

2. Based on the scale and nature, the package can be divided into many parts to organize the bidding to select one or more successful bidders.

3. For packages that need to select more than one successful bidder in one package's part or an undivided package, the bidding documents may stipulate the selection of contractors in one of the following ways:

a) Select bidders based on supply ability:

offer the full quantity or volume in the bidding documents. Based on the ability to supply goods or services of each bidder, the employer organizes the evaluation and selects a combination of bidders in ranking order from high to low on the basis of the evaluation criteria stated in the bidding documents. The selection of the list of successful bidders must ensure that the total quantity of goods offered by successful bidders is equal to the quantity of goods stated in the bidding documents, and also ensure that total proposed winning price of the package is lowest (for packages applying the least-cost selection); the total evaluated price of the package is the lowest (for packages applying the evaluated price selection); the aggregate score of the package is the highest (for packages that apply a quality- and cost-based selection) and the successful bid of the entire package does not exceed the approved package price.

The unit with procurement needs or the centralized procurement unit signs a contract with the bidder in order of priority in the bidder ranking list. If the higher ranked bidder refuses to sign the contract, the unit with procurement needs or the centralized procurement unit may sign a contract with the adjacent ranked bidder.

If a higher ranked bidder refuses to supply goods or services without a legitimate reason, without subject to force majeure, or breaching the framework agreement or contract, the breaches will be addressed according to the framework agreement or contract. Any bidder who breaches the contract will face the following consequences: a fine as stipulated in the contract, no refund of the performance security deposit, their negative contract performance will be published on the VNEPS;

b) Select bidders based on bidding volume:

The selection of contractors is based on the evaluation criteria stated in the bidding documents as prescribed in Articles 24 and 35 of this Decree. Bidders bid according to the required volume and quantity in the bidding documents. The approved list of successful bidders includes the main list (first ranked bidder) and reserve list (second ranked bidder onwards). During the contract performance process, if the bidder on the main list breaches the contract and cannot continue to supply goods or services according to the quantity and volume specified in the framework agreement or according to the signed contract, the centralized procurement unit or the unit with procurement needs will terminate the contract with that bidder and invite the second-ranked bidder (reserve list) to finalize and sign a framework agreement or sign a contract, and also request the bidder to renew their bid and bid security to have a ground for signing a framework agreement and contract. If the second ranked bidder refuses to finalize and sign the contract, the situation shall be addressed according to Clause 16, Article 131 of this Decree. The previously successful bidder who breaches the contract will face the following consequences: a fine as stipulated in the contract, no refund of the performance security deposit, their negative contract performance will be published on the VNEPS.

Article 90. Content of framework agreement

1. Based on the scale and nature of the package, the centralized procurement unit shall specify the detailed content of the framework agreement in the bidding documents accordingly but must include the main contents as prescribed in Clause 2 of this Article.

2. Main contents of the framework agreement:

a) Scope of supply of goods or services;

b) Estimated time and location of goods delivery and service provision;

c) Conditions for supplying goods or services; advance payment, payment, contract liquidation;

d) Price corresponding to each type of goods or services;

dd) Warranty and maintenance conditions; training and instructions on use of goods or services;

e) Responsibilities of bidders supplying goods or services, including responsibility for signing and performing the contract and furnishing performance security for the unit with procurement needs;

g) Responsibilities of the unit with procurement needs in signing contracts and using goods or services;

h) Responsibilities of the centralized procurement unit;

- i) Validity period of the framework agreement;
- k) Penalties and compensation for damages due to breaches of contract;
- l) Other related contents.

Section 2. PROCUREMENT UNDER PROCUREMENT ESTIMATES

Article 91. Authority to decide on procurement

1. Authority to decide on procurement of assets:

- a) The authority to decide on the procurement of public assets at agencies and units shall comply with the law on management and use of public assets;
- b) Heads of central agencies may decide on or delegate the authority to decide on procurement of assets for state-funded science and technology tasks;
- c) The Provincial People's Council may decide on or delegate the authority to decide on procurement of assets for state-funded science and technology tasks regarding funding sources within the scope of local management.

2. Authority to decide on the procurement of goods or services other than the cases in Clause 1 of this Article:

- a) The head of a central agency may decide on or delegate the authority to decide on the procurement using the science and technology fund managed by their agency (this includes procurement by agencies under their management, and other entities or individuals performing science and technology tasks, even if not directly managed by them);
- b) The Provincial People's Council may decide on or delegate the authority to decide on the procurement using the science and technology fund managed by the province (this includes procurement by agencies under their management, and other entities or individuals performing science and technology tasks, even if not directly managed by them);
- c) Heads of budget estimate units at all levels can decide on procurement for: packages and procurement items with values within the scope of decision-making authority or as delegated by the competent authority, and packages and procurement items with values not exceeding 200 million dong;
- d) Heads of central agencies and provincial People's Councils may decide on or delegate authority to decide on procurement to serve the operations of public service providers under their management.

Article 92. Procurement process

- 1. Contractor selection under the procurement estimate follows the process outlined in Chapters I, II, III, IV, V, VI and VII of this Decree. No procurement decision submission or approval is required.
- 2. For goods on the list subject to Government- or Prime Minister-determined standards and limits (or those delegated to decide such standards and limits), the condition for successful bid is that the proposed winning price for each good must not exceed the price established based on the standards and limits of the relevant authorities.

Section 3. PROCUREMENT OF DRUGS, CHEMICALS, TESTING SUPPLIES, MEDICAL EQUIPMENT

Article 93. Contractor selection based on quantity of medical procedures

- 1. The selection of a bidder to supply a complete package of equipment, chemicals, testing supplies, and accompanying services (excluding operating personnel) is carried out in accordance with Point b, Clause 1, Article 55 of the Bidding Law. Bidding documents include the following contents:
 - a) Technical requirements for equipment; requirements for software to operate equipment and calibrate equipment;
 - b) Requirements on shelf life of chemicals and testing supplies;
 - c) Requirements for the bidder to list all chemicals, testing supplies and accompanying supplies needed to perform each medical procedure; packaging specifications for these goods;
 - d) The bid price summary schedule is built based on the expected number of medical procedures and the unit price quoted by the bidder for each medical procedure. This unit price is the total cost to perform the package for each medical procedure, including costs of equipment, chemicals, and testing supplies; warranty, maintenance, and component replacement services; installation, training, instructions for use; chemicals, testing supplies, and necessary accompanying supplies for testing the quality of the medical procedure and calibrating equipment; backup equipment (if any); chemicals, sample testing supplies and other related costs to perform the package. The employer shall not bear any costs other than the package cost calculated based on the number of medical procedures and unit price in the contract;

dd) Requirements for the bidder on warehousing and storage of chemicals and testing supplies to ensure that medical procedures are performed continuously and without interruption;

e) Requirements for installation and testing of quality and parameters of medical procedures;

g) Warranty and maintenance requirements, including periodic equipment maintenance;

h) Requirements for backup equipment, arrangement of backup equipment at medical facilities (if necessary);

i) Other necessary matters.

2. The bidder must allocate all costs of package performance specified in Point d, Clause 1 of this Article into the unit price for each medical procedure and must not pay for any costs other than the costs calculated according to the quantity of medical procedures and unit price in the contract.

3. The package can be divided into parts corresponding to one or some types of medical procedures. A health facility can consolidate the needs of other health facilities to form a package.

4. The contract performance period must not exceed 60 months. If the two parties agree to apply the additional purchase option, the employer reports to the competent person to consider amending the contract to correspondingly extend the contract performance period for the additional work but no more than 18 months.

5. If the contract performance period expires and the number of medical procedures specified in the contract has not been performed, the employer can report to a competent person to consider granting an extension of contract performance period but not exceeding 12 months.

6. In all cases, the total extension of the contract performance period specified in Clauses 4 and 5 of this Article may not exceed 18 months.

Article 94. Procurement of drugs, chemicals, testing supplies, medical equipment

1. Direct contracting for packages specified in Point c, Clause 1, Article 23 of the Bidding Law is carried out in the following cases:

a) For immediate initiation in urgent epidemic prevention and control situations:

To expedite epidemic prevention and control efforts, the packages for consulting and non-consulting services, drugs (including vaccines and biological products), chemicals, testing supplies, medical equipment (including vaccination supplies), components and accessories, facilities, and construction should be initiated immediately upon: written directives of competent authorities (health authorities or governments at all levels), decisions on declaration of an epidemic for an infectious disease, or a locality's request to declare an epidemic for an infectious disease of group A (as per the law);

Procurement should be initiated for the following items to support epidemic prevention and control when existing supplies at the health facility are insufficient: consulting and non-consulting services, drugs, chemicals, testing supplies, medical equipment, components, accessories, vehicles, and construction materials to establish, renovate, and build treatment areas, field hospitals;

Procurement for the following items can be initiated immediately to support diplomatic corps and other countries in their epidemic prevention and control efforts, upon practical needs and requests from competent authorities: consulting and non-consulting services, drugs, chemicals, testing supplies, medical equipment, components, accessories, vehicles, construction and installation materials;

b) In emergencies, to maintain health facility operations and avoid disruption that could endanger patients' health and lives, immediate procurement can be initiated for: consulting and non-consulting services, drugs, chemicals, testing supplies, and medical equipment, components, accessories, vehicles, construction and installation materials;

c) For emergency treatment of patients in critical conditions (as defined by the Law on Medical Examination and Treatment, if applicable), immediate procurement can be initiated for: consulting, non-consulting services, drugs, chemicals, and testing supplies, medical equipment, components, accessories, vehicles, construction and installation materials. These items are considered in unexpected needs, irreplaceable, essential for saving patients' lives;

d) Other cases according to the instructions of the Ministry of Health (if any).

2. If centrally procured drugs, medical equipment, or testing supplies are on the approved contractor selection plan but the contractor selection result has not been announced, or no successful bidder is selected, or the framework agreement of the centralized procurement package expires, then the health facility can procure items using the following methods (according to the notice of the centralized procurement unit, for up to 12 months): competitive bidding, limited bidding, direct contracting, direct procurement, online quotation, online procurement, shopping method according to the Bidding Law and this Decree. Payment will come from the health insurance fund based on the contract price. In case of winning bid for centralized procurement, the employer may continue the procurement according to the contract signed with the bidder.

3. The Ministry of Health shall organize centralized drug procurement at the national level, and take charge and coordinate with the Ministry of Finance and Vietnam Social Insurance to negotiate prices. If price negotiation is applied, the bidder invited to negotiate must meet the eligibility requirements specified in Points a, b, c, d, e, g and i, Clause 1, Article 5 of the Bidding Law.

4. Regarding selection of drug suppliers, Vietnam Social Security has the following responsibilities:

a) Participate in the appraisal process of specific contractor selection plans for centralized procurement and price negotiation;

b) Publicize the price of each winning drug paid from the health insurance fund of each hospital, locality, and the Ministry of Health on the website of Vietnam Social Security.

Article 95. Payment of costs of purchasing drugs, chemicals, testing supplies, and medical equipment for private health facilities

1. Private health facilities can submit their consolidated procurement needs for drugs, chemicals, testing supplies, and medical equipment to the centralized procurement unit in their locality for centralized procurement (national level, local level) and price negotiation. When consolidating centralized procurement needs, private health facilities are responsible for developing plans to use drugs, chemicals, testing supplies, and medical equipment in compliance with regulations on bidding of centrally procured medicines, chemicals, testing supplies, and medical equipment, similar to those required for public health facilities in the locality.

If a private health facility needs to purchase drugs, chemicals, testing supplies, or medical equipment through a centralized procurement unit, they must sign a contract with the centralized procurement unit.

2. Private health facilities that do not consolidate needs for centralized procurement and price negotiation according to Clause 1 of this Article shall organize their own selection of contractors to supply drugs, chemicals, testing supplies, medical equipment. Payment for drugs, chemicals, testing supplies, and medical equipment paid by the health insurance fund is made according to Clauses 3, 4, 5 and 6 of this Article.

3. Private health facilities that use drugs on the list of drugs paid for by the health insurance fund for medical treatment will be reimbursed at the purchased price, but not exceeding the following limits: winning unit prices of public health facilities at provincial, central levels, or winning unit prices of health facilities of the same healthcare practice level in the same locality. This applies to drugs with identical trade name, manufacturer, origin, concentration, content, administration route, technical criteria group, dosage form, and unit of measurement.

If there is no winning unit price in the same locality mentioned above, the determination of the unit price for reimbursement is based on the winning unit price of the drug with identical trade name, manufacturer, origin, concentration, content, route of administration, technical criteria group, dosage form, and unit of measurement in the following order of priority:

a) Results of national centralized procurement, results of price negotiations;

b) Results of centralized procurement in the locality;

c) Bidding results of public health facilities at provincial and central levels, or health facilities of the same healthcare practice level in neighboring areas;

d) Bidding results of public health facilities at provincial and central levels, or health facilities of the same healthcare practice level in Hanoi and Ho Chi Minh City.

4. Private health facilities will be reimbursed for chemicals, testing supplies, and medical equipment based on the actual purchase price. This applies to items with identical manufacturer, origin, and technical criteria. However, the reimbursement amount cannot exceed the winning unit price of public health facilities at the provincial, central level, or health facilities in the same healthcare practice level in the same locality.

If there is no winning unit price in the same locality mentioned above, the determination of unit price for reimbursement is based on the winning unit price of chemicals, testing supplies, and medical equipment from the same manufacturer, origin, technical criteria in the following order of priority:

a) Results of national centralized procurement, results of price negotiations;

b) Results of centralized procurement in the locality;

c) Bidding results of public health facilities at provincial and central levels, or health facilities of the same healthcare practice level in neighboring areas;

d) Bidding results of public health facilities at provincial and central levels, or health facilities of the same healthcare practice level in Hanoi and Ho Chi Minh City.

5. If a private health facility chooses to apply the Bidding Law to organize the selection of contractors

to supply drugs, the reimbursement is based on the contractor selection result but does not exceed the winning unit prices in the same locality, centralized procurement results, price negotiation results, bidding results in neighboring areas, Hanoi City and Ho Chi Minh City according to the principles specified in Clause 3 of this Article.

6. If a private health facility chooses to apply the Bidding Law to organize the selection of contractors to supply chemicals, testing supplies, medical equipment, the reimbursement is based on the contractor selection result but does not exceed the winning unit prices in the same locality, centralized procurement results, price negotiation results, bidding results in neighboring areas, Hanoi City and Ho Chi Minh City according to the principles specified in Clause 4 of this Article.

Chapter VII

ONLINE CONTRACTOR SELECTION

Section 1. ONLINE BIDDING

Article 96. Connecting VNEPS with other systems

1. Connect to the National Information System for business registration, cooperative registration, and household business registration (hereinafter referred to as National Business Registration System):

a) VNEPS uses information from business registration, cooperative registration, and household business registration to register bidders and track their activities on the platform;

b) VNEPS uses information on legal status, financial statements, and other information of enterprises, cooperatives, and household businesses stored in the National Business Registration System to evaluate prequalification applications, EOI responses, bids and consider contract award. Data shared between the National Business Registration System with VNEPS is updated regularly and continuously;

c) The Ministry of Planning and Investment shall develop, manage, and guide the implementation of connections between the Systems specified in Points a and b of this Clause.

2. Connect to the Tax Management System (TMS):

a) VNEPS uses information on payment of tax liabilities, financial statements of enterprises, cooperatives, and household businesses stored in the National Business Registration System to evaluate prequalification applications, EOI responses, bids and consider winning bids;

b) Information on tax liabilities and financial statements of organizations, enterprises, and household businesses are updated regularly and continuously;

c) The Ministry of Finance and the Ministry of Planning and Investment organize the connection of the TMS with VNEPS through the National Business Registration System; manage received information in accordance with the law on management, connection, and sharing of digital data of regulatory agencies.

3. Connect to the Treasury and Budget Management Information System (TABMIS):

a) VNEPS shares information about contracts, performance progress, completed work value tables, payment progress of contracts. This data helps manage contract performance, payments, and bidder capacity, experience, and performance history.

b) The Ministry of Finance and the Ministry of Planning and Investment organize the connection of the TABMIS with VNEPS; manage received information in accordance with the law on management, connection, and sharing of digital data of regulatory agencies.

4. VNEPS is connected to Vietnam Social Security, other information portals and systems to simplify the bidding process, contract management, and contract payment.

Article 97. Process for online contractor selection

1. e preparation, appraisal of, and approval for prequalification documents, EOI requests, and bidding documents shall comply with Articles 23, 24, 25, 35, 36, 37, 60, 61 and 62 of this Decree.

a) For the requirements in the data sheet, evaluation criteria for eligibility, capacity, and experience in the prequalification documents and bidding documents of goods procurement and construction packages, non-consulting services, employers or procuring entities may not attach request files other than the contents that have been digitized in webform form on the VNEPS;

b) For the requirements in the data sheet, evaluation criteria for eligibility, capacity and experience, technical evaluation criteria in the EOI requests and bidding documents of packages for consulting services, employers or procuring entities may not attach request files other than the contents that have been digitized in webform form on the VNEPS.

2. Criteria for evaluating prequalification applications, EOI responses, and bidding documents are laid down in Articles 23, 24, 35, 36, 60 and 61 of this Decree.

3. The evaluation of bids is carried out according to the principles specified in Clauses 1, 2, 3, 4, 6, 7 and 8, Article 27, Clause 1 Article 39, and Clause 1, Clause 2 Article 64 of this Decree.

For packages for procurement of goods and non-consulting services using a single-stage, one-envelope method, using the least-cost selection and bids without any incentives, the VNEPS automatically rank bidders according to their bid prices; evaluation of bids may be carried out against the first ranked bidder. If the first ranked bidder does not respond, the next ranked bidder will be evaluated.

4. Clarifications to bids are carried out through VNEPS according to Clauses 1, 3, 4, 5, Article 28 and Clauses 1, 3, 4, 5, Article 65 of this Decree.

5. Error correction and deviation adjustment are carried out in accordance with Article 29 or Article 66 of this Decree.

6. EOI requests, prequalification documents, bidding documents, shortlisting selection results, and contractor selection results are approved on VNEPS according to the roadmap specified in Point d Clause 8 of this Article.

7. Bidders must actively monitor and update their information on VNEPS for any packages they are interested in or participating in. If errors occur due to failure to monitor and update information on VNEPS, leading to disadvantages for bidders during the bidding process, including: changes in and modifications to EOI requests, prequalification documents, bidding documents, bid submission deadline, contract negotiation and other matters, bidders must take responsibility and bear the disadvantages during the bidding process.

8. Online contractor selection from the effective date of this Decree until December 31, 2024 will be carried out according to the following roadmap:

a) Organize online contractor selection for all (100%) packages of investment projects applying competitive bidding, limited bidding, and domestic shopping method for procurement of goods , construction, non-consulting services, consulting services with a package price not exceeding VND 500 billion, except for mixed packages, packages applying the two-stage and one-envelope method, two-stage and two-envelope method, international bidding;

b) The organization of online contractor selection during the year must ensure that the total number of packages reaches at least 95% of the number of packages and at least 90% of the total value of packages using the form of competitive bidding, limited bidding, domestic shopping method except for mixed packages, packages applying the two-stage and one-envelope method, two-stages and two-envelope method, international bidding;

c) Organize online contractor selection for all (100%) packages of procurement estimates applying competitive bidding, limited bidding, and domestic shopping method, except for mixed packages, packages applying the two-stage and one-envelope method, two-stage and two-envelope method, international bidding;

d) For packages applying online contractor selection, approval for EOI requests, prequalification documents, bidding documents, shortlisting selection results, contractor selection results on VNEPS will be implemented from December 1, 2024.

9. Cases of non-bidding on VNEPS specified in Clause 5, Article 50 of the Bidding Law include:

a) Packages that apply the two-stage and one-envelope method, two-stage and two-envelope method, international bidding;

b) Packages that apply the form of direct contracting, direct procurement, self-performance, price negotiation, contractor selection in special case, community-involved packages, selection of individual consultants under shortened procedures. For these contractor selection methods, electronic contract signing is carried out on a basis consistent with the features and development of VNEPS;

c) Projects, procurement estimates, packages have confidential contents and the disclosure of information on VNEPS will affect community interests, or endanger social order and security, or endanger national defense, security, foreign affairs, and territorial borders.

In case of publicizing information about the project, procurement estimate, package, specific contractor selection plan, EOI request, prequalification documents, bidding documents, contractor selection result according to Article 8 of the Bidding Law that may lead to the consequences specified in this point, the employer shall report to the competent person to consider approval in the specific contractor selection plan for not organizing online bidding.

If some information in the project, procurement estimate, package, EOI requests, prequalification documents, bidding documents need to be kept confidential and the remaining information may still be made public, the employer shall report to the competent person on how to provide such information. Confidential information must not be disclosed on VNEPS; other information may be posted and online contractor selection may be organized;

- d) The package exceeds the technical infrastructure capacity of VNEPS;
- dd) Other packages as prescribed by law.

Section 2. ONLINE QUOTATION

Article 98. Conditions for applying online quotations

1. Online quotation includes online quotation under ordinary procedures and online quotation under shortened procedures.
2. Online quotation under ordinary procedures applies in the following cases:
 - a) Common and simple non-consulting service packages;
 - b) Packages for procurement of readily available, standardized goods with similar quality from multiple competing suppliers; price is the main deciding factor, with no or minimal impact from life cycle costs;
 - c) Groups of goods or services that can apply for online quotation include: materials, fuel, basic construction materials (iron ore, road aggregate, construction materials, copper pipes and other materials; standardized information technology equipment, including computers, ink cartridges, modems and other equipment; printing paper, photocopy paper, simple supplies, light bulbs; purchase of the right to use commercial software; energy, coal or gas; chemistry; shipping services; cleaning service; maintenance service; other goods or services that meet the requirements of Points a and b of this Clause.
3. Online quotation under shortened procedures applies in one or more of the following cases:
 - a) Packages for procurement of goods and provision of non-consulting services with a value of no more than 300 million VND for procurement estimates;
 - b) Packages belong to projects of the state-owned enterprises, enterprises with 100% charter capital held by state enterprises and projects under the Law on Public Investment, including: packages for procurement of goods and provision of non-consulting services with a value of no more than 1 billion VND
 - c) Packages for goods and services that must be purchased from specific manufacturers to ensure compatibility of technology and copyright with equipment, machinery, software and services that are readily available or due to the manufacturer's warranty conditions that cannot be purchased from another manufacturer and there are multiple bidders capable of supplying the goods or services.

Article 99. Principles of online quotation

1. Bidders can continuously change prices and factors other than prices (if any) during the online quotation period. The price levels and factors other than prices (if any) offered by bidders are publicized on VNEPS during the bidding process, except the bidder's name. VNEPS automatically ranks and publicizes the ranking order of bidders corresponding to prices and factors other than prices (if any) during the online quotation period; remaining time of the online quotation process.
2. If the bid price is the only factor allowed to be re-offered and the package is evaluated according to the least-cost selection and there are many bidders offering the lowest price, the first bidder with the lowest price wins the bid.
3. If the least-cost selection is not used, VNEPS automatically ranks bidders according to the evaluation criteria in the bidding documents and if there are multiple bidders ranked first, the bid will be awarded to the bidder who first achieved the first rank.
4. The end time for online quotation must be during business hours.
5. The offered price must not be higher than the package price and must not be higher than the lowest offered price if the price is the only factor being re-offered. If the bid prices after discount (if any) of all technically-responsive bidders exceed the package price and no bidder participates in online quotation under ordinary procedures, the employer will address the situation according to Point b or Point c or Point d, Clause 8, Article 131 of this Decree.

Article 100. Ordinary online quotation process

1. On the basis of the approved specific contractor selection plan, the organization of online quotation under ordinary procedures is carried out at the financial evaluation step, as a basis for comparing bids and ranking bidders.

2. Contractor selection preparation, including:

The appraisal of and approval for bidding documents shall comply with Clause 24, Article 25 of this Decree. For packages with a package price of less than 5 billion VND, the minimum time to prepare bids is 5 working days from the first date the bidding documents are issued to the bid submission deadline.

3. In addition to the contents specified in Article 24 of this Decree, bidding documents must also

include at least the following information related to the online quotation process:

- a) Notice on the application of online quotation during the contractor selection process;
- b) Factors other than prices that bidders are allowed to change (if any) and conversion formula to compare and rank bidders.

4. Organization of contractor selection:

The contractor selection organization shall comply with Article 26 of this Decree.

5. Evaluation of bids and organization of online quotation:

- a) The bid evaluation shall comply with Article 97 of this Decree;
- b) The list of technically-responsive bidders to be appraised and approved. Based on the list of technically-responsive bidders, the procuring entity sends an invitation for online quotation on VNEPS to the bidders on the list at least 3 working days before the online quotation start date. The invitation for online quotation includes the following contents: online quotation start time; bidder ranking principles, including the mathematical formula used in the online quotation process (if any) to automatically rank bidders on the basis of their offer prices along with other factors in the online quotation session; bid increments (the minimum difference of the next offered price offer compared to the current offered price); online quotation end time; other relevant information (if any);
- c) The bidder decides to participate in online quotation according to the invitation of the procuring entity. Even if a bidder is invited to participate in the online quotation but does not submit a quote, their original bid submitted before the bid submission deadline will still be financially evaluated.

6. Recording of online quotation result:

- a) Bidders participate in online quotation on VNEPS. The minimum online quotation time is 3 hours from the time the online quotation starts;
- b) VNEPS records the final offered price of each bidder at the end of the online quotation process and the bidder ranking list;
- c) The consideration for contract award is carried out according to Article 61 of the Bidding Law based on the bid price and non-price factors (if any) of the first ranked bidder at the end of the online quotation process.

7. Submission, appraisal of, approval for, and publication of contractor selection result:

The submission, appraisal of, approval for, and publicization of contractor selection result shall comply with Article 31 of this Decree.

8. Finalization, signing, and management of contract performance:

The contract signed between the parties must be consistent with the decision on approval for contractor selection result, the bid, the bidding documents, and other related documents. The finalization, signing, and management of contracts shall comply with Article 32 and Article 33 of this Decree.

Article 101. Shortened online quotation process

1. Prepare an invitation to bid based on the approved specific contractor selection plan:

The invitation to bid includes the following information:

- a) Specific requirements on origin, marking, trademark, manufacturer, technical specifications of goods, delivery time, warranty and other necessary matters (if any) for goods procurement package; scope of work, technical requirements, performance duration, service completion time and other necessary matters (if any) for non-consulting service packages;
- b) Online quotation start time, bidder ranking principles, bid increments, online quotation end time and other relevant information (if any);
- c) No bid security is required.

2. After the employer approves the invitation to bid, the procuring entity posts the invitation to bid on VNEPS at least 3 working days before online quotation start time. The minimum online quotation time is 24 hours from the time the online quotation starts.

3. Bidders participate in direct online quotation on VNEPS to bid for the items listed in the invitation to bid and can offer their prices within the time limit specified in the invitation.

4. To participate in online quotation, bidders must commit in their letter of bid to meet the requirements in the invitation to bid. If the bidder wins the bid but does not comply with the commitment as outlined in the letter of bid, the situation will be addressed in accordance with the terms and conditions specified in that document (publicize the bidder's name on VNEPS and lock the account within 6 months from the date on which the Ministry of Planning and Investment receives the employer's

written request), except for force majeure events.

5. Recording of online quotation result:

- a) VNEPS records the final offered price of each bidder at the end of the online quotation process and the bidder ranking list;
- b) The consideration for contract award is carried out according to Article 61 of the Bidding Law based on the bid price of the first ranked bidder at the end of the online quotation process.

6. Submission, appraisal of, approval for, and publication of contractor selection result:

The submission, appraisal of, approval for, and publicization of contractor selection result shall comply with Article 31 of this Decree.

7. Finalization, signing, and management of contract performance:

The contract signed between the parties must be consistent with the decision on approval for contractor selection result, the bid, the bidding documents, and other related documents. The finalization, signing, and management of contracts shall comply with Article 32 and Article 33 of this Decree.

Section 3. ONLINE PROCUREMENT

Article 102. Form of online procurement

- 1. Online procurement must be approved in the specific contractor selection plan and is applied to goods or services of packages included in the procurement estimate with a package price not exceeding 100 million VND; packages for procurement of goods or services under projects of state-owned enterprises, enterprises with 100% charter capital held by state-owned enterprises and projects under the Law on Public Investment with a package price not exceeding 1 billion VND.
- 2. The time to apply online procurement for items in the list of goods or services for centralized procurement is the contract performance duration if a framework agreement is not signed but must not exceed 12 months from the effective date of the contract or effective period of the framework agreement.

Article 103. Online procurement process

- 1. VNEPS automatically extracts information about the contractor selection result for centralized procurement on the list of goods or services applicable to online procurement.
- 2. Based on the list of goods or services specified in Clause 1 of this Article, employers and procuring parties wishing to procure online can order goods or services directly on VNEPS. Order for each good and service includes: Order for each good and service includes: quantity, volume; delivery method and shipping unit price (if any); unit price of the good or service; payment methods; place of delivery or place of performance; other necessary information.
- 3. For each order of goods or services, the VNEPS automatically sends a notification to the bidder who won the bid in the previous centralized procurement. The bidder shall either confirm or reject the order on the VNEPS within 3 days of receiving the order.
- 4. VNEPS displays a notice of confirmation or rejection of that order and sends a notice to the procurement unit.
- 5. Publicize the online procurement result.
- 6. The finalization, signing, and management of contracts shall comply with Article 32 and Article 33 of this Decree. The bidder manages confirmed orders and is responsible for providing goods or services as requested, ensuring quality and schedule.

Article 104. Information on goods or services procured online

In case of reducing the prices of goods or services compared to the provisions in the framework agreement or previously signed contract, the bidder shall notify the centralized procurement unit and VNEPS at least 5 days before the reduction.

Chapter VIII

CONTRACT

Article 105. Contract with the successful bidder (contractor)

- 1. The contract signed between the employer (or authorized agency) and the successful bidder is a civil contract and is made in writing. The legal representative or person authorized by the legal representative (hereinafter referred to as legal representative) of the bidder is responsible for signing the contract; for a joint venture bidder, the legal representative of the joint venture parties is responsible for signing the contract according to Clause 3, Article 67 of the Bidding Law. A contract that has been signed by the parties, is valid, and in accordance with law is the highest legal basis

binding the responsibilities and obligations of the parties during the contract performance process and to resolve any arising disputes (if any).

The content of the contract must be prepared according to the form specified in the bidding documents or RFPs, and be consistent with the contract negotiation results (if any), contract finalization results, and contractor selection results based on the requirements of the package and instructions from specialized regulatory agencies.

2. When signing a contract, the contract document must ensure compliance with the following:

- a) General conditions of the contract, specific conditions of the contract in the bidding documents, RFPs and corrections and clarifications during the contractor selection process;
- b) The bidder's detailed proposals in the bids and proposals approved by the employer and the matters agreed between the two parties during the contract negotiation process (if any), contract finalization;
- c) Approval for contractor selection results;
- d) Law regulations.

3. Quality management of goods or services; currency and form of contract payment; advance payment; contract payments; payment and contract liquidation principles comply with Articles 108, 109, 110, 111, 112 and 113 of this Decree.

Article 106. Modifications of contract

1. Contract modifications occur when the employer and bidder mutually agree to modify or supplement any terms and conditions outlined in the original signed contract. Contract modifications can only be made during the contract's validity period; modifications to the schedule, volume, and price are carried out in accordance with Clause 2, Article 70 of the Bidding Law. Contract modifications apply to all types of contracts specified in Article 64 of the Bidding Law and must be done in writing.

2. The parties can agree in the contract on the procedures for modifying the contract according to Point a, Clause 1, Article 70 of the Bidding Law in the following cases:

- a) When there is a change in policy or law that directly affects the performance of the contract;
- b) Force majeure events;
- c) Changes in method of transportation, delivery location, and related services for goods procurement packages;
- d) Additional volume and quantity of work under the purchase option in addition to the volume and quantity stated in the contract. In this case, the contract modification document must clearly stipulate the volume, value, delivery time or service completion time for additional work and other necessary matters. Delivery time or service completion time for additional work may extend beyond the original contract performance period, but this extension must be approved by a competent person. The employer may choose to purchase additional quantities, but the total number of items purchased cannot exceed the maximum limit specified in the respective contractor selection plan.

If the VAT law changes after the additional purchase option applies, the unit price (including VAT) of the good or service cannot exceed the sum of the pre-tax value in the contract and the new VAT amount at the time of applying the additional purchase option;

- dd) Changes in approved design;
- e) One or more parties propose initiatives and improvements in contract performance that bring higher benefits to the employer;
- g) Changes in the contract schedule according to Clause 3, Article 70 of the Bidding Law;
- h) Other cases as prescribed by law and agreement between the parties, including volume, price and other matters.

3. When the price index and other factors fluctuate according to the instructions of the Ministry of Construction, employers and bidders can consider modifying contracts for packages governed by the Construction Law. This ensures compliance with civil law regulations regarding contract modifications due to substantial changes to contract performance circumstances.

4. For packages for procurement of goods and provision of non-consulting services under the procurement estimate that apply fixed unit price contracts, adjustable unit price contracts, if the originally agreed-upon contract completion date arrives and the specified work remains incomplete, the employer can request an extension from the competent person but not exceeding 6 months, except cases specified in Clause 5, Article 93 of this Decree.

5. Situations where the contract price, volume, or other specified terms can be changed without requiring contract modifications or signing a contract modification document as outlined in Clause 5 of

Article 70 in the Bidding Law:

- a) Adjust contract prices due to inflation and deflation for adjustable unit price contracts, time-based contracts, output-based contracts (if any) as prescribed in Clauses 2 and 3 of Article 107 of this Decree;
- b) Increase or decrease volume for fixed unit price contracts, adjustable unit price contracts; for packages of goods procurement and non-consulting services that apply fixed unit price contracts, adjustable unit price contracts, the addition of volume under the additional purchase option will apply contract modifications according to Point d, Clause 2 of this Article;
- c) Increase or decrease time for time-based contracts; increase or decrease direct costs of cost-plus-a-fee contracts; increase or decrease the base value to calculate the percentage of costs for percentage-based contracts; increase or decrease the level of payment deduction and increase in payment value for output-based contracts;
- d) Other cases as prescribed by law and agreement between the parties.

If the changes to the items specified in this Clause lead to failure to meet one or more of the requirements specified in Clause 5, Article 70 of the Bidding Law, the competent person must be reported to authorize the contract modifications.

Article 107. Adjustment of contract price due to inflation and deflation

1. Contract price adjustment due to inflation and deflation (hereinafter referred to as contract price slippage adjustment) for adjustable unit price contracts is carried out in accordance with Clauses 2 and 3 of this Article. For time-based contracts, output-based contracts, contract price slippage can be applied to contracts with long performance periods or in market situations with large price fluctuations.
2. The application of price slippage adjustment must be specified in the bidding documents or RFPs and be finalized during the contract negotiation process (if any) and contract finalization. The contract must stipulate the principles and time for calculating adjustments; input database to calculate adjustments; time to calculate the price index or original price as a basis for determining the difference due to price slippage for each contract instalment. The content of the contract price must include a provisional price slippage value calculated on the basis of expected price slippage and legal regulations on cost management as a basis for payment. The management and payment of price slippage according to the terms and conditions already in the contract, does not require signing a contract modification document; if price fluctuations cause subsequent instalments and total contract price to exceed the originally package price, the employer must seek approval from the competent person. If approved by the competent person, the parties sign a contract modification document before making payment.
3. Contract price slippage is determined according to the following methods:
 - a) Direct compensation method;
 - b) Adjustment method using adjustment formula based on application of price index. The price index used as a basis for calculating price slippage is determined according to the bidding documents, RFPs, detailed contract negotiation (if any) and contract finalization. The index source can be specified according to the price index announced by the General Statistics Office of Vietnam or the construction price index announced by the Ministry of Construction and the Provincial People's Committee. For foreign-sourced cost items subject to price slippage adjustments, the price index published by the independent statistical agency in the foreign country where the cost incurs may be applied. Determining the method and formula for calculating price adjustments must be based on a scientific basis, consistent with the nature of the package, and specific regulations on price slippage risk management in the contract. Employers can apply adjustment formulas that are widely applied in the international market, including regulatory templates of the Fédération Internationale des Ingénieurs Conseils (FIDIC), and guidance from the World Bank (WB), Asian Development Bank (ADB) and other templates;
 - c) Other adjustment methods specified in Points a and b of this Clause as per the law.

Article 108. Quality management of goods or services

1. Quality requirements of goods or services must be specifically regulated through criteria, parameters, and product specifications, quality control procedures stated in the technical requirements, specific conditions of the contract and other matters in the bidding documents or RFPs. Based on the bidder's proposal in the bid, clarifications during the evaluation of the bid, proposal and detailed negotiations (if any), contract finalization, quality requirements of goods or services to be supplemented and completed to sign a contract.
2. The contract must stipulate procedures to control quality indicators of goods or services; control the origin of goods.

Article 109. Currency and form of contract payment

1. The currency used to pay for the contract must be specifically specified in the contract and in accordance with the requirements of the bidding documents or RFPs and must not contradict regulations of law.

2. Costs incurred within Vietnam must be paid in Vietnamese Dong, while costs incurred outside Vietnam can be paid in either foreign currency or Vietnamese Dong, as stipulated in the contract.

3. Payments can be made in cash, via bank transfer, or through other methods mutually agreed upon by the parties in accordance with applicable laws and to be clearly specified in the contract.

Article 110. Contract advance

1. A contract advance is a sum of money paid upfront to the bidder to carry out the work under the contract.

2. Depending on the scale and nature of the package, determine the advance level in accordance with law (if any). The contract must clearly specify the following regarding the contract advance: advance amount, advance time, bank guarantee for advance, advance recovery; responsibilities of the parties in the management and use of advance funds; collecting the value of the advance guarantee if the advance funds are used for improper purposes.

3. The bidder shall ensure that the advance capital is used for proper purposes, allocated to the correct recipients, and used effectively. It is strictly forbidden to advance money without using it or using it for improper purposes.

Article 111. Contract payment

1. The contract price and specific payment terms stated in the contract are the basis for payment to the bidder.

2. Payment will not be determined by estimates and applicable State's regulations and instructions on norms and unit prices, or unit prices listed in the bidder's financial invoice for materials, machinery, equipment, and other inputs.

3. If there are many different types of contracts in a contract, the payment principles corresponding to each type of contract shall apply as prescribed in Article 112 of this Decree.

Article 112. Payment principles for various types of contracts

1. For lump-sum contracts:

Payment is made according to a percentage of the contract price or the price of the project, work item, and work volume corresponding to the payment period agreed upon by the parties in the contract; when making payment, confirmation of detailed completed volume is not required.

2. For fixed unit price contracts:

The payment value is determined on the basis of the fixed unit price in the contract multiplied by the volume and amount of actual work that the bidder has performed and has been accepted corresponding to the completion milestones and terms in the contract.

3. For adjustable unit price contracts:

The payment value is determined on the basis of the unit price or adjusted unit price according to the contract multiplied by the volume and amount of actual work that the bidder has performed and has been accepted corresponding to the completion milestones and terms in the contract. If the contract does not adjust the unit price but adjusts price slippage, the payment value is determined according to the contract price adjusted for price slippage according to the contract.

4. For time-based contracts:

a) Expert remuneration: is calculated by multiplying the expert's salary and salary-related costs (social insurance, health insurance, unemployment insurance, holidays, etc., bidder's management costs (if applicable) and other costs outlined in the contract or adjusted according to regulations) by the actual working time (month, week, day, or hour) corresponding to the completion milestones and regulations specified in the contract;

b) For work outside the scope of Point a in this Clause, payment will be based on a unit price per unit of time. The total payment will be calculated by multiplying the unit price by the actual working time aligned with the completion milestones and regulations outlined in the contract;

c) Related costs (in addition to expert salary, other work costs applying the unit price per time unit specified in Points a and b of this Clause) include: travel, survey, office rental, communication and other costs are paid according to the method specified in the contract. For each of these costs, the contract needs to clearly stipulate the payment method such as actual payment based on valid invoices and documents presented by the bidder or payment based on the unit price agreed upon in the contract.

5. For percentage-based contracts:

The payment value is determined by multiplying the percentage stated in the contract by the value of the project that has passed the taking-over inspection and consistent with the project insurance period stated in the contract.

6. For output-based contracts:

The payment value is determined on the basis of the actual value of the work that has passed the taking-over inspection corresponding to the payment period agreed upon by the parties in the contract, plus or minus the payment increase/payment deduction value according to regulations in the contract based on output results.

7. For cost-plus-a-fee contracts:

Payment is based on the actual costs the bidder has spent to perform the contract, plus an appropriate profit amount for the bidder based on the provisions of the contract.

8. Processing of payment documents is carried out within 14 days from the date the bidder submits all payment documents to the employer.

Article 113. Contract liquidation

1. The contract is liquidated in the following cases:

- a) The parties fulfill their obligations under the signed contract;
- b) The contract is terminated (cancelled) as per the law.

2. The parties can agree that the contract will automatically expire upon fulfilling the obligations under the signed contract or signing a contract liquidation record. The contract liquidation record can be prepared separately or as a part of the taking-over certificate or contract termination record in consistence with the responsibilities of the parties specified in the contract. The liquidation of the contract must be carried out within 45 days from the date on which the parties fulfill their obligations under the signed contract or within 45 days from the date the contract is terminated (cancelled) according to regulations of law and no more than 90 days for large-scale and complex contracts.

Chapter IX

INSPECTION AND MONITORING OF BIDDING ACTIVITIES AND ADDRESSING OF VIOLATIONS IN BIDDING

Section 1. INSPECTION OF BIDDING ACTIVITIES

Article 114. Responsibilities for inspecting bidding activities

1. Ministry of Planning and Investment:

- a) Lead the inspection of bidding activities at ministries, ministerial-level agencies, Governmental agencies, and other central and local agencies according to periodic plans approved by the Minister of Planning and Investment;
- b) Lead the inspection of bidding activities according to Clause 2 of this Article;
- c) Agencies tasked with managing bidding activities under the Ministry of Planning and Investment assist the Minister of Planning and Investment in inspecting bidding activities according to Point a of this clause.

2. Ministries, ministerial-level agencies, Governmental agencies, and other central agencies shall lead the inspection of bidding activities for projects for projects in which investment is decided by the head of central agencies or projects undertaken by entities under their management.

3. Provincial People's Committee:

- a) Lead the inspection of bidding activities of units under its management and projects whose investment is decided by the President of the Provincial People's Committee;
- b) The Department of Planning and Investment helps the Provincial People's Committee inspect bidding activities according to Point a of this Clause.

4. Competent persons of state-owned enterprises shall inspect bidding activities for projects in which they decide to invest, and projects of enterprises in which they hold 100% of the charter capital.

Article 115. Responsibilities of inspection team and inspection team members

1. Responsibilities of the inspection team:

- a) Carry out inspection of bidding activities according to the inspection decision;
- b) Request the inspected entity, relevant organizations and individuals to provide information and documents to facilitate the inspection process at the request of the inspection team;

c) Develop a draft inspection report and share the draft inspection report with organizations and individuals of the inspected entity;

d) Develop draft inspection findings.

2. Responsibilities of the inspection team leader:

a) Lead the formulation of and approval for detailed inspection plans;

b) Assign tasks to inspection team members when performing inspection.

3. Responsibilities of the inspection team members:

a) Carry out inspection in accordance with regulations and as assigned by the inspection team leader;

b) Prepare reports on individual inspection results as assigned;

c) Report to the inspection team leader on the results of the inspection they conducted;

d) Have the right to reserve opinions and bear legal responsibility for expressing them.

Article 116. Responsibilities of organizations and individuals of the inspected entity and related organizations and individuals

1. Responsibilities of organizations and individuals in the inspected entity:

a) Coordinate with and facilitate the inspection team during the inspection process;

b) Report honestly, provide complete information and documents promptly and take legal responsibility for the information provided;

c) Explain the contents in the draft inspection report (if any);

d) Implement the suggestions in the inspection findings of the inspection agency;

dd) Send a feedback report on the implementation of suggestions in the inspection findings to the inspection agency as prescribed in Clause 4, Article 121 of this Decree.

2. Responsibilities of relevant organizations and individuals:

a) Report honestly, provide complete information and documents promptly when requested by the inspection team and take legal responsibility for the information provided;

b) Explain the contents in the draft inspection report (if any).

Article 118. Principles for organizing inspection

1. Comply with the law, ensure accuracy, objectivity, openness, transparency and timeliness.

2. Be fair, objective, and do not cause difficulties for the inspected entity; comply with regulations on anti-corruption.

3. Conduct independently but with coordination and clear division of authority among competent inspection agencies.

4. Ensure no overlap or duplication in scope, inspected entities, inspected matters, and timing among competent inspection agencies.

5. If there is overlap in the inspected entities, priority shall be given to inspection by specialized authorities or superior agencies.

Article 118. Forms of inspection

1. Periodic inspection:

a) Periodic inspection is carried out according to the annual plan approved by the head of the inspection agency;

b) Based on the implementation of bidding activities in each year, the lead inspection agency shall make a periodic inspection plan for the following year and submit it to the head of the inspection agency for approval. The periodic inspection plan includes the following contents: list of inspected entities; projects and procurement estimates to be inspected; inspection time; inspection scope and inspected matters; inspection coordination agencies (if any);

c) If it is necessary to revise the approved periodic inspection plan, the lead inspection agency shall make a revision plan and submit it to the head of the inspection agency for approval;

d) The approved periodic inspection plan and revision plan (if any) are the basis for the head of the inspection agency to approve the inspection decision and organize inspection;

dd) The periodic inspection plan and revision plan (if any) are sent to the inspected entity within 10 days from the date of approval provided that the inspected entity receives them at least 15 days before the inspection date.

2. Surprise inspection:

- a) Surprise inspection decided by the head of the inspection agency;
- b) Surprise inspections are carried out for specific cases at the request of the Prime Minister, heads of central agencies, President of the Provincial People's Committee, and heads of inspection agencies.

Article 119. Methods of inspection

- 1. An inspection may be conducted according to one or a combination of the inspection methods specified in Clauses 2 and 3 of this Article.
- 2. Inspection visit is the main method applied and is carried out directly at the premises of the inspected entity.
- 3. Written report is the method by which the inspection team requests the inspected entity to report in writing on the inspected matters.

Article 120. Inspection visit duration and budget for inspecting bidding activities

1. Inspection visit duration:

- a) The maximum duration of an inspection visit at the premises is 7 working days from the date of announcement of the inspection decision, except for the cases specified in Point b of this Clause. Within a maximum period of 30 days from the date of completion of the inspection visit, the inspection team must make an inspection report. The head of the inspection agency approves the inspection findings within a maximum period of 20 days from the date the inspection team submits the draft inspection findings;
- b) If the inspection has complex aspects and involves many inspected entities, the maximum duration for inspection visit at the premises is 15 days from the date of announcement of the inspection decision. Within a maximum period of 40 days from the date of completion of the inspection visit, the inspection team must make an inspection report. The head of the inspection agency approves the inspection findings within a maximum period of 30 days from the date the inspection team submits the draft inspection findings.

2. Budget for inspection:

- a) Budget for inspection are allocated in the annual current expenditure estimates of the lead inspection agency of bidding activities under ministries, ministerial-level agencies, Governmental agencies, and other central agencies, Department of Planning and Investment according to the State Budget Law and guiding documents;
- b) State-owned enterprises arrange their own funds to carry out inspection.

Article 121. Inspection visit process

1. Preparation for inspection visit:

Based on the periodic inspection plan or surprise inspection request, lead inspection agency shall carry out the following tasks:

- a) Collect information and documents related to the inspection; In case of surprise inspection, the collection of information and documents is done before or after the inspection decision;
- b) Determine the composition of the inspection team and participating members of the coordinating agencies (if any);
- c) Seek approval for the inspection decision from the head of the inspection agency;
- d) The inspection team leader approves the detailed inspection plan after the inspection decision is approved; if the inspection has complex aspects, involves many inspected entities or requires a surprise inspection, the inspection team leader shall consider submitting a detailed inspection plan to the head of the inspection agency for approval;
- dd) Develop a report outline to serve as a basis for the inspected entity to prepare a report on the bidding activities that need to be inspected;
- e) Send a notice together with a detailed inspection plan and report outline to the inspected entity, the superior agency of the inspected entity (if any) and relevant entities (if any). The written notice is sent to the inspected entity at least 10 days before the inspection date.

2. Organization of inspection visit:

- a) The inspection team leader announces the inspection decision when starting to undertake an inspection visit to the premises of the inspected entity, and prepares a record to announce the inspection decision;
- b) The inspection team collects, researches, analyzes, and evaluates information and documents related to the inspected bidding activities, including the information specified in Clause 1, Article 124 of

the Decree for the inspected entity; create an evaluation and comment schedule for each inspection matter; for presenting the inspection findings. During the inspection, the inspection team can discuss with the inspected entities and conduct on-site inspections when necessary. Depending on the scale and nature of the inspection, the inspection team leader decides to make a record confirming the inspected matters;

c) The inspection team notifies the inspected entity in writing about the end of the inspection visit at the premises and hands over documents and equipment used (if any) during the inspection process;

d) After completing the inspection visit at the premises, the inspection team develops a draft inspection report and submits it to the inspection team leader for review and decision before sending it to the inspected entity for comments. The draft inspection report is sent to the inspected entity in writing or simultaneously by text, fax and email;

dd) Based on the draft inspection report and explanations of the inspected entity, the inspection team is responsible for completing the inspection report.

3. Inspection findings:

a) Based on the inspection report, the inspection team drafts inspection findings to submit to the head of the inspection agency for review and approval. Inspection findings must include action plans to address violations of the bidding law.

b) Inspection findings are sent to the inspected entity and the superior agency of the inspected entity (if any) and relevant units (if necessary).

4. Monitoring of the implementation of suggestions in inspection findings:

a) The head of the inspected entity organizes and reports the implementation of suggestions in the inspection findings to the competent inspection agency within the time limit specified in the inspection findings. The report includes the following: action plans for inadequacies and nonconformities mentioned in the inspection findings; actions to rectify bidding activities; actions plans for violations of organizations and individuals according to the recommendations of the inspection team (if any);

b) Monitoring of implementation suggestions of inspection findings is carried out through reports as prescribed in Point a of this Clause. If organizations and individuals of the inspected entity and related organizations and individuals who are responsible for implementing the suggestions in the inspection findings fail to do or fail to fully and promptly do that, their violations will be, depending on their nature and extent, addressed as per the law.

Article 121. Written inspection process

1. Preparation for inspection:

The inspection agency or the inspection team established by the inspection agency requires the inspected entity to report on the implementation of its management responsibilities for bidding or the implementation of bidding activities, including the following:

a) Reporting purposes and requirements;

b) Scope and content of the report;

c) Outline of reporting requirements;

d) Deadline for submitting report of the inspected entity;

dd) Responsibilities of the inspected entity;

e) Other related matters.

2. Organization of inspection:

a) Based on the report of the inspected entity, the lead inspection agency collects, researches, analyzes and evaluates information, including the information specified in Clause 1, Article 124 of this Decree about the inspected entity; documents related to the report contents; verify information and documents when necessary; during the inspection, the lead inspection agency can discuss with the inspected entity (if necessary);

b) The lead inspection agency develops a draft inspection report that proposes solutions to problems discovered during the inspection process.

3. Inspection findings and monitoring of implementation of suggestions in inspection findings are carried out according to Clauses 3 and 4, Article 121 of this Decree.

Section 2. MONITORING OF BIDDING ACTIVITIES

Article 123. Supervision of bidding activities by competent persons

1. Authority to supervise bidding activities:

a) In projects where the Prime Minister is a competent person, the Prime Minister may designate a lead supervisory agency, based on the project's or package's scale and nature.

b) The competent person will designate individuals or affiliated agencies with expertise in independent bidding with the employer, procuring entity, and expert team to supervise bidding activities for packages of the project and procurement estimates within their scope of management when necessary.

2. Procedures for supervision of bidding activities by competent persons:

a) Preparation for supervision: identify packages that need supervision in the specific contractor selection plan; notify employers about individuals and units performing supervision (hereinafter referred to as supervisors) and the supervision matters in bidding activities. The supervisors must be disclosed in the bidding documents or RFPs;

b) Organization of supervision: The supervisor directly communicates, prepares working minutes or requests relevant organizations and individuals to report in writing on the supervised matters. The employer, procuring entity and relevant organizations and individuals are responsible for providing records and documents at the request of the supervisor;

c) Reporting results of supervision: Upon detecting any behavior or matter that violates bidding regulations, the supervisor must promptly submit a written report to the relevant person; this report should recommend appropriate corrective actions to safeguard the effectiveness of the contractor selection process.

3. Responsibilities of supervisors of bidding activities:

a) Honesty and objectivity; do not cause trouble to the employer or the procuring entity during the supervision process;

b) Request the employer and procuring entity to provide relevant records and documents to facilitate the supervision process;

c) Receive feedback from bidders and organizations and individuals related to the contractor selection process for the package being supervised;

d) Ensure confidentiality of information as per the law;

dd) Take responsibility for the results of their supervision;

e) Carry out other responsibilities according to the law on bidding and other relevant laws.

Article 124. Regular supervision of bidding activities by bidding authorities under ministries, agencies and localities

1. Regular supervision of bidding activities is imposed by bidding authorities under ministries, agencies, and localities whenever there are indications that competition, fairness, transparency, or economic efficiency may be compromised according to information compiled on VNEPS or according to recommendations and feedback from relevant organizations and individuals, including:

a) The employer does not respond to requests to clarify the bidding documents, does not respond to proposals about the bidding documents, or the contractor selection result of the bidder;

b) The employer violates regulations on time for posting specific contractor selection plans, contractor selection results and other information;

c) The employer has a low average number of bidders of competitive bidding, limited bidding, shopping method, and online quotation under ordinary procedures;

d) The employer has many packages and has recommendations on bidding documents and contractor selection results;

dd) Bidding documents are alleged to contain provisions that restrict competition;

e) Other related information.

2. Based on the results of synthesizing the matters and information specified in Clause 1 of this Article, bidding authorities under ministries, agencies, and localities promptly implement the following measures:

a) Rectify issues in bidding activities in localities and sectors under management;

b) Request the employer and competent person to consider taking actions against organizations and individuals that commit violations (if any).

Section 3. ADDRESSING OF VIOLATIONS

Article 125. Addressing of violations in bidding activities

1. The bidding disqualification periods for organizations and individuals committing violations,

including individuals within the employer or procuring entity:

a) The bidding disqualification period is 3 to 5 years for one of the violations of Clauses 1, 2, 4 and Point a, Clause 3, Article 16 of the Bidding Law;

b) The bidding disqualification period is 1 year to 3 years for one of the violations of Points b and c, Clause 3; Clause 5; Points g, h, i, k, l Clause 6; Clause 8; Clause 9, Article 16 of the Bidding Law;

c) The bidding disqualification period is 6 months to 1 year for one of the violations of Points a, b, c, d, dd, e, Clause 6 and Clause 7, Article 16 of the Bidding Law;

For joint venture bidders, the bidding disqualification applies to all joint venture parties if any joint venture parties violate Article 16 of the Bidding Law, except for the following case: If a joint venture party violates Point c, Clause 3, Clause 4, Points b, c, d, dd Clause 5, Points a, b, c, d, dd, e, g Clause 6, Clause 7, a, Point b, Clause 8, Article 16 of the Bidding Law, only that party is disqualified from bidding, not remaining parties of the joint venture.

2. If an organization or individual commits 2 or more violations under the same management scope of the competent person and has not previously faced disqualification from bidding, the competent person shall issue a decision on total bidding disqualification period, which equals the sum of individual violation periods but not exceeding 5 years.

3. The statute of limitations for applying the bidding disqualification period specified in Clause 1 of this Article is 10 years from the date of the violation.

4. The competent person shall consider issuing a decision on bidding disqualification within the scope of their management within 15 days from the date of receipt of one of the following documents:

a) Written request from the employer accompanied by documents proving the violation;

b) Petitions on the inspection findings of the inspection agency, the inspection findings of the inspection team, and the audit result report of the state audit agency;

c) Results of resolving petitions of the Advisory Council;

d) Other documents of competent regulatory agencies that identify violations.

5. Depending on the nature and severity of the violation, the competent person as prescribed in Clause 4 of this Article shall issue a decision on bidding disqualification or request the head of the central agency or the President of the Provincial People's Committee to consider issuing a decision on bidding disqualification within the management scope of ministry, branch or locality. The head of the central agency or the President of the Provincial People's Committee shall consider issuing a decision on bidding disqualification within 15 days from the date of receipt of the written request for bidding disqualification from the competent person.

6. Pursuant to the decision on bidding disqualification posted on VNEPS, the Minister of Planning and Investment shall issue a decision on bidding disqualification nationwide in 5-year period against the organizations and individuals previously faced three separate disqualification decisions from heads of central agency or Presidents of the Provincial People's Committees.

7. A decision on bidding disqualification shall contain:

a) Name of competent person;

b) Name of the violating organization or individual;

c) The disqualification period, including: the disqualification period for the violation (content of the violation, legal basis for addressing the violation); disqualification period for subsequent violations (if any); total disqualification period;

d) Disqualification scope;

dd) Entry into force: Effective date and expiration date.

8. Organizations and individuals disqualified from bidding can file a lawsuit in court if they disagree with the disqualification decision, following civil procedure law.

9. Expert team or appraisal team members who break Article 16 of the Bidding Law will face the consequences outlined in Clause 1 of this Article, including the revocation of their bidding professional certificates.

Chapter X

MATTERS AND RESPONSIBILITIES OF APPRAISAL IN CONTRACTOR SELECTION

Article 126. Responsibilities of the appraisal team

1. The Ministry of Planning and Investment shall appraise the following:

- a) Overall contractor selection plans and specific contractor selection plans that are under the approval authority of the Prime Minister;
- b) Specific contractor selection plans in special case that are subject to decision of the Prime Minister according to Point c, Clause 1, Article 29 of the Bidding Law and other cases at the request of the Prime Minister.
2. For projects, the responsibility for appraising overall contractor selection plans and specific contractor selection plans if the overall contractor selection plan is not applied is prescribed as follows:
- a) The Department of Planning and Investment shall appraise overall contractor selection plans and specific contractor selection plans for projects decided by the President of the Provincial People's Committee, except for packages specified in Point a, Clause 1, Article 78 of the Bidding Law;
- b) Agencies and organizations assigned by the head of a central agency, a competent person of a state-owned enterprise, or an enterprise with 100% charter capital held by a state-owned enterprise shall appraise overall contractor selection plans and specific contractor selection plans for projects under their authority;
- c) Specialized agencies under the district People's Committee, as per the law on local government organization, shall appraise overall contractor selection plans and specific contractor selection plan for projects decided by the President of the District People's Committee;
- d) The assisting agencies shall appraise overall contractor selection plans and specific contractor selection plan for projects decided by the President of the Commune-level People's Committee and the head of other local agencies;
- dd) The employer or the head of an agency assigned to prepare the project (if the employer has not been identified) shall assign an organization or individual within their agency to appraise the specific contractor selection plan of a pre-bid package specified in Article 42 of the Bidding Law or a package that needs to be performed before the decision to approve the project.
3. In projects where an overall contractor selection plan is implemented, the employer appoints an organization or individual within their agency to appraise the specific contractor selection plan.
4. For procurement estimates, responsibility for appraising the specific contractor selection plan is regulated as follows:
- a) For packages for procurement of assets and goods (including purchasing drugs, chemicals, testing supplies, medical equipment), and services in which the head of a central agency is the competent person, the head of the central agency shall designate an agency, organization, and department responsible for appraising the specific contractor selection plan;
- b) For packages to purchase drugs, chemicals, testing supplies, and medical equipment for which the President of the Provincial People's Committee is the competent person, the Department of Health shall lead the appraisal of the specific contractor selection plan;
- c) For packages other than those for purchasing drugs, chemicals, testing supplies, and medical equipment in which the President of the Provincial People's Committee is the competent person, the President of the Provincial People's Committee shall designate the Department of Finance or a specialized agency under the Provincial People's Committee, as per the law on local government organization, to lead the appraisal of the specific contractor selection plan;
- d) For packages for procurement of assets, goods, and services (including purchasing drugs, chemicals, testing supplies, and medical equipment) for which the head of an agency that directly uses the estimates decides the procurement according to Article 91 of this Decree, the head of the agency shall designate a unit or department to appraise the specific contractor selection plan.
5. If the head of a central agency, President of People's Committee, competent person of state-owned enterprise, enterprise with 100% charter capital held by state-owned enterprise, other another competent person authorize the approval of an overall contractor selection plan or specific contractor selection plan to another person, the authorized person shall appraise that overall contractor selection plan or specific contractor selection plan.
6. The employer shall appraise the following: EOI requests, prequalification documents, bidding documents, RFPs, results of evaluation of EOI responses, results of evaluation of prequalification applications, list of technically-responsive bidders (for packages applying the single-stage two-envelope method, two-stage two-envelope method), contractor selection results.
7. In case the organization or individual assigned to appraise does not have sufficient capacity, then choose a consulting organization with sufficient capacity and experience to do the appraisal.

Article 127. Appraisal of overall contractor selection plan

1. Documents submitted for appraisal and approval include:
- a) Request for approval for the overall contractor selection plan;

- b) Draft overall contractor selection plan;
- c) Supporting documents for formulating the overall contractor selection plan;
- d) Other relevant documents.

2. Matters to be appraised include:

a) Check the conformity of the contents of the overall contractor selection plan specified in Article 15 of this Decree;

b) Other related contents.

3. Contents of the appraisal report include:

a) Overview of the main contents of the overall contractor selection plan, the legal grounds for preparing the overall contractor selection plan;

b) Comments and opinions of the appraisal team on the contents of the overall contractor selection plan;

c) Proposals and recommendations of the appraisal team on the contents of the overall contractor selection plan. For contents inconsistent with the draft overall contractor selection plan, the appraisal team must give specific reasons and propose solutions to submit to the competent person for consideration and decision;

d) Other opinions (if any).

4. Before signing the appraisal report, the appraisal team may convene a meeting with the parties involved to discuss the report's content if necessary.

Article 128. Appraisal of specific contractor selection plan

1. Documents submitted for appraisal and approval include:

a) Request for approval for the specific contractor selection plan;

b) Draft specific contractor selection plan;

c) Supporting documents for formulating the specific contractor selection plan;

d) Other relevant documents.

2. Matters to be appraised include:

Appraisal of the specific contractor selection plan entails a comprehensive examination, evaluation, and provision of comments based on the law on bidding and relevant laws on the following matters:

a) Legal grounds for making a specific contractor selection plan:

Consider the appropriateness and completeness of the legal grounds for planning contractor selection and necessary notes (if any).

For pre-bid packages, a specific contractor selection plan is made before signing international treaties, agreements on ODA capital and concessional loans from foreign sponsors according to Article 42 of the Bidding Law;

b) Division of projects and procurement estimates into packages:

Consider the appropriateness of dividing a project or procurement estimate into packages; the division into packages must be based on technical aspects, implementation sequence, synchronization of the project or procurement estimate, and reasonableness of package scale;

c) Document submitted for approval for the specific contractor selection plan includes the following: review the following aspects of the specific contractor selection plan: appropriateness of the content, compliance with the Bidding Law and other relevant laws, consistency with project or procurement estimate requirements, and any other necessary considerations; review the total value of the following in relation to the total project investment or procurement estimate: portions of the work performed, portions of the work not suitable for any contractor selection method, portions of the work included in the specific contractor selection plan, and any portions of the work that do not meet the criteria for a specific contractor selection plan. For procurement estimates, if the package has a performance period longer than 1 year, consider the conformity of the total value of the work portions with the procurement estimate of the budget year, fiscal year and procurement estimates for the following budget years and fiscal years.

3. Contents of the appraisal report include:

a) Overview of main contents of the project or procurement estimate;

b) Comments and opinions of the appraisal team on the legal grounds, compliance with regulations of law on bidding and other relevant laws; agreement or disagreement on the content of the draft specific

contractor selection plan;

c) Proposals and recommendations of the appraisal team on the approval for the specific contractor selection plan. For contents inconsistent with the draft specific contractor selection plan, the appraisal team must give specific reasons and propose solutions to submit to the competent person for consideration and decision;

d) Other opinions (if any).

Article 129. Appraisal of EOI requests, prequalification documents, bidding documents, and RFPs

1. Documents submitted for appraisal and approval include:

a) Request for approval for the EOI requests, prequalification documents, bidding documents, and RFPs of the procuring entity;

b) Draft EOI requests, prequalification documents, bidding documents, or RFPs;

c) Decision on project approval (if any), decision on approval for specific contractor selection plan;

d) Other relevant documents.

2. Matters to be appraised include:

a) Check supporting documents for formulating the EOI requests, prequalification documents, bidding documents, or RFPs;

b) Verify if the contents of the EOI requests, prequalification documents, bidding documents, and RFPs conform with the scale, objectives, scope of work, and performance duration of the project, procurement estimate, package; conform with the documents, estimates of the package, requirements on characteristics and technical specifications of the goods (if any); conform with meeting minutes between the procuring entity and the bidders in first stage (for packages applying the two-stage method); or conform with the law on bidding and other relevant laws;

c) Consider different opinions (if any) between organizations and individuals participating in preparing the EOI requests, prequalification documents, bidding documents, and RFPs;

d) Other related contents.

3. Contents of the appraisal report include:

a) Overview of the main content of the project, procurement estimate, package, legal grounds for preparing the EOI requests, prequalification documents, bidding documents, and RFPs;

b) Comments and opinions of the appraisal team on the legal grounds, compliance with regulations of law on bidding and other relevant laws; agreement or disagreement on the content of the draft EOI requests, prequalification documents, bidding documents, and RFPs;

c) Proposals and recommendations of the appraisal team on approving the EOI requests, prequalification documents, bidding documents, and RFPs; on action plans to address non-compliance in EOI requests, prequalification documents, bidding documents, and RFPs with the law on bidding and other relevant laws; on action plans to address insufficient grounds for approval for EOI requests, prequalification documents, bidding documents, and RFPs;

d) Other opinions (if any).

4. Before signing the appraisal report, the appraisal team can convene a meeting between the parties to resolve remaining issues if necessary.

Article 130. Appraisal of results of evaluation of EOIs, results of evaluation of prequalification applications, list of technically-responsive bidders, contractor selection results

1. General principles:

a) The results of evaluating EOI responses, the results of evaluating prequalification applications, and the contractor selection results must be appraised before approval;

b) For packages applying the single-stage and one-envelope method, the contractor selection result will be appraised without requiring appraisal of the list of technically-responsive bidders;

c) For packages of consulting services, goods, construction, non-consulting services, and mixed services, which apply the single-stage and two-envelope method, packages that apply the form of online quotation under ordinary procedures, the list of technically-responsive bidders must be evaluated before approval;

d) For packages applying the two-stage and one-envelope method, no appraisal is carried out in first stage. The appraisal in second stage is carried out similarly to those required for packages applying the single-stage and one-envelope method;

dd) For packages applying the two-stage and two-envelope method, the first stage will only conduct appraisal of the list of technically-responsive bidders, the appraisal will be carried out in the second stage similarly to those required for packages applying the single-stage and two-envelope method, in which the list of technically-responsive bidders in the second stage is evaluated in accordance with the technical contents in the bidding documents for second stage, which have been adjusted compared to first stage;

e) Before signing the appraisal report, the appraisal team can convene a meeting between the parties to resolve remaining issues if necessary;

g) It is not required to appraise the list of ranking of bidders.

2. Appraisal of results of evaluation of EOI responses and prequalification applications:

a) Documents submitted for appraisal and approval include:

A request for approval for the results of evaluation of the EOI responses and prequalification applications of the procuring entity, which must clearly state the procuring entity's opinions on the proposals and recommendations of the expert team;

Report on the results of evaluation of EOI responses and prequalification applications of the expert team;

EOI requests, prequalification documents, bid opening minutes, EOI responses, prequalification applications of bidders and other relevant documents.

b) Matters to be appraised include:

Check documents that serve as the foundation for inviting interest and organizing prequalification;

Check compliance with time regulations during the invitation of interest and prequalification process;

Check the evaluation of EOI responses, prequalification applications; compliance with regulations of the law on bidding and other relevant laws during the evaluation of EOI responses, prequalification applications;

Consider different opinions (if any) between the procuring entity and the expert team; between individuals in the expert team;

Other related contents.

c) Contents of the appraisal report include:

Overview of the main content of the project, procurement estimate, package, legal grounds for invitation of interest, organization of prequalification;

A brief statement describing process of invitation of interest, organization of prequalification and request of the procuring entity on the results of evaluation of EOI responses and prequalification applications;

Comments and opinions of the appraisal team on the legal grounds, compliance with legal regulations on bidding and other relevant laws; assurance of competitiveness, fairness, and transparency in the process of inviting interest and organizing prequalification; on agreement or disagreement on the results of evaluating EOI responses and prequalification applications;

Proposals and recommendations of the appraisal team on the results of evaluating EOI responses and prequalification applications; on action plans to address non-compliance with the law on bidding and other relevant laws during the process of inviting interests and organizing prequalification; on action plans to address inconclusive results in evaluation of EOI responses and prequalification applications;

Other opinions (if any).

3. Appraisal of the list of technically-responsive bidders for packages of consulting services, non-consulting services, procurement of goods, and construction under two-envelope method:

a) Documents submitted for appraisal and approval include:

Request for approval for the list of technically-responsive bidders of the procuring entity, which must clearly state the procuring entity's opinions on the proposals and recommendations of the expert team;

Report on the results of the evaluation of technical proposals by the expert team;

Bidding documents, RFPs, bid opening minutes, technical proposals of bidders and other relevant documents.

b) Matters to be appraised include:

Check the evaluation of technical proposals; compliance with regulations of the law on bidding and other relevant laws during the evaluation of technical proposals;

Consider different opinions (if any) between the procuring entity and the expert team; between

individuals in the expert team;

Other related contents.

c) Contents of the appraisal report include:

Brief statement of the process of organizing contractor selection (from posting the invitation to bid to requesting the appraisal of the list of technically-responsive bidders) and the procuring entity's request for a list of technically-responsive bidders;

Comments and opinions of the appraisal team on the legal grounds, compliance with legal regulations on bidding and other relevant laws; on assurance of competitiveness, fairness, and transparency in the process of selecting a list of technically-responsive bidders; agreement or disagreement on the results of selecting a list of technically-responsive bidders; on action plans to address non-compliance with regulations of the law on bidding and other relevant laws during the evaluation of technical proposals; on action plans to address inconclusive results in selecting a list of technically-responsive bidders;

Other opinions (if any).

4. Appraisal of contractor selection results:

a) Documents submitted for appraisal and approval include:

Request for approval for the contractor selection results of the procuring entity, which must clearly state the procuring entity's opinions on the proposals and recommendations of the expert team;

Report on the results of evaluation of bids and proposals from the expert team;

Minutes of contract negotiations (if any);

Photocopies of the following: bidding documents, RFPs, minutes of bid openings, bids, proposals of bidders and other relevant documents; if the list of technically-responsive bidders has been appraised, only the record of opening the financial proposals and photocopies of the financial proposals of the technically-responsive bidders will be sent.

b) Matters to be appraised include:

Check supporting documents for organizing contractor selection;

Check compliance with time regulations during the process of organizing contractor selection;

Check the evaluation of bids and proposals for packages applying the single-stage and one-envelope method, two-stage and one-envelope method, and two-stage and two-envelope method; check the compliance with regulations of law on bidding and other relevant laws during the evaluation of bids and proposals;

Check the evaluation of financial proposals for packages applying the single-stage and two-envelope method; check the compliance with regulations of law on bidding and other relevant laws during the evaluation of financial proposals;

Check compliance with regulations of the law on bidding and other relevant laws during the contract negotiation process (if any); check the compatibility between contract negotiation results and contractor selection results (if any), bidder ranking list, bidding documents, RFPs and bids, proposals;

Consider different opinions (if any) between the procuring entity and the expert team; between individuals in the expert team;

Other related contents.

c) Contents of the appraisal report include:

Overview of the main content of the project, procurement estimate, package, legal grounds for organizing contractor selection;

Brief statement of the entire contractor selection process from selecting the shortlist (if any) to submitting the contractor selection result for appraisal, accompanied by documents as prescribed in Clauses 2 and 3 of this Article;

Summary of proposals and recommendations of the procuring entity on the contractor selection result;

Comments and opinions of the appraisal team on the legal grounds, compliance with legal regulations on bidding and other relevant laws; on assurance of competitiveness, fairness, transparency, and economic efficiency in the contractor selection process; agreement or disagreement on the contractor selection results; on action plans to address non-compliance with regulations of the law on bidding and other relevant laws during the contractor selection process; on action plans to address inconclusive results in contractor selection;

Other opinions (if any).

OTHER MATTERS

Article 131. Handling situations in online and offline bidding

1. Any modifications to the package price or package content must necessitate a corresponding adjustment to the specific contractor selection plan, adhering to legal requirements before the bid submission deadline, except for the cases specified in Clause 2 and Clause 8 of this Article.

2. If, after approving the specific contractor selection plan, a package receives an approved estimate that differs from the package price outlined in the plan (either higher or lower), the estimate will supersede the package price in the plan, following these principles:

a) If the approved estimate is higher than the package price outlined in the plan but the higher estimate does not exceed the total investment of the project or procurement estimate, the specific contractor selection plan does not have to be adjusted. If the higher estimate exceeds the total investment of the project or procurement estimate, the specific contractor selection plan has to be adjusted; if the form of contractor selection in the approved specific contractor selection plan is no longer appropriate, the form of contractor selection must be adjusted;

b) If the approved estimate is lower than the package price outlined in the plan without changing the form of contractor selection in the approved plan, the specific contractor selection plan does not have to be adjusted. If it is necessary to adjust the form of contractor selection to suit the new value of the package according to the approved estimate, the specific contractor selection plan must be adjusted.

The approved estimate after the specific contractor selection plan is approved according to this Clause must be posted on VNEPS at least 5 days before the bid submission deadline.

3. When determining the shortlist, if fewer than 3 bidders that meet the requirements, the employer will choose one of two approaches based on the specific conditions of the package:

a) Select additional bidders to the shortlist;

b) Allow immediate issuance of bidding documents to short-listed bidders.

4. If no bidder participates in bidding by the bid submission deadline, the employer will take one of the following actions:

a) Cancel the EOI request, prequalification document, and invitation to bid to re-invite bids. In this case, before re-inviting bids, it is necessary to review and amend the EOI request, prequalification documents, or bidding documents (if needed) to ensure that there are no conditions in the documents that limit the participation of bidders or give an advantage for any bidders, causing unfair competition;

b) Extend the bid submission deadline for at least 5 days for packages that are currently seeking EOIs or prequalification applications, construction packages, mixed packages with a package price not exceeding 20 billion VND, packages for procurement of goods and non-consulting services with a package price not exceeding 10 billion VND; extend the bid submission deadline for at least 10 days for other packages.

5. At the bid submission deadline, for a package applying the form of competitive bidding, limited bidding, shopping method, online quotation under ordinary procedures, if only 1 or 2 bidders submit EOI responses, prequalification applications, or bids, the employer shall choose one of two approaches within 4 hours from the bid submission deadline:

a) Allow extending the bid submission deadline to increase the number of bidders submitting EOI responses, prequalification applications, and bids. In this case, the new deadline for bid submission and corresponding deadlines must be clearly specified so that the bidder has enough time to amend their EOI responses, prequalification applications, or bids;

b) Allow bid opening immediately to conduct evaluation.

6. For situations as prescribed in Clause 4 of this Article and bid cancellation as prescribed in Clause 1, Article 17 of the Bidding Law, the originally planned start date for contractor selection in the specific contractor selection plan does not need to be changed.

7. If the first ranked bidder's bid price (after error correction, deviation adjustment, and any discounts) exceeds the package price and at least 1 bidder in the ranked list's bid price (after error correction, deviation adjustment, and any discounts) does not exceed the package price, the first-ranked bidder can be invited to negotiate the price provided that the final negotiated price cannot exceed the approved package price. If negotiation is unsuccessful, the next ranked bidder is invited to negotiate.

8. If the bid prices (after error correction, deviation adjustment, and any discounts) of all technically-responsive bidders on the ranking list exceed the package price, the employer can choose one or more of the following options:

a) Allow these bidders to re-offer their bid prices if the package price includes all elements constituting

the cost of package performance;

b) Allow bidders to re-offer their bid prices and also review the package price and content of approved bidding documents , if necessary.

If bidders are allowed to re-offer their bid prices, it is necessary to clearly stipulate the time to prepare and re-bid proposal, but not more than 10 days from the date on which the procuring entity sends a written request for re-offering bid prices and clearly stipulate the opening of re-bid proposal according to the bid opening process specified in Article 26 of this Decree or re-offering bid prices on VNEPS for online bidding.

If it is necessary to adjust the package price in the approved specific contractor selection plan, the competent person is responsible for approving the adjustment within 10 days from the date of receiving the request for adjustment provided that the adjustment is done before the deadline for submitting re-bid proposal;

c) Invite these bidders to participate in online quotation under shortened procedures. If it is necessary to adjust the package price in the approved specific contractor selection plan, the competent person is responsible for approving the adjustment before the start of online quotation;

d) The first-ranked bidder can be invited to negotiate the price, but the final negotiated price does not exceed the lowest bid price (after error correction, deviation adjustment, and any discounts). If it is necessary to adjust the package price in the approved specific contractor selection plan, the competent person is responsible for approving the adjustment within 10 days from the date of receiving the request for adjustment. If negotiation is unsuccessful, the next ranked bidder is invited to negotiate. This method only applies to cases where the package uses competitive bidding and the employer must be responsible for the competitiveness, fairness, transparency and economic efficiency of the project, procurement estimate, package.

If only one bidder passes the technical evaluation step, the employer can choose to: follow option a or b as outlined in this Clause, or invite the bidder to negotiate a lower price, but the final price cannot be higher than the package price.

9. For goods procurement packages (as prescribed in Clause 2, Article 92 of this Decree), if the first-ranked bidder's bid unit price for any items exceeds the standards issued by competent authorities but the proposed winning bid price does not exceed the approved package price, the employer can consider these options:

a) Invite the first-ranked bidders to enter into negotiations for items whose bidding unit prices exceed procurement standards issued by competent authorities;

b) Allow all bidders who pass the technical evaluation step to re-offer their bid prices.

10. For divided packages:

a) If there is a part or parts of a package that does not have a bidder participating in the bidding or does not have a bidder that meets the requirements, the employer must report to the competent person to allow dividing that part into a separate packages to organize contractor selection according to regulations;

b) If a bidder wins all parts of the package, there will be only one contract for the entire package. If multiple bidders win different parts of the package, the package will have multiple contracts corresponding to the specific part(s) which each bidder wins;

c) If the bid price (after error correction, deviation adjustment, and any discounts) of every technically-responsive bidders for a part of package exceeds the estimated value of that part in the package price, causing the total proposed winning price to be over the package price; or if the bid price (after error correction, deviation adjustment, and any discounts) of the first-ranked bidder in any parts of package is higher than the estimated value of these parts in the package price, causing the total proposed winning price to be over the package price, the employer can follow the options outlined in Clauses 7 and 8 of this Article to handle the situations.

11. If a bid price (after error correction, deviation adjustment, and any discounts) of a bid seems unusually low and could negatively impact the package quality, or the bid price (after error correction, deviation adjustment, and any discounts) of a construction package falls below 70% of the package price, the employer will take the following steps:

a) Request the bidder to explain and clarify the feasibility of their unusually low bid price and the costs that constitute the package price. The bidder must demonstrate the compatibility between the bid price and the scope of work, solutions proposed by the bidder, performance schedule, and other requirements of the bidding documents. If the bidder's explanation is not clear enough or convincing, the employer will not accept that bid price, and any unusually low prices offered for specific items that contribute to the overall low bid price can be considered as insufficient deviations. In such cases, the employer can adjust deviations for these items following Clause 2, Article 29 of this Decree. The adjustment of insufficient deviations is only for bid comparison and ranking purpose. If the bidder

remains the first rank after the deviation adjustment, the proposed winning price does not include the deviation adjustment amount specified in this point;

b) In order to prevent risks, the employer may require a performance security deposit which is greater than 10% but not more than 30% of the contract price and must be approved in writing by a competent person.

12. For construction and mixed packages applying international bidding, the employer can ask the first-ranked bidder to clarify the breakdown of the costs constituting their bid price in writing, if their bid price seems unbalanced, like: much higher prices for simple and easy work items or work items likely to be required beyond what is already listed in the bid price schedule compared to the package's estimate, or much lower prices for complex and difficult tasks compared to the estimate. The bidder must demonstrate the compatibility between the bid price and the scope of work, solutions proposed by the bidder, performance schedule, and other requirements of the bidding documents. If the bidder's explanation is not clear enough or convincing, the bid will be rejected. In order to prevent risks, the employer may require a performance security deposit which is greater than 10% but not more than 30% of the contract price and must be approved in writing by a competent person.

13. If the bidding documents allow the bidder to propose construction methods different from those stated in the bidding documents, any difference in workload between the proposed method and the one in the documents will not be considered a deviation and then adjusted (as defined in Clause 2, Article 29 of this Decree). This difference is not considered as insufficient deviation.

14. If a company participating in a bidding process merges with another company, the new combined company can still take part in the bidding and benefit from the experience and qualifications of the original company.

15. If an entity (branch, enterprise, or representative office) undergoes a separation from a juridical entity according to civil law, the new entity formed from the separation (bidder) may inherit the bidding experience and qualifications of the original entity.

16. For packages that apply contract negotiation (as prescribed in Clause 1, Article 43 of the Bidding Law), if the first-ranked bidder does not negotiate, refuses to sign the negotiation minutes, or the negotiation is unsuccessful, the employer can consider inviting the next ranked bidder (if any) to negotiate. The content of negotiation is based on the bid and the bid price (after error correction, deviation adjustment, and any discounts) of the bidder invited to negotiate. If the negotiation is unsuccessful, the procuring entity reports to the employer to consider inviting the next bidders (if any) to negotiate the contract; the content of negotiation is based on the bid and the bid price (after error correction, deviation adjustment, and any discounts) of the bidder invited to negotiate the contract. Where bidders are invited to negotiate a contract but refuse to negotiate, refuse to sign the negotiation minutes, or negotiate unsuccessfully, the employer shall consider cancelling the bid according to Clause 1, Article 17 of the Bidding Law.

If the next ranked bidder is invited to negotiate a contract according to this point within the validity period of the bid but does not come to negotiate or negotiates but refuses to sign the negotiation minutes, their bid security will be forfeited. If the bid of the next ranked bidder expires, the procuring entity must request the bidder to extend the validity period of the bid and bid security before negotiating the contract.

17. If the proposed winning price is lower than 50% of the approved package price, the employer requests the bidder to clarify the elements constituting the bid cost and consider relevant evidence as follows:

- a) Economic factors related to construction methods, production processes, or service provision;
- b) Economic solutions applied or special advantages of the bidder leading to price advantages;
- c) Origin of goods, services, and personnel provided for the package, which must ensure compliance with legal regulations.

If the conditions specified in Points a, b and c of this Clause are met, the bidder's bid or proposal will still be accepted as the winning bid. In order to prevent risks, the employer may require a performance security deposit which is greater than 10% but not more than 30% of the contract price and must be approved in writing by a competent person. If a bidder receives subsidies from any organization or individual leading to unfair competition, their bid or proposal will be disqualified.

18. After evaluation, if multiple bidders are ranked best and equal, the following criteria will be used in order to choose the successful bidder:

- a) Award contracts to small- and medium-sized enterprises owned by women as per the law on supporting small- and medium-sized enterprises (if any);
- b) Award the contract to the bidder with a higher technical score or fewer technically acceptable criteria (if the package applies the least-cost selection); award the contract to the bidder with lower bid price (after error correction, deviation adjustment, and any discounts) (if the package applies the

evaluated price selection or the quality- and cost-based selection);

c) Award the contract to a bidder whose head office is located in the locality where the contract package is performed;

d) Award the contract to a bidder that meets both of these criteria: employs at least 25% of war invalids or people with disabilities and they have a labor contract for at least 3 months, still valid at the bid submission deadline;

dd) Award the contract to a bidder that meets both of these criteria: employs at least 25% of ethnic minority workers and they have a labor contract for at least 3 months, still valid at the bid submission deadline;

e) Award the contract to a bidder that meets both of these criteria: employs at least 25% of female workers and they have a labor contract for at least 3 months, still valid at the bid submission deadline;

g) Allow these bidders to re-offer bid prices to select the bidder with the lowest bid price. Bidders cannot offer a price higher than their previously offered price (after any corrections, adjustments, or discounts). The re-offering of bid prices shall comply with Point a, Clause 8 of this Article;

h) Invite these bidders to participate in online quotation under shortened procedures. Bidders cannot offer a price higher than their previously offered price (after any corrections, adjustments, or discounts).

19. If the successful bidder fails to finalize and sign the contract or the successful bidder no longer meets the technical and financial requirements specified in Clause 2 of Article 66 of the Bidding Law at the time of contract signing, the employer can take the following steps:

a) Invite the second-ranked bidder (if any) to finalize the contract, and also request this bidder to extend or renew the validity of their bid and bid security (in case of expiration) for at least 30 days from the expected start date of contract finalization.

If the second ranked bidder fails to finalize the contract, or extend or renew the validity of their bid and bid security as required, the employer shall consider following one of the two options specified in Point b or Point c of this Clause.

The contract finalization shall comply with Article 32 of this Decree.

The content of contract finalization must be based on the bid and bid price (after error correction, deviation adjustment, and any discounts) of the second ranked bidder.

After finalizing the contract with the second ranked bidder, the employer cancels the previous decision on approval for contractor selection result and issues the winning decision to the second ranked bidder before signing the contract with that bidder.

If the second-ranked bidder fails to accept the contract finalization results and fails to sign a contract with the employer, their bid security will be forfeited, except for force majeure events or other cases that the employer fails to comply with the principle of finalizing the contract. In this case, the employer shall consider following one of two options specified in Point b or Point c of this Clause;

b) Invite the third ranked bidder (if any) to finalize the draft contract. If the third ranked bidder fails to finalize the contract, or fails to extend or renew the validity of the bid and bid security as required, the employer shall consider inviting the next ranked bidders (if any) to finalize the contract or cancel the bid according to Clause 1, Article 17 of the Bidding Law.

The bidder invited to finalize the contract must extend or renew the validity of their bid, bid security (in case of expiration) for at least 30 days from the expected start date of contract finalization.

The contract finalization shall comply with Article 32 of this Decree. The content of contract finalization must be based on the bid and bid price (after error correction, deviation adjustment, and any discounts) of the bidder invited to finalize the contract. After finalizing the contract with the bidder, the employer cancels the previous decision on approval for contractor selection result and issues the winning decision to the bidder invited to finalize the contract before signing the contract with that bidder.

If the bidder invited to finalize the contract fails to accept the contract finalization results and fails to sign a contract with the employer, the bid security will be forfeited and the employer will consider cancelling the bid according to Clause 1, Article 17 of the Bidding Law;

c) Cancel the bid in accordance with Clause 1, Article 17 of the Bidding Law.

20. During the contract performance process, if the competent person rejects the contractor selection result when there is evidence that the successful bidder has violated Article 16 of the Bidding Law, or has violated relevant laws leading to failure to ensure competition, fairness, transparency and economic efficiency, or has falsified the contractor selection result, the employer will take the following actions:

- a) Forfeit the performance security deposit and advance payments (if any);
- b) Pay the bidder for the work portions that the bidder has performed and have been accepted according to the contract;
- c) Terminate the contract with the bidder; for a joint venture bidder where only one joint venture party violates and is banned from participating in bidding activities as prescribed in Clause 1, Article 125 of this Decree, the remaining joint venture parties will not be considered incomplete contract due to the bidder's fault;
- d) Post information about violating bidders on VNEPS within 5 working days from the date of issuance of the decision on contract termination with the violating bidder, and also send the decision on contract termination and other documents dealing with violations (if any) to the Ministry of Planning and Investment for consolidation and monitoring;
- dd) After terminating the contract with the previous successful bidder, the unfinished work will be assigned to the second-ranked bidder in the ranking list, if the second-ranked bidder fails to accept to sign the contract, the employer appoints another bidder or separates the unfinished work into a new package and organizes contractor selection as per the law. If necessary, the package price can be reviewed and re-approved for the unfinished work to organize bidding. If a direct contracting is applied, the value of the unfinished work is calculated as the value stated in the contract minus the value of the previously performed work.

21. During the contract performance process, if the competent person rejects the contractor selection result when there is evidence that the employer, the procuring entity, the expert team, or the appraisal team has violated Article 16 of the Bidding Law, or has violated relevant laws leading to failure to ensure competition, fairness, transparency and economic efficiency, or has falsified the contractor selection result not due to the successful bidder's fault, the competent person will take the following actions:

- a) Request the employer to forfeit advance payments (if any) and terminate the contract with the bidder. The bidder is refunded the performance security deposit and reimbursed the costs related to contract termination due to the employer's fault according to the agreements stated in the contract. The employer is responsible for compensating damages to the bidder according to the contract;
- b) The unfinished work will be separated into a new package to organize the selection of contractors according to regulations. If necessary, the package price can be reviewed and re-approved;
- c) If more than 70% of the package work is already finished, and the actions mentioned in points a and b do not make good financial sense, the competent person will decide whether to continue maintaining the contract with the successful bidder.

22. If any joint venture party breaches the contract, no longer has the capacity to continue performing the contract, seriously affects the progress, quality, and efficiency of the package, the employer will take the following actions:

- a) Impose contract penalties on all joint venture parties according to the contract;
- b) Forfeit the contract performance security deposit of all joint venture parties;
- c) Terminate the contract with the violating joint venture parties; in this case, only the violating parties will be considered to have failed to complete the contract and their information will be posted on VNEPS; the remaining parties can continue to perform the contract corresponding to their work undertaken in the joint venture. Within 5 working days from the date of issuance of the decision on contract termination with one or several joint venture parties, the employer must post information about violating joint venture parties on VNEPS; the notice must clearly state the violation leading to the termination of the contract and send the decision to the Ministry of Planning and Investment for consolidation and monitoring;
- d) The violating party's work is assigned to the remaining parties to perform if these parties are competent and experienced to take over. In this case, the remaining parties must furnish a new performance security deposit corresponding to the value of the unfinished work of the package;
- dd) If the remaining parties refuse to perform or do not have enough capacity or experience to perform, the employer shall report to the competent person to allow the violating member's work to be separated into a separate package for direct contracting according to Point dd, Clause 20 of this Article or organize contractor selection according to regulations.

23. If the bidder breaches the contract, no longer has the capacity to continue performing the contract, or seriously affects the progress, quality and effectiveness of the package, the employer shall consider requesting the competent person to terminate the contract with that bidder; bidders who breach the contract are considered to have failed to complete the contract.

If a direct contracting is applied to the unfinished work, the value of the unfinished work is calculated as the value stated in the contract minus the value of the previously performed and accepted work.

The employer must ensure that the appointed bidder has the capacity and experience to meet the requirements for performing the remaining work of the package. If the direct contracting is not applied, a new package will be formed to organize contractor selection. If necessary, review the package price for the remaining work before organizing contractor selection as per the law. If the contract performance is behind schedule due to no fault of the bidder, it is not allowed to terminate the contract to replace another bidder. If the contract with a violating bidder must be terminated to replace a new bidder, post information about the violating bidder and the substitute bidder on VNEPS within 5 working days from the date of issuance of the decision on contract termination with the violating bidder, and also send the decision on contract termination and other documents dealing with violations (if any) to the Ministry of Planning and Investment for consolidation and monitoring; The notice must clearly state the reason for the bidder's breach of contract leading to the termination of the contract, the method of selecting a substitute bidder, and the name of the designated bidder if the form of direct contracting is applied.

24. If a joint venture needs to finish a contract faster than originally planned (which requires revision to the contract), the employer must report to the competent person for the employer and bidder to agree on a new schedule and adjust the workload among the joint venture members accordingly with the shortened schedule. In this case, the competent person and the employer must ensure that the party undertaking the extra work has enough capacity and experience to do that and transferring work among the parties is not for bid transfer purpose.

25. If, during the contract performance, a court convicts the bidder's employees (who had a valid employment contract with the bidder at the time of the offense) of a bidding-related offense that significantly impacted the bidder's ability to win the contract, the employer can terminate the contract and forfeit the bidder's performance security deposit; the bidder is only paid for the work performed and accepted according to the contract. The bidder is considered to have failed to complete the contract and is posted on VNEPS; the notice must clearly state the violation leading to termination of the contract; for the unfinished work, the employer shall apply direct contracting according to Point dd, Clause 20 of this Article or split into a new package and organize contractor selection as per the law.

26. If an investigation body alleges the bidder's employees (who had a valid employment contract with the bidder at the time of offense) of a bidding-related offense that significantly impacted the bidder's ability to win the contract, but they have not been convicted by the Court or the bidder has not been banned from bidding by a competent person, that bidder can still continue to participate in the bidding.

27. During the contract performance, if the bidder requests to switch to a newer version or production year for certain goods than those specified in the contract because of practical needs, the employer can agree to this request, but only if all of these conditions are met:

a) The bidder sends a written notice to the employer;

b) The substitute goods and the goods originally stated in the contract come from the same manufacturer and have the same origin;

c) The substitute goods have technical features, configuration, parameters and other technical requirements that are equivalent or better than the goods originally stated in the contract;

d) Suitable for practical needs;

dd) The unit price of the substitute goods do not exceed the unit price of the goods originally stated in the contract.

28. If the VNEPS system experiences a prolonged downtime requiring extensive troubleshooting, the Ministry of Planning and Investment will issue guidelines on the VNEPS. These guidelines will outline how to select investors during VNEPS downtime, including procedures for offline selection.

29. Beyond the situations outlined in Clauses 1 through 28 of this Article, the employer will consider taking actions that upholds the bidding objectives of competitiveness, fairness, transparency, economic efficiency, and accountability.

Article 132. Bidder management

1. Responsibilities of the bidder:

a) Register on VNEPS as prescribed in Point d, Clause 1, Article 5 of the Bidding Law before the contractor selection results are approved;

b) Regularly update and take responsibility for the accuracy and truthfulness of information about their capacity and experience on VNEPS;

c) In addition to the responsibilities specified in Points a and b of this Clause, foreign bidders must also perform the following responsibilities:

foreign bidders must comply with Vietnamese law on entry and exit; import and export of goods; registration for temporary residence or temporary absence; accounting, taxes and other relevant Vietnamese regulations, unless international treaties to which the Socialist Republic of Vietnam is a

member or loan agreements provide otherwise.

Within 15 days from the effective date of the contract signed with the foreign bidder, the employer shall post the list of successful foreign bidders on VNEPS and sending a notice of information about the successful bidders to the Ministry of Planning and Investment, specialized Ministry, and the Department of Planning and Investment in the province where the project is executed for consolidation and monitoring;

d) Foreign bidders selected according to the Bidding Law are not required to apply for a bidding license.

2. Subcontractor management:

a) The bidder may sign contracts with subcontractors in the list of subcontractors stated in the bids, proposals or sign with subcontractors approved by the employer to participate in performing the construction work; consulting services; non-consulting services; related services of goods procurement packages or mixed packages. Employing a subcontractor will not change the bidder's obligations. The bidder must be responsible for the volume, quality, progress and other responsibilities for the work performed by the subcontractor;

b) Any substitutions or additions of subcontractors (as detailed in point a) or modifications to their assigned tasks (as outlined in the bid or proposal) require prior written approval from the employer or supervisor and the total cost of subcontracted work cannot exceed the maximum amount stipulated in the contract; the employment of subcontractors must be consistent with the bidder's needs in implementing the contract; the subcontractor must meet the capacity and experience requirements of the bidder;

c) The bidder shall employ subcontractors with the capacity and experience to meet the requirements to perform the assigned work. If a special subcontractor is employed to perform important work of the package according to the requirements of the bidding documents, their capacity and experience shall be evaluated according to the regulations stated in the bidding documents. When employing special subcontractors, the bidder is not required to meet capacity and experience requirements for the work assigned to these special subcontractors;

d) The bidder shall pay the subcontractors in full and on schedule according to the agreement between the bidder and the subcontractors.

Chapter XII

IMPLEMENTATION

Article 133. Transitional regulations

1. For any package for which a specific contractor selection plan has been approved, but by the effective date of this Decree, the EOI request, prequalification documents, bidding documents, or RFPs have not been issued and have contents inconsistent with the Bidding Law No. 22/2023/QH15 and this Decree, adjustments to the specific contractor selection plan, EOI requests, prequalification documents, bidding documents, and RFPs must be approved to comply with the Bidding Law No. 22/2023/QH15 and this Decree.

For any package which does not apply online contractor selection and has issued EOI request, prequalification documents, bidding documents, or RFP, but their bid submission deadline is after the effective date of this Decree, these EOI request, prequalification documents, bidding documents, or RFP must be adjusted to comply with the Bidding Law No. 22/2023/QH15 and this Decree. The amendment to or extension of the bid submission deadline shall comply with Point b, Clause 2, Article 26, Clause 2, Article 38 and Clause 2, Article 63 of this Decree.

For any package that applies the form of direct contracting under shortened procedures, direct procurement, self-performance, contractor selection in special case, contractor selection to perform the community-involved package, if the specific contractor selection plan has been approved but by the effective date of this Decree, the contractor selection result have not been approved and the specific contractor selection plan has content inconsistent with the Bidding Law No. 22/2023/QH15 and this Decree, this specific contractor selection plan must be adjusted.

2. EOI requests, prequalification documents, bidding documents, and RFPs issued before January 1, 2024 will continue to be effective according to the Bidding Law No. 43/2013/QH13; Decree No. 63/2014/ND-CP dated June 26, 2014 of the Government; Decree No. 32/2019/ND-CP dated April 10, 2019 of the Government; Decision No. 17/2019/QĐ-TTg dated April 8, 2019 of the Prime Minister and Circulars on guidelines for the Decree.

3. While the Government has not amended, supplemented, or replaced Decree No. 32/2019/ND-CP, the ordering and assigning tasks to provide public products and services using state budget from current expenses continue to be implemented according to Decree No. 32/2019/ND-CP but must not violate the Bidding Law No. 22/2023/QH15.

4. While the Government has not amended, supplemented, or replaced Decree No. 15/2021/ND-CP dated March 3, 2021; Decree No. 29/2021/ND-CP dated March 26, 2021, "construction project using state capital other than public investment" is understood as a construction project that uses state budget capital, national bonds, government bonds, local government bonds, official development assistance (ODA), preferential loans from donors, credit capital guaranteed by the Government, loan capital secured by state-owned assets, development investment capital of state-owned enterprises, land use rights value but excluding public investment capital as per the law on public investment.

5. If a project is divided into component projects, independent operation or compensation, support and resettlement work is divided into separate sub-projects according to legal regulations, the bidders to perform these component projects and sub-projects shall be selected following the same procedures as selecting bidders for independent projects. Persons with authority to decide on investment in component projects and President of People's Committees for compensation, support and resettlement sub-projects shall exercise the authority and responsibilities of competent persons in organizing contractor selection according to the Bidding Law and this Decree.

6. During the period from January 1, 2024 to the effective date of this Decree, the costs of contractor selection on VNEPS are applied according to the Build - Operation - Transfer (BOT) contract signed between the Ministry of Planning and Investment and the employer of the Project "E-commerce application in Government procurement". The Ministry of Planning and Investment provides guidance on the management and use of costs in selecting bidders and investors on VNEPS.

7. During the period from January 1, 2024 to the effective date of this Decree, contractor selection shall be carried out in accordance with Bidding Law No. 22/2023/QH15 and the regulations of the Decree No. 63/2014/ND-CP, related guiding documents that are still consistent with the Bidding Law No. 22/2023/QH15. The Ministry of Planning and Investment shall guide or submit to competent authorities to consider resolving issues that arise during the implementation of this Clause.

Article 134. Entry into force

1. This Decree comes into force from the date of signing.

From the effective date of this Decree, the Government's Decrees, the Prime Minister's Decision and the following provisions cease to be effective:

a) Government's Decree No. 63/2014/ND-CP dated June 26, 2014 of the Government;

b) Articles 69, 70, 71, 72, 73, 75, 76, 77 and 78 of Decree No. 151/2017/ND-CP dated December 26, 2017 of the Government;

c) Points b, c, Clause 2 and Points b, c, Clause 3, Article 5 of Decree No. 70/2018/ND-CP dated May 15, 2018 of the Government;

d) Decision No. 17/2019/QD-TTg dated April 8, 2019 of the Prime Minister.

2. Vietnamese-origin goods (as specified in Clause 1, Article 10 of the Bidding Law) are determined according to commercial law on how to identify goods manufactured in Vietnam and the law on technology information for information technology software products. Point b, Clause 5, Article 5 of this Decree is effective until commercial law has regulations on how to identify goods manufactured in Vietnam.

3. Organizations or individuals tasked with procuring goods or services for scientific and technological tasks funded by the state budget (including partial allocations or lump-sum allocations up to the final product) are exempt from following the Bidding Law and this Decree. However, they must still maintain sufficient invoices and documents, as required by law.

4. Individuals and organizations involved in scientific and technological tasks that are not government agencies or public service providers can choose their own procurement methods for these tasks, as long as they do not use state budget funds. They still need to keep sufficient invoices and documents, but do not have to follow the procedures outlined in the Bidding Law and this Decree.

5. Organizations or individuals leading scientific and technological tasks in agriculture, forestry, or fishery can directly purchase goods or services from households and individuals for those tasks. They are exempt from following the procedures outlined in the Bidding Law and this Decree.

6. Information about the bidder's contract performance result and the quality of goods used according to Articles 17 and 18 of this Decree is publicized for packages with contractor selection according to Bidding Law No. 22/2023/QH15.

7. The list of medical equipment and testing supplies, along with their specific features and technical specifications, for planning and organizing the contractor selection process shall be determined as per the law. In the absence of specific legal regulations, the employer can either establish a council or assign an affiliated agency to select the list of medical equipment and testing supplies, along with their specific features and technical specifications.

Article 135. Implementation

1. The Ministry of Planning and Investment shall:

- a) Elaborate and guide articles and clauses as assigned in the Bidding Law, this Decree and other necessary contents to meet state management requirements on bidding;
- b) Aggregate and manage database of bidders; quality of goods used; list of bidders violating the law on bidding; list of successful foreign bidders;
- c) Instruct management and use of costs in selecting bidders and employers on VNEPS; cut costs of online contractor selection based on the development of online bidding in each period;
- d) Issue bidding document forms including: overall contractor selection plan; specific contractor selection plan; EOI request, prequalification documents; bidding documents; RFP; online procurement, online quotation; evaluation report; bidding inspection, bidding performance report and other forms related to bidding;
- dd) Edit webforms on VNEPS to enable parties participating in online contractor selection, reduce administrative procedures, and increase competitiveness, fairness, transparency and economic efficiency in bidding, ensuring effective state management of bidding.

2. The Ministry of Health shall:

- a) Provide guidance on contractor selection and measures to implement Bidding Law No. 22/2023/QH15 and this Decree within the scope of their management;
- b) Issue contractor selection documentation forms for drugs;
- c) Provide guidance on principles, criteria, and consolidate needs to create a list of drugs for centralized procurement; time limit for consolidating the list, for promulgating the list; expected time to organize contractor selection, expected time to disclose information on framework agreements and contracts in centralized procurement;
- d) Research a guide grouping medical equipment according to technical and quality standards.

3. Annually, ministries, ministerial-level agencies, Governmental agencies, other central agencies, Provincial People's Committees, state-owned enterprises and other agencies and organizations subject to Article 2 of the Bidding Law shall send reports on bidding performance to the Ministry of Planning and Investment for consolidation and reporting to the Prime Minister.

4. Heads of central agencies and Presidents of People's Committees of provinces and centrally affiliated cities, within the scope of their functions and tasks, shall provide guidance and implement this Decree./.

**ON BEHALF OF THE GOVERNMENT
PP. PRIME MINISTER
DEPUTY PRIME MINISTER**

Tran Hong Ha