

GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

No. 14-2000-ND-CP

Hanoi, 5 May 2000

**DECREE**

**ON**

**AMENDMENT OF AND ADDITION TO A NUMBER OF ARTICLES OF THE  
REGULATIONS ON TENDERING ISSUED WITH DECREE 88-1999-ND-CP  
OF THE GOVERNMENT DATED 1 SEPTEMBER 1999**

**The Government**

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

Having considered the proposals of the Minister of Planning and Investment, Minister of Construction and Minister of Finance;

**Decrees:**

**Article 1**

To make amendments of and additions to a number of articles of the *Regulations on Tendering* issued with Decree 88-1999-ND-CP of the Government dated 1 September 1999 as follows:

**1. Clause 1 of article 2 shall be amended as follows:**

" 1. The *Regulations on Tendering* shall be applied in order to select tenderers for investment projects in Vietnam, tendering must be organized and conducted in Vietnam."

**2. Clause 3 of article 4 shall be amended as follows:**

"3. Appointment of tenderer:

The appointment of a tenderer is the form of direct selection of a tenderer capable of satisfying the requirements of the tender package for the purpose of negotiating the contract.

This form shall only be applicable in the following special cases:

- (a) In the case of events of *force majeure* due to natural disasters, wars or breakdowns which should be immediately dealt with, a project owner (the person to whom the authorised person has assigned the responsibility to manage and implement the project) may immediately appoint a capable unit to carry out the work promptly. Within ten days from the date of decision to appoint a tenderer, the project owner must report the contents of the appointment of the tenderer to the authorised person or the competent authority; if the authorised person or the competent authority discovers that the appointment of the tenderer is contrary to [regulations, he must promptly deal with the problem.
- (b) Tender packages of a research or experimental nature, of national confidentiality, security confidentiality or national defence confidentiality shall be decided by the Prime Minister.
- (c) Projects having a value of less than one billion Vietnamese dong in respect of procurement of goods or construction and installation; of less than five hundred (500) million Vietnamese dong in respect of consultancy.

In the case of tender packages of Group A projects entitled to the appointment of a tenderer, the Prime Minister of the Government shall authorise the decision to ministers, heads of ministerial equivalent bodies and Government bodies, boards of management of State owned corporations established by the Prime Minister of the Government (i.e. corporations 91), chairmen of people's committees of provinces and cities under central authority owning such projects.

When appointing a tenderer for the tender packages specified in clause 2 of article 1 of this Decree, the authorised person making the decision to appoint the tenderer shall be responsible before the law for his decision.

Where it is not necessary to appoint a tenderer, tendering shall be conducted in accordance with regulations. The discretionary division of a project into many small tender packages in order to appoint tenderers shall be strictly prohibited.

The Ministry of Finance shall make detailed provisions on appointment of tenderers for procurement of furniture, supplies, equipment and working facilities regularly used by State bodies, organisations and State owned enterprises; normal furniture, supplies, equipment and working facilities for the armed forces.

- (c) Other tender packages of a special nature due to the requirements of the funding organisation, due to technical or technological complexity, or due to unforeseeable requirements for the project, the authorised person making the investment decision shall make a decision to appoint a tenderer on the

basis of the evaluation report of the Ministry of Planning and Investment and the written opinions of the funding agency and relevant bodies.

- (dd) Tendering shall not be required in respect of the share of capital funded by the State Budget for projects of administrative bodies in order to undertake studies of planning for economic development, planning for industry development or master planning for construction of urban and rural areas to which authorised State bodies have assigned the responsibility for implementation thereof, but a detailed contract shall be made and products shall be delivered as stipulated.
- (e) Tendering shall not be required in respect of tender packages for consultancy for preparation of a pre-feasibility study or a feasibility study, but the investor must select a consultant suitable to the requirements of the project.

Where the appointment of a tenderer is conducted in accordance with the provisions of sub-clauses (a), (b), (c) and (d) of this clause, the following three items shall be specified:

- X Reasons for appointment of a tenderer;
- X Experience and technical and financial capacity of the tenderer proposed to be appointed;
- X Value and volume approved by the authorised person or the competent authority as the basis for appointment of a tenderer (in the case of tender packages for construction and installation, the design and the estimated budget which are approved in accordance with the regulations shall be required).

Where the consequences of a natural disaster, war or breakdown should be immediately dealt with, the project owner should determine volume and temporarily estimated value, and shall afterwards prepare a complete documentation and an estimated budget and submit them for approval as stipulated which shall be used as the basis for finalization."

**3. Clause 2 of article 10 shall be amended as follows:**

" 2. A foreign tenderer participating in international tendering for construction and installation organised in Vietnam must either enter into a partnership with a Vietnamese contractor or undertake to use Vietnamese sub-contractors and must clearly specify the scope of work, volume and relevant unit price shared between the parties."

**4. Sub-clause (a) of clause (2) of article 44 shall be amended as follows:**

" (a) Enterprises in all economic sectors with their principal office or branch office located within a province or city shall be permitted to participate in tendering for projects located in such locality. In the case of limited tendering, it is only necessary to invite a minimum number of three tenderers to participate. Where the number of participating tenderers is less than three, other tenderers outside the locality shall be invited to participate.

Local tenderers shall be given the priority in the award of a contract if their tenders are assessed as equal to tenders of other tenderers."

**5. Sub-clause (c) of clause 3 of article 52 shall be amended as follows:**

"(c) Approving the basic items of the tendering process:

X With respect to tender packages of Group A projects and equivalent set out in sub-clauses (b), (c), (d), (dd), (e) and (g) of clause 1 of article 51 of the *Regulations on Tendering* issued with Decree 88-1999-ND-CP of the Government dated 1 September 1999 (hereinafter referred to as the *Regulations on Tendering*).

X With respect to tender packages of Group B and C projects and equivalent, except for projects of subsidiary enterprises entitled to make the investment decision in accordance with sub-clauses (a), (b), (c), (d), (dd), (e) and (g) of clause 1 of article 51 of the *Regulations on Tendering*."

**6. Article 53 shall be amended as follows:**

Delegation of authority for approval and evaluation of Group B and C projects and equivalent and the authorised person making the investment decision for Group B and C projects and equivalent of State owned enterprises shall be added to Table 1 in article 53 as follows:

Group of projects	Approving authority	Evaluating authority	Tender packages in Branch I, II or III
Group B and C and equivalent	Authorised persons of State owned enterprises entitled to make the investment decision	Relevant assisting bodies	All tender packages of projects

**7. Clause 5 shall be added to article 56 as follows:**

"5. During tender consideration, from the time of tender opening to the time of announcement of the tender results, the information set out in clause 2 of article 56 of the *Regulations on Tendering* shall not be published on means of mass media."

**8. Clause 4 shall be removed; clause 2 of article 61 shall be amended as follows:**

"2. The Ministry of Finance shall, in co-ordination with relevant ministries and branches, be responsible for providing guidelines and inspecting the implementation of tendering for procurement of goods, supplies, equipment and

working facilities by State bodies, the armed forces, mass organizations and State owned enterprises; procurement of normal goods, supplies and working facilities of the armed forces funded by capital from the State Budget."

**Article 2**

This Decree shall be of full force and effect after fifteen (15) days from the date of signing.

**Article 3**

The Minister of Planning and Investment shall, in co-ordination with ministries, ministerial equivalent bodies and Government bodies, provide guidelines for and inspect the implementation of this Decree.

**Article 4**

Ministers, heads of ministerial equivalent bodies and Government bodies, chairmen of people's committees of provinces and cities under central authority, boards of management of State owned corporations and relevant organizations shall be responsible for the implementation of this Decree.

On behalf of the Government  
The Prime Minister

PHAN VAN KHAI