

No. 10/2013/TT-BXD

Hanoi, July 25, 2013

## **CIRCULAR**

### **ON CONSTRUCTION QUALITY MANAGEMENT**

*Pursuant to the Government's Decree No. 63/2012/NĐ-CP dated August 31, 2012 defining the functions, tasks, powers and organizational structure of the Ministry of Health;*

*Pursuant to the Government's Decree No. 15/2013/NĐ-CP dated February 06, 2013 on construction quality management (hereinafter referred to as the Decree No. 15/2013/NĐ-CP);*

*Pursuant to the Government's Decree No. 12/2009/NĐ-CP dated February 12, 2009 on construction project management; the Government's Decree No. 83/2009/NĐ-CP dated October 15, 2009 on the amendments to the Government's Decree No. 12/2009/NĐ-CP on construction project management;*

*Pursuant to the Government's Decree No. 108/2009/NĐ-CP dated November 27, 2009 on investments under Build-Operate-Transfer contracts, Build-Transfer-Operate contracts, and Build-Transfer contracts (hereinafter referred to as the Decree No. 108/2009/NĐ-CP); the Government's Decree No. 24/2011/NĐ-CP dated April 05, 2011 of the Government on the amendments to the Government's Decree No. 108/2009/NĐ-CP (hereinafter referred to as the Decree No. 24/2011/NĐ-CP);*

*Pursuant to the Prime Minister's Decision No. 71/2010/QĐ-TTg dated November 09, 2010 on the promulgation of the Regulation on the experimental investment under public-private partnership contracts.*

*At the request of the Director of Construction Quality Inspectorate;*

*The Minister of Construction promulgates a Circular elaborating some regulations on construction quality management,*

#### **Chapter I**

#### **GENERAL PROVISIONS**

##### **Article 1. Scope of regulation and subjects of application**

###### 1. Scope of regulation:

- a) This Circular elaborates some regulations on construction quality management according to the Decree No. 15/2013/NĐ-CP, applicable to the building works funded by all capital sources;
- b) The regulations on inspecting, assessing, approving the engineering, detached housing quality management, and relevant regulations are provided in other Circulars of the Ministry of Construction.

###### 2. Subjects of application

The Vietnamese or foreign organizations and individuals involved in the quality management of building works in Vietnam.

##### **Article 2. Responsibilities for construction quality management of the investor, project management board, or project management consultants**

1. The investor is responsible for organizing the construction quality management, including survey, design, construction, acceptance, and warranty, including:

a) Selecting capable contractors to do under take building tasks; accepting sub-contractors to participate in building tasks suggested by the general contractor in accordance with the contract;

b) Monitoring the quality of construction survey and design in accordance with Article 13, Article 18, Article 21 of the Decree No. 15/2013/NĐ-CP, and relevant regulations in this Circular;

c) Monitoring the building quality in accordance with Article 24 of the Decree No. 15/2013/NĐ-CP and relevant regulations in this Circular;

d) Carrying out assessment and acceptance in accordance with Article 31 of the Decree No. 15/2013/NĐ-CP and relevant regulations in this Circular;

dd) Providing construction warranty in accordance with Chapter V of the Decree No. 15/2013/NĐ-CP;

e) Keeping the building documents in accordance with Article 28 of this Circular;

g) Dealing with accidents in accordance with Chapter VI of the Decree No. 15/2013/NĐ-CP and relevant regulations in this Circular;

h) Complying with requests of state agencies in charge of construction during the building process.

2. The legal representative of the investor may delegate the project management board (for direct management) or the project management consultant (for hired project management consultants) to take one or some tasks in Clause 1 of this Article, except for: approving the engineering as the basis for inviting and assessing tenders, approving tendering result and selecting contractors, carrying out assessment or approving assessment results.

3. The investor shall provide guidance, carry out inspection and take responsibility for the performance of the project management board when the investor delegates the project management board. The project management board is responsible to the investor and law for the tasks and entitlements delegated by the investor.

4. Where the investor hires project management consultants, the delegation of tasks to the project management consultants must be specified in the construction. The investor is responsible for inspecting and supervising the project management consultant executing the contract. The project management consultant is responsible to the investor and law for fulfillment of contractual agreements.

5. If investor undertake the engineering and building work, the investor shall establish a construction quality management department independent from the design department and building department to monitor construction quality in accordance with this Article.

### **Article 3. Responsibilities for construction quality management under Engineering-Procurement-Construction (EPC) contracts or Engineering-Construction (EC) contracts**

1. The investor does not directly manage the construction quality, and shall undertake the tasks below:

a) Specifying the engineering task:

b) Selecting the general contractor and compare the capacity of the general contractor with the tender; appoint sub-contractors in the allowable cases in accordance with legislation on building contracts;

- c) Assessing the ability of primary sub-contractors suggested by the general contractor in accordance with the contract;
- d) Inspecting and approving the design created by the general contractor;
- dd) Approving the building schedule;
- e) Checking and accepting the building materials, products, and technological equipment used for the building work;
- g) Witnessing the assessment and acceptance or directly participate in the assessment and acceptance of some important building tasks or stages done by the general contractor and sub-contractors;
- h) Assessing, accepting, and inaugurating finished work items and building works;
- i) Complying with requests, or request the general contractor to comply requests of state agencies in charge of construction in accordance with law during the construction of building works.

2. The general contractor is responsible for the quality of the tasks undertaken by the general contractor and sub-contractors, including:

- a) Making submitting the quality control procedure for all the tasks undertaken by the general contractor and sub-contractors;
- b) Controlling the quality of survey, design, and construction of the works they carry out in accordance with the Decree No. 15/2013/NĐ-CP and relevant guiding Circulars;
- c) Selecting capable and proficient sub-contractors;
- d) Supervising, assessing, and accepting the tasks undertaken by sub-contractors;
- dd) The general contractor is responsible to the investor for the quality of the tasks undertaken by sub-contractors.

**Article 4. Responsibilities for construction quality management under construction contracts or Engineering-Procurement (EP) contracts or Procurement-Construction (PC) contracts.**

1. The investor is obliged to:

- a) Organize the management of construction quality of the tasks undertaken by the general contractor and primary contractors in accordance with Clause 1 and Clause 2 of this Circular;
- b) Examine the capacity of the sub-contractors suggested by the general contractor in accordance with the contract; appoint sub-contractors in allowable cases in accordance with legislation on construction contracts; witnessing the assessment and acceptance, or participate in assessment and acceptance of some building tasks undertaken by sub-contractors where necessary;

2. The general contractor is obliged to:

- a) Fulfill the responsibilities of contractors for construction quality management according to the Decree No. 15/2013/NĐ-CP and relevant legislative documents;
- b) Select capable and proficient sub-contractors; supervise, assess, and accept the tasks undertaken by sub-contractors;

The general contractor is responsible before the investor and law for the quality of the building tasks undertaken by sub-contractors.

3. Sub-contractors shall fulfill the responsibilities of contractors for construction quality management according to the Decree No. 15/2013/NĐ-CP and relevant legislative documents.

**Article 5. Responsibilities for construction quality management of investment under BOT, BTO, BT, or PPP contracts**

1. The project management enterprise is obliged to:

a) Select advisory contractors, procuring contractors, building contractors, and other contractors to execute the project in accordance with legislation on tendering.

The tendering result must be report to the state agencies authorized to sign BOT, BTO, BT, and PPP contracts within 15 working days from the day on which the decision on contractors are made;

b) Make the technical design based on the feasibility study report and project contract, and send it to the state agencies authorized to sign BOT, BTO, BT, and PPP contracts for supervision and inspection;

c) Carry out supervision, or hire an independent advisory organization to supervise the building work; assess and accept the items and the whole building work based on the design, in accordance with legislation on construction and contractual agreements;

d) Undertake the responsibilities for construction quality management of the investor in accordance with Article 2 of this Circular;

dd) Carry out technology transfers, providing training warranty and maintenance depending on the requirements of the project contract and relevant laws.

2. The state agencies authorized to sign BOT, BTO, BT, and PPP contracts are obliged to:

a) Receive and check the conformity of the tendering result sent by the project management enterprise with requirements of the project contract and relevant laws;

b) Supervise and inspect the technical design created by the project management enterprise in accordance with the Decree No. 15/2013/NĐ-CP if the state agency authorized to sign the BOT, BTO, BT, or PPP contract is also the state agency in charge of construction; consider deciding the changes in the technical standards in comparison with the feasibility study report;

c) Supervise and assess the fulfillment of obligations of the investor and the project management enterprise to meet the planning, targets, scales, technical standards, construction quality, schedule for mobilizing capital and executing the project, environment protection, and other issues according to contractual agreements. Inspect the assessment and acceptance carried out by the project management enterprise in accordance with the Decree No. 15/2013/NĐ-CP if the state agency authorized to sign the BOT, BTO, BT, or PPP contract is also the state agency in charge of construction;

d) Assess the quality, value, and condition of the work in accordance with the project contract; compiling the manifest of transfer assets, identify damage (if any), and request the project management enterprise to carry out repairs and maintenance;

dd) Only accept transfer after the work, equipment, and assets related to the construction has been maintained, repaired, meet the technical requirements and quality agreed in the project contract;

e) Cooperate with the project management enterprise compiling the work transfer contract as the basis for the work transfer;

g) Organize the management and operation of the work within their competence, or delegate the management to the investor as agreed in the project contract after receiving the work.

3. The responsibilities of the project management enterprise and the state agency authorized to sign the BOT, BTO, BT, or PPP contract must be specified in the project contract.

#### **Article 6. Technical instructions**

1. Formulating and approving technical instructions:

a) The investor shall formulate and approve technical instructions for on the works specified in Clause 3 Article 7 of the Decree No. 15/2013/NĐ-CP;

b) During the construction and where necessary, building contractors may request the investor to approve detailed technical instructions;

c) The technical instructions on the building works under EPC and EC contracts shall be provided based on the requirements of the investors.

d) For the building works on which the technical instructions are not obligatory, the contents of technical instructions shall be included in the description of the design, construction drawing, and the construction quality control procedure.

2. Technical instructions on a building work include general instructions and specific technical instructions for each primary building task. Technical instructions must specify the technical requirements, the building tolerances, technical requirements and procedure for inspecting building materials, products, building equipment and technological equipment used for and installed on the construction, regulations on the supervision, assessment, and acceptance of building works.

3. Advisory contractors shall provide technical instructions for each particular building work based on the sample technical instructions of the Ministry of Construction and the Ministries in charge of specialized works or professional association.

#### **Article 7. Classification of building works in Clause 2 Article 6 of the Decree No. 15/2013/NĐ-CP**

1. The classes of building works in this Circular are the basis for:

a) Identifying the building works that need technical instructions;

b) Stipulating the announcement of capacities of organizations and individuals involved in the construction;

c) Identifying the building works that must have their designs inspected state agencies in charge of construction, and must undergo assessment before inauguration;

d) Classification of accidents and resolution of accidents during building process;

dd) Deciding construction warranty duration;

e) Stipulating relevant tasks.

2. Building works are classified in the order below:

- a) The scale, productivity, and importance of the construction, according to Appendix 1 of this Circular;
- b) The requirements for the durability, fire resistance level, and other technical requirements of the construction in relevant National Technical Regulation (if any);
- c) The class of a building work is the highest class identified in accordance with Point a and Point b of this Clause.

3. Each building work and work item of a project shall be classified independently.

## **Chapter II**

### **CONSTRUCTION SURVEY AND ENGINEERING QUALITY MANAGEMENT**

#### **Article 8. Construction survey tasks**

1. The survey must be planned in conformity with the scale of the building work. The investor may hire a advisory organization or experts to provide opinions or inspect the construction survey where necessary.

The construction survey objectives formulated by the engineering contractor is the basis for making the invitation to tender for construction survey. In the tender for survey, the surveying contractor shall make a technical plan for construction survey in accordance with Article 9 of this Circular. The investor may hire a surveying contractor to plan the survey serving the determination of the building location, making the report on investment and construction, and setting up the construction project.

2. Primary contents of the construction survey objectives:

- a) The purposes of construction survey;
- b) The range of construction survey;
- c) The method and applicable standards of construction survey (where necessary);
- d) The workload of construction survey (intended);
- dd) The duration of construction survey.

3. The construction survey objectives may be adjusted in the cases below:

- a) Abnormal factors that might directly affect the design are found during the construction survey;
- b) The engineering contractor finds that the survey documents fail to meet the engineering requirements;
- c) Abnormal factors in comparison to the survey documents, which may affect the construction quality and construction solutions, are found during the construction process.

#### **Article 9. Technical construction survey plan**

1. A technical construction survey plan must:

- a) Be conformable with the construction survey objectives approved by the investor;

b) Comply with applicable construction survey standards and National Technical Regulation.

2. Contents of a technical construction survey plan:

a) The basis for the technical construction survey plan;

b) The composition and workload of construction survey;

c) The method and surveying equipment and laboratory equipment being used;

d) The applicable construction survey standards;

dd) The quality control and measures for internal quality control of the surveying contractor;

e) The schedule;

g) The measures for protecting infrastructural works and relevant building works in the survey area;

h) The measures for protecting the environment during the survey (water sources, noise, exhaust, etc);

i) Estimated cost of construction survey.

#### **Article 10. Supervising construction survey**

1. The surveying contractor shall organize the construction survey quality control themselves. The measures for quality control must be specified in the technical construction survey plan.

2. Contents of a technical construction survey supervision:

a) Inspecting the actual capacity of the surveying contractor, including the personnel, the surveying equipment, the laboratory in comparison with the approved construction survey plan and the construction survey contract;

b) Monitoring and inspecting the construction survey, including: the survey location, the survey workload, the survey procedure, retention of survey data and samples; inspecting the tests run in the laboratory and on-site tests; inspecting the assurance of occupational safety and environmental safety during the survey.

3. The investor and the surveying contractor shall concur with each other on the forms, the supervision logbook, and the record on assessment of on-site survey in accordance with Clause 2 of this Article.

#### **Article 11. Contents of the report on construction survey**

1. The basis for construction survey.

2. Summary of the location and natural conditions of the surveyed location, characteristics, scale, and nature of the building work.

3. The amount of construction survey done.

4. The construction survey result after testing and analysis.

5. Assessments, notes, and suggestions (if any).

6. Conclusion and recommendations

## 7. Appendices.

### **Article 12. Assessment and acceptance of construction survey result**

#### 1. Basis for assessment and acceptance:

- a) The construction survey contract;
- b) The approved construction survey objectives, technical construction survey plan;
- c) The report on the construction survey result of the surveying contractor.

#### 2. Assessment contents:

- a) Evaluating the quality of the construction survey report in comparison with the construction survey objectives and technical construction survey plan approved;
- b) Inspecting the workload of construction survey done, examine the conformity of the formality, quantity, and other contents according to the construction survey contract.
- c) Conclusion about the assessment and acceptance of construction survey.

#### 3. Participants in the assessment and acceptance:

- a) The legal representative of the investor or an authorized person;
- b) The survey supervisor of the investor;
- c) The legal representative of the surveying contractor or a authorized person;
- d) The person in charge of the survey of the construction survey.

4. The assessment record of the construction survey report shall specify: the assessed items, the participants in the assessment; the time and location of the assessment, conclusion (accepted or unaccepted), signatures, full names, positions of the legal representatives, and the seals of the legal entities participating in the assessment.

### **Article 13. Engineering objectives**

1. The investor shall establish or hire consultants to establish engineering objectives. The engineering objectives must be conformable with the construction investment report (pre-feasibility study report) or the investment policies approved by competent authorities.

The engineering objectives are the basis for setting up the project. The investor may hire a advisory organization or experts to provide opinions or inspect the engineering objectives where necessary.

#### 2. Primary contents of the engineering objectives:

- a) The bases for establishing the engineering objectives;
- b) The purposes of the building work;
- c) The building location;



- d) The requirements pertaining to planning, landscape, and architecture of the building work;
- dd) The requirements pertaining to the scale, life, uses of the building work, and other requirements.

3. The engineering objectives may be adjusted to suit the actuality and sure the sufficiency of the construction project.

#### **Article 14. Requirements pertaining to internal engineering quality control and formality of engineering documents**

1. The engineering contractor shall carry out internal inspection of the engineering documents during the engineering and before submitting the engineering documents to the investor or the general contractor. The engineering contractor shall appoint persons or departments under their management, or hire other organizations and individuals to carry out engineering quality inspection. The person that inspects the engineering must sign and make an attestation on the design drawing.

2. The engineering documents of each work include the design description, statistical table, drawings, construction survey reference documents, cost estimates, and maintenance procedure (if any).

3. The size, ratio, and information box of a technical drawing must comply with construction standards. The information box of every technical drawing must contain names and signatures of the designer, the examiner, the person in charge, the legal representative of the engineering contractor, and the seal of the engineering contractor, unless the engineering contractor is an independent individual.

4. The descriptions, technical drawings and estimates must be bound together in a uniform way, enclosed with a table of contents and the legend for reference and long-term storage.

5. If the engineering contractor is the general contractor, the engineering contractor must undertake the design of primary work items or primary technologies of the building work, and take full responsibility for execution of the engineering contract. Engineering sub-contractors are responsible for the progress and engineering quality before the general contractor and law.

#### **Article 15. Assessing engineering documents**

1. Basis for assessing engineering documents:

- a) The engineering contract;
- B) The approved engineering objectives and previous engineering documents;
- c) Applicable National Technical Regulation and standards;
- d) The engineering documents examined and approved by the investor.

2. Participants in the assessment:

- a) The legal representative of the investor;
- b) The legal representative of the engineering contractor;
- c) The person in charge of engineering.

3. The records on the assessment of the engineering documents shall specify: the assessed items, the participants in the assessment; the time and location of the assessment, quality and quantity of

engineering documents based on technical requirements and contracts; conclusion (accepted or unaccepted, mandatory revisions and other recommendations); signatures, full names, positions of the legal representatives, and the seals of the legal entities participating in the assessment.

4. Engineering documents shall be assessed to serve the payment, settlement, and finalization of the engineering contract between the investor and the engineering contractor.

### **Chapter III**

## **CONSTRUCTION QUALITY MANAGEMENT, CLASSIFICATION OF ACCIDENTS DURING CONSTRUCTION PROCESS AND USE OF BUILDING WORKS**

### **Article 16. Plans and measures for controlling construction quality during the construction process**

Before the construction commences, the investor and building contractors shall reach a consensus on the quality control system of the investor and contractors; the plans and measures for quality control based on technical instructions and recommendations of contractors, including:

1. The organization diagram, a list of the investor's and contractors' departments and personnel in charge of construction quality management in accordance with the construction contract; the rights and obligations of those entities for the construction quality management.
2. Targets and policies on quality assurance.
3. The plan for testing and evaluating quality; surveying and measuring specifications of the building work according to the design and technical instructions.
4. The measures for checking and controlling supplies, materials, structures, products, building equipment, and technological equipments being used and installed on the building work.
5. The procedure for inspecting and supervising the construction process, supervising the manufacturing and installation of equipment, determining building tasks, building stages, or parts of the work that need to assessing; the basis for assessment, participants in the assessment, and assessment record forms.
6. Measures for ensuring occupational safety, environment protection, fire and explosion prevention during the construction.
7. The procedure for making and managing relevant documents during the construction; the formality and contents of the building logbook; inspection forms; the procedure for reporting; the procedure for adopting opinions of the parties, and procedure for resolving the issues that arise during the construction process.
8. Agreements on the language of documents related to the construction process. If the investor or contractors are foreigners, the languages of the documents shall be Vietnamese and English.
9. Other relevant contents according to the construction contract.

### **Article 17. Monitoring quality of materials, structures, building products, and equipment installed on the building work**

1. The structures, products, building equipment, and technological equipments (hereinafter referred to as products) must undergo quality inspections according to applicable technical regulations and standards, requirements of the design, the construction contract, and relevant documents.

The investors and the procuring party shall carry out inspection and approve the origins of products before they are used and installed on the building work.

2. Methods of product quality control:

a) For mass-produced products that are goods on the market:

The investor and the procuring party shall check the origins, labels of goods, and announce the conformity of the quality, certificates of conformity according to the Law on Product and goods quality, the Law on Commerce, and relevant laws. The investor or the procuring party may carry out inspections at the premises of the producers, or test the goods quality in accordance with the contract. Producers and suppliers are responsible for providing certificates and relevant papers for the procuring party to prove the origins and quality of goods;

b) For the products that are separately manufactured according to the design:

If the products are manufactured at industrial facilities, the investor or the procuring party shall carry out quality inspections as prescribed in Point a of this Clause together with periodic inspections or surprise inspections during the manufacture process. If the products are manufacture at the building work site, the investor or the general contractor shall inspect and supervise the manufacture process similarly to other building tasks;

c) For the building materials extracted from mines:

The investor and material supplier shall survey the quality and reserve of the mines according to the design, relevant technical regulations and standards; carry out periodic inspections or surprise inspections during the extraction process;

d) Relevant parties shall run tests, inspect the product quality according to the design, applicable technical regulations and standards.

**Article 18. Building log and as-built drawing**

1. The building contractor shall keep a building log. This log must have its pages numbered and bear the seal of the building contractor and certification of the investor. The building log may be made separately for each work item or building work.

2. The building contractor and construction supervisor of the investor - if the investor directly supervises the construction process, or the building supervisor of the supervising contract - if the investor hires an advisory organization to supervise (hereinafter referred to as building supervisor of the investor) must regularly keep the building log, including:

a) The developments of building conditions (temperature, weather, relevant information), the construction processes, the assessment and acceptance of everyday building tasks at the site; detailed description of accidents, damage, and other issues that arise during the construction process;

b) Recommendations and instructions on resolving problems of relevant parties.

3. The building contractor shall make the as-built drawing of parts of the building work, work item, and the building works they build. The hidden parts of the building work must be included in the as-built drawing, or their sizes must be accurately measures before performing next tasks. The as-built drawing shall be made and certified in accordance with Appendix 2 to this Circular.

**Article 19. Building supervision and designer supervision carried out by the engineering contractor**

1. All building works during the building work process must be kept under supervision. Construction of detached housing should be kept under supervision.

The investor shall hire a supervisor or supervise the construction process themselves if they are capable. The building supervisor must hold a practice certificate suitable for the building tasks and classification of the building work.

2. The building supervisor of the investor, project management enterprise, or general contractor shall comply with the Decree No. 15/2013/NĐ-CP and this Circular during the supervision.

3. Designer's supervision:

a) The engineering contractor shall appoint competent persons to supervise the conformity of the design during the construction process;

b) If the construction is found inconsistent with the design, the supervisor shall record it in the building log; request the adherence to the design, and send a written notice to the investor;

c) The engineering contractor is responsible for participating in the final assessment of the building work at the request of the investor. If a work item or the whole building work is found unsatisfactory during the designer's supervision or assessment, the engineering contractor shall send a written notification to the investor specifying the unacceptability.

#### **Article 20. Assessment of building tasks**

1. Basis for assessment of building tasks:

a) The procedures for inspection, supervision, assessment and acceptance agreed by the investor and relevant contractors;

b) The written requests for assessment and acceptance of contractors;

c) The records on internal assessment made by contractors (if any);

d) The engineering documents, construction drawings, and changes in the designed approved by the investors;

dd) Relevant technical instructions;

e) Results of relevant observation, measurement, and testing;

g) The building log and other documents related to the assessed items.

2. Contents and procedure for assessing and accepting building tasks:

a) Check the finished building tasks at the site;

b) Check the actual measurements; compare them with the design;

c) Check the testing and measurement results;

d) Assess the conformity of the building task with the design;

dd) Draw conclusion about the acceptance of building task to take the next steps. If the building task is not accepted, the building supervisor of the investor or general contractor must provide an explanation in writing, or record it in the building log.

3. Participants in the assessment:

- a) The building supervisor of the investor or general contractor;
- a) The person in charge of the construction of the building contractor or the sub-contractor;
- a) The building supervisor of the investor or general contractor may witness or participate directly in the assessment and acceptance where necessary.

4. Assessment record:

- a) The assessment record shall specify: the assessed items (specifying the assessed tasks); participants in the assessment; the time and location of assessment; conclusion (accepted or unaccepted, whether or not the next tasks may be performed, necessary repairs and complements, and other requirements - if any); signatures, full names, and positions of participants in the assessment;
- b) Appendices may be enclosed with the assessment record;
- c) The assessment record may be made separately for each building task or for multiple building tasks of the same work item.

5. The responsible person of the investor or general contractor shall responsive carry out the assessment within 24 hours when receiving the request for assessment and acceptance of the building contractor, or provide a written explanation for rejection of assessment to the building contractor.

If the supervisor of the investor fails to witness the assessment and no written explanation is provided, the assessment shall still be carried out. The assessment record in this case is still valid.

**Article 21. Assessing construction stages or construction parts**

- 1. The assessment of construction stages or construction parts may be carried out when such parts start to carry load, or to make payment for the workload or a bid package.
- 2. The basis for assessment includes the documents similar to those of assessment of building tasks in Clause 1 Article 20 of this Circular, and the assessment records of building tasks related to construction stages or construction parts being inspected.
- 3. The investor and the building supervisor of the investor, the general contractor and relevant building contractors may reach an agreement on the time, procedure, contents of the assessment, and participants in the assessment.
- 4. The record on the assessment result shall specify: the assessed subjects (specifying the construction parts or construction stages assessed); participants in the assessment; the time and location of assessment; conclusion (accepted or unaccepted, whether or not the next steps may be taken, necessary repairs and complements, and other requirements - if any); signatures, full names, and positions of participants in the assessment. Appendices may be enclosed with the assessment record;

**Article 22. Assessing work items or building works before inauguration**

- 1. Basis for assessment:

- a) The documents mentioned in Point a, Point b, Point c, Point d, and Point dd Clause 1 Article 20 of this Circular related to the assessed items or works:
- b) The assessment records of the finished building tasks, construction stages, or construction parts (if any);
- c) The results of observation, measurement, testing, calibration, test run of devices, and quality assessment result of the construction (if any);
- d) The as-built drawing of the construction;
- d) The written approval given by the state agency in charge of fire and explosion prevention, environmental safety, and operational safety;
- e) The conclusion of specialized agencies about the assessment, acceptance, and inauguration of building works according to Article 32 of the Decree No. 15/2013/NĐ-CP.

## 2. Procedure for assessment:

- a) Compare the quality of the building work with the design and technical instructions;
- b) Check the as-built drawing;
- c) Check the test results, measurements, results of experimental operation of devices, and quality assessment result of the construction (if any);
- d) Check the written agreement, attestation, or approval given by the state agency in charge of fire and explosion prevention, environmental safety, and operational safety; check the assessment and acceptance of the building work, and relevant documents;
- dd) Check the operation and maintenance procedure of the building work;
- e) Conclusion about the assessment and inauguration. The assessment shall be recorded in accordance with Clause 4 of this Article.

## 3. Participants in the assessment and acceptance:

- a) The legal representative or an authorized person of the investor, the person in charge of the department of building supervision of the investor; the legal representative and the person in charge of the department of building supervision of the supervising contractor (if any);
- b) The legal representative, the person in charge of building of the general contractor, and primary building contractors;
- c) The legal representative and the person in charge of engineering of engineering contractor, at the request of the investor;
- d) If the investor is not the operator or user of the construction, the investor may invite the operator or user of the construction to witness the assessment and acceptance.

## 4. The record on assessment and acceptance of work items or building works shall specify:

- a) The subjects of inspection (name of work items or building works);

b) The time and location of assessment;

c) Participants in the assessment;

d) Assessment the quality of the finished work items or works in comparison with the engineering objectives, technical instructions, and other requirements of the construction contract;

dd) The conclusion (accepted or unaccepted, whether or not the next steps may be taken, necessary repairs and complements, and other requirements - if any); signatures, full names, positions of legal representatives, and seals of the participants; appendices may be enclosed with the assessment record.

5. A work or work item may still be accepted and inaugurated if some defects in the design or building work remain which do not affect the durability, life, features, appearance of the building work, and do not affect the use of the building work according to design requirements. The parties must set a deadline for repairing such defects in the assessment record.

### **Article 23. Handing over work items and work**

1. If the investor is not the operator or user of the work, the investor shall hand the work over to its operator or user after the building work is assessed and accepted. The handover must be recorded.

2. When handing over the building work, the investor must hand over the documents below to its operator or owner:

a) The operation and maintenance procedure of the building work; the engineering documents, as-built drawing, and other documents related to the operation and maintenance of the building work;

b) The list of equipment, parts, and supplies that are not installed or used.

3. When making investment under BOT, BTO, and BT contracts, the competent authority and investor must consider satisfying the conditions for transfer in the contracts, the Decree No. 108/2009/NĐ-CP, and the Decree No. 24/2011/NĐ-CP.

4. The operator or user of the building work shall take over, manage, operate, and maintain the building work in accordance with law from the day on which the building work is taken over and inaugurated. During the warranty period, the investor and contractors shall fulfill their obligations to provide warranty in accordance with law.

5. While the building work is not handed over to its operator or user, the investor is responsible for the provisional management, operation, and maintenance of the building work.

### **Article 24. Inspecting the assessment and acceptance of building works according to Article 32 of the Decree No. 15/2013/NĐ-CP.**

1. After the construction of the building works mentioned in Clause 1 Article 21 of the Decree No. 15/2013/NĐ-CP is commenced, the investor shall send reports to an authority in charge of construction quality (hereinafter referred to as construction authority) on their quality in accordance with Article 25 of this Circular, specifying: the name and address of the investor, name of the work, construction location, scale, and intended duration.

2. The construction authority shall notify the investor of the inspection plan, including:

a) The plan, the documents that need inspecting at some important construction stages. The number of inspections depends on the scale and technical characteristics of the building work. A building work in special class shall undergo no more than 04 inspections; a building work in class 1 shall undergo no more

than 3 inspections; other building works shall undergo no more than 2 inspections - unless an accident happens during the construction process or when the investor requests an inspection;

b) The plans, contents, and documents must be checked before the work item or work is assessed, accepted and inaugurated.

3. The construction authority shall carry out the final inspection after the construction completion report is sent by the investor using the form in Appendix 3 to this Circular. The inspection must be recorded in writing, primarily focusing on the conformity with law in order to ensure the construction safety of the building work, ensure the function and safe operation of, in particular:

a) Inspect the condition of construction parts visually and check the measurements;

b) Inspect the conformity with legislation on construction quality management by inspecting the completion documents, according to Appendix 5 of this Circular, and discussing with relevant parties during the inspection.

c) Inspect the conformity with other legislation on construction.

4. During the inspection, the construction authority may request the investor and contractors to provide explanation, or appoint an advisory organization to inspect the suspected unsafe work items and parts according to the design.

5. The construction authority shall notify the inspection result to the investor by the deadline in Point d Clause 3 Article 32 of the Decree No. 15/2013/NĐ-CP. The notification of inspection result shall be made using the form in Appendix 4 to this Circular.

6. The construction authority may request public service providers or capable organizations and individuals to participate in the assessment and acceptance.

7. The cost of inspecting the assessment and acceptance shall be estimated and included in the total investment in the building work.

**Article 25. The power to inspect the assessment and acceptance of building works according to Article 32 of the Decree No. 15/2013/NĐ-CP**

1. The construction authorities affiliated to the Ministry of Construction shall inspect:

a) The building works in class I or higher regardless of capital sources, including: apartment buildings, public works, infrastructural works, and cement factories;

b) Building works in class II or class III, including: public works, apartment buildings, cement factories, and infrastructural works in the construction projects decided by the Minister of Construction;

c) The works of national importance ordered by the Prime Minister.

2. The construction authorities affiliated to the Ministry of Industry and Trade shall inspect:

a) The building works in class I or higher regardless of capital sources, including: power lines, hydroelectric power plants, thermoelectric plants, metallurgy factories, alumin factories, refineries, petroleum depots and pipelines, factories that produce dangerous chemicals and their warehouses, factories that produce explosives and their warehouses;



b) Building works in class II and class III, including: power lines, hydroelectric power plants, thermoelectric plants, metallurgy factories, alumin factories in the construction projects decided by the Minister of Industry and Trade;

c) Refineries, petroleum depots and pipelines, factories that produce dangerous chemicals and their warehouses, factories that produce explosives and their warehouses in the projects decided by the Minister of Industry and Trade, regardless of their class;

d) The industrial works of national importance ordered by the Prime Minister.

3. The construction authorities affiliated to the Ministry of Transport shall inspect:

a) The building works in class I or higher regardless of capital sources, including: bridges, road tunnels, railways, airports, ports, locks, waterway ports, aerial tramways;

b) Building works in class II and class III, including: bridges, tunnels, and roads in the construction projects decided by the Ministry of Transport;

c) Railway works, airports, ports, locks, waterway ports, aerial tramways in the construction projects decided by the Minister of Transport, regardless of their class;

d) The traffic works of national importance ordered by the Prime Minister.

4. The construction authorities affiliated to the Ministry of Agriculture and Rural Development shall inspect:

a) The building works in class I or higher regardless of capital sources, including: reservoirs, dams, drains, channels, closed water pipes, hydraulic tunnels, dykes, pumping stations, and other irrigation works;

a) Reservoirs, dams, drains, channels, closed water pipes, hydraulic tunnels, dykes, pumping stations, and other irrigation works in the projects decided by the Ministry of Agriculture and Rural Development, regardless of their class;

d) The agricultural works of national importance ordered by the Prime Minister.

5. The construction authorities affiliated to the Ministry of Public Security and the Ministry of National Defense shall inspect the works serving national defense and security defined by the Ministry of Public Security and the Ministry of National Defense.

6. Services of Construction the Services in charge of specialized works shall inspect the assessment and acceptance of local building works as follows:

a) Services of Construction shall inspect cement factories in class III and class II, the building works mentioned in Point a, Point b, Point e Clause 1 Article 21 of the Decree No. 15/2013/NĐ-CP, except for the building works mentions in Clause 1 of this Article.

b) Services of Industry and Trade shall inspect the building works mentioned in Point c Clause 1 Article 21 of the Decree No. 15/2013/NĐ-CP, except for cement factories and the building works mentioned in Clause 2 of this Article;

c) Services of Transport shall inspect the building works mentioned in Point d Clause 1 Article 21 of the Decree No. 15/2013/NĐ-CP, except for the building works mentioned in Clause 3 of this Article;

d) Services of Agriculture and Rural development shall inspect the building works mentioned in Point dd Clause 1 Article 21 of the Decree No. 15/2013/NĐ-CP, except for the building works mentioned in Clause 4 of this Article.

7. Cooperation in inspecting the assessment and acceptance of building works;

a) If a project consists of multiple building works of various types and classes, the construction authority shall inspect the primary works and work items, and invite relevant construction authorities to cooperate in the inspection.

The primary works mentioned in this Clause is an independent work or a cluster of work items that constitute the main functions of the project.

b) Construction authorities of Ministries in charge of specialized works shall invite specialized agencies of the Ministry of Construction to participate in the assessment and acceptance of specialized works according to Point dd Clause 1 Article 43 of the Decree No. 15/2013/NĐ-CP.

c) The Services in charge of specialized works shall invite the Service of Construction to participate in the assessment and acceptance of specialized works according to Point c Clause 2 Article 45 of the Decree No. 15/2013/NĐ-CP.

8. Based on the local condition, the People's Committees of provinces may assign the People's Committees of districts, management boards of urban areas and industrial parks to inspect some building works in class III and class IV that are responsibility of Services of Construction and Services in charge of specialized works.

9. The Ministry of Construction shall provide guidance on inspecting the assessment and acceptance of building works in economic zones on a case-by case basis.

#### **Article 26. Reference tests, testing quality and bearing capacity of building structures during the construction progress**

1. Reference tests may be carried out in the cases below:

a) The reference testing is stipulated in the construction contract or technical instructions of the building works that face difficulties in construction quality control (e.g. the work is big, the construction is prolonged, the construction takes place in remote areas, the construction uses multiple sources of supplies, etc.);

b) The building materials, products, and construction quality are considered unsatisfactory according to the technical instructions or design;

c) The reference testing is requested by state agencies in charge of construction.

2. The quality and bearing capacity of building structures shall be tested in the cases below:

a) The test is required by the construction contract, technical instructions, or the design;

b) The quality of the building work, work items, or construction parts are considered unsatisfactory according to the design;

c) An accident happens during the construction process which affects the quality of part or the whole building work;

d) The test is requested by the state agencies authorized to sign BOT, BTO, BT, and PPP contracts (for the building works invested under BOT, BTO, BT, and PPP contracts), and requested by state agencies in charge of construction.

3. The advisory organization that runs the reference test, assess the quality and testing the bearing capacity of the building work must be capable.

When state agencies in charge of construction or the state agencies authorized to sign BOT, BTO, BT, and PPP contracts request the reference test, quality assessment, or bearing capacity test, the advisory organization that does these tasks must be approved by such agencies.

4. The building contractor and the contractor that supplies or produces building products shall bear the cost of reference test, quality assessment, and testing the bearing capacity of building structures according to Point b Clause 1 and Point b Clause 2 of this Article if the test or assessment proves that the contractors are responsible for the defects. In other cases, the cost shall be included in the total investment.

#### **Article 27. Completion documents**

1. The investor shall make the completion documents.

2. The list and formality of the completion documents are specified in Appendix 5 to this Circular.

3. The completion documents must be made before the work item or building work is put into operation. The completion documents may be made for the entire building work project, or for separate works or work items of the project.

#### **Article 28. Keeping completion documents**

1. The investor is responsible for keeping the completion documents for at least 10 years - applicable to projects in class A, or 7 years - applicable to projects in class B, or 5 years - applicable to projects in class C, from the day on which the works or work items are accepted and inaugurated.

2. The state agencies in charge of construction and the contractors participating in the building work shall keep the documents related to their tasks. The storage duration is similar to that applicable to investors in Clause 1 of this Article.

3. The documents serving the management and use of a building work shall be kept by the operator or user of that work for the entire life of the work in accordance with legislation on construction maintenance.

4. History documents of building works shall be kept in accordance with legislation on archive.

#### **Article 29. Settlement of disputes over construction quality**

1. Disputes over construction quality arise when conflicting opinions about product quality, construction parts, building works, and measures for repairing defects are voiced.

Disputes over quality may arise among the participants in the construction, or between such participants and the owners, operators, or users of adjacent building works, and relevant parties.

2. Disputes over construction quality shall be settled in the order below:

a) Negotiation between the parties;

b) Hire a capable organization or individual to assess the building work quality, and provide solutions.

The parties may request state agencies in charge of construction to provide guidance on settlement of disputes;

c) Filing lawsuits and settle the disputes in court.

### **Article 30. Reports sent by investors to state agencies in charge of construction**

The investor shall report the construction quality and construction quality management to state agencies in charge of construction in the cases below:

1. The investor shall send a report on the construction completion to the state agencies in charge of construction in accordance with Article 24 and Article 25 of this Circular.
2. Investors shall make and send unscheduled reports at the request of state agencies in charge of construction in ad hoc cases.
3. When an accident happens, the investor shall report it within 24 hours according to Clause 2 Article 37 of the Decree No. 15/2013/NĐ-CP, including: the name of the building work, or work item where the accident happens, the construction location, the time of accident, the investor and contractors involved in the construction of the work or work item where the accident happens, the casualties (number of killed, injured, lost people); damage to the building work, and relevant material damage; preliminary causes of the accidents, and other necessary information (if any).

If the building work is in operation, the operator and user of the building work shall report the accidents that happen during its operation.

### **Article 31. Classification of accidents during the construction and operation**

The accidents that happen during the construction and operation of building works mentioned in Clause 1 Article 36 of the Decree No. 15/2013/NĐ-CP are classified as follows:

1. Classified by damage to the building work (including the main works, temporary works, adjacent works, and auxiliary structures):

a) Extremely severe accidents are accidents such as: collapse of the whole work or work item in special class, or severe damage to a construction part that causes instability which is likely to lead to the collapse of the work or work item in special class;

b) Level I accidents are accidents such as: collapse of the whole works or work items in class I, or severe damage to a construction part that causes instability which is likely to lead to the collapse of the work or work item in class I;

c) Level II accidents are accidents such as: collapse of the whole works or work items in class II or III, or severe damage to a construction part that causes instability which is likely to lead to the collapse of the work or work item in class I;

d) Level III accidents are accidents such as: collapse of the whole works or work items in class IV, or severe damage to a construction part that causes instability which is likely to lead to the collapse of the work or work item in class IV;

dd) The collapse of auxiliary structures serving the construction, such as the temporary platforms, scaffolding, cranes, and similar structures, shall be classified similarly to accidents, depending on the scale of such structures according to Appendix 1 to this Circular.

2. Classified by financial damage, applicable to construction accidents, fire and explosion that cause damage to the building work (including damage to the construction products during the construction process):

a) Extremely serious accidents are accidents that cause at least 20 billion VND to the building work or construction parts;

a) Extremely serious accidents are accidents that cause a damage of at least 20 billion VND to the building work or construction parts;

c) Level II accidents are accidents that cause a damage from 3 billion VND to below 10 billion VND to the building work or construction parts;

d) Level III accidents are accidents that cause a damage below 3 billion VND to the building work or construction parts;

3. Classification by casualties during the construction process shall comply with legislation on labor.

4. Based on Clause 1, Clause 2, Clause 3 of this Article, investors, contractors, owners of building works, authorized persons, and relevant organizations shall report accidents, dealing with accidents, identify causes of accidents, and make accident documents in accordance with Article 37, Article 38, Article 39, and Article 40 of the Decree No. 15/2013/NĐ-CP. Investors and contractors shall report the accidents mentioned in Clause 3 of this Article to competent authorities in accordance with legislation on labor.

5. The level of accident is the highest level in Clause 1 and Clause 2 of this Article.

## **Chapter IV**

### **STATE MANAGEMENT OF CONSTRUCTION QUALITY**

#### **Article 32. Periodic and unscheduled inspections carried out by state agencies in charge of construction**

1. Planning periodic inspections:

a) Specialized agencies affiliated to the Ministry of Construction shall plan the periodic inspections of construction quality of the Ministries, agencies and local governments; periodic inspections of quality management and construction quality nationwide;

b) Specialized agencies affiliated to the Ministries in charge of specialized works shall plan the inspections of quality of specialized works, inspection of the quality management and quality of specialized works nationwide;

c) Services of Construction shall plan the periodic inspections of quality of specialized constructions of the Services in charge of specialized constructions, quality of building works under the management of the People's Committees of districts and the local building works;

d) Services of Construction shall plan the periodic inspections of quality of specialized constructions of the Services in charge of specialized constructions, quality of building works under the management of the People's Committees of districts and the local building works;

dd) The Ministries in charge of specialized works, Services of Construction shall send the plans for the periodic inspections to the Ministry of Construction.

2. Contents of a periodic inspection:

a) Inspecting the conformity with legislation on construction quality management;

b) Inspecting the quality of construction parts visually and by results of testing, measurements, observations, and examinations (if any);

c) Other issues in accordance with legislation on management of construction investment.

3. Unscheduled inspections of quality management and construction quality:

a) Unscheduled inspections shall be carried out at the request of the Government, Ministers, ministerial agencies, Presidents of the People's Committees, or when receiving feedbacks from citizens or the media;

B) A group of works shall be inspected when they are suspected of inferior quality or violating the regulations on quality management.

### **Article 33. Reporting the construction quality and quality management**

1. The People's Committees of provinces shall send annual or unscheduled reports on the quality and quality management of local building works to the Ministry of Construction before December 15 every year using the form in Appendix 6 to this Circular.

2. The Ministry of National Defense, the Ministry of Public Security, and the Ministries in charge of specialized works shall send annual reports on the quality and quality management of the building works under the management to the Ministry of Construction before December 15 using the form in Appendix 7 to this Circular.

3. Other Ministries and agencies shall send annual reports on the quality and quality management of the building works under their management to the Ministry of Construction before December 15 using the form in Appendix 8 to this Circular.

4. Services of Construction, Services in charge of specialized works, and the People's Committees of districts shall send periodic and unscheduled reports on the quality and quality management of local building works to the People's Committees of provinces.

### **Article 34. Penalties for violations against regulations on construction quality management**

1. When the entities participating in the construction are found committing violations, according to Article 24 and Article 32 of this Circular, the state agencies in charge of construction shall:

a) Request relevant organizations and individuals to stop the violations;

b) Suggest penalties for such violations in accordance with legislation on penalties for administrative violations to the Inspectorate of the Ministry of Construction and the Inspectorate of the Service of Construction where the work is built. The inspectorate shall handle the cases in accordance with law and notify the result to the state agencies in charge of construction;

c) Announce the names of violators and their violations on the websites of the Ministry of Construction, the Ministries in charge of specialized works, and the Service of Construction where the work is built.

2. Suspending the construction process:

a) Heads of specialized departments of the Ministry of Construction and the Ministries in charge of specialized works are entitled to suspend the construction process in the cases mentioned in Clause 2 Article 46 of the Decree No. 15/2013/NĐ-CP.

Within 24 hours since the decision to suspend the construction process is made, the heads of aforesaid agencies shall report the decision to the Ministry of Construction and the Ministries in charge of specialized works;

b) Directors of Services of Construction and Services in charge of specialized works are entitled to suspend the construction process in the cases mentioned in Clause 2 Article 46 of the Decree No. 15/2013/NĐ-CP.

Within 24 hours since the decision to suspend the construction process is made, the heads of aforesaid agencies shall report the decision to the People's Committees of provinces.

c) Heads of the agencies that decide to suspend the construction process in Point a and Point b of this Clause shall inspect the rectification carried out by investors and contractors, and allow them to resume the construction process after the defects are rectified and safety are ensured.

## **Chapter V**

### **IMPLEMENTATION**

#### **Article 35. Transitional provisions**

1. Classifying building works serving construction quality management in Article 7 of this Circular:

a) The classification of construction projects invested before this Circular takes effect shall comply with the decisions on investment;

b) The classification of construction projects invested after this Circular takes effect shall comply with this Circular.

2. Certification of bearing capacity and quality of building works:

a) The building works and work items, which have contracts and have undergone inspections of bearing capacity or conformity before April 15, 2013, but have not been issued with certificates, shall be executed until they are finished. Based on the results of on-site inspections and certifications of certification bodies, the state agencies in charge of construction to conclude draw a conclusion about the assessment carried out by the investor before inauguration;

b) The regulations on certification of bearing capacity in Article 43 of the Government's Decree No. 71/2010/NĐ-CP dated June 23, 2010 providing guidance on the implementation of the Law on Housing, Point a Clause 2 Article 9 of the Circular No. 16/2010/TT-BXD of the Ministry of Construction providing guidance on the implementation of the Decree No. 71/2010/NĐ-CP are annulled from the effective date of the Decree No. 15/2013/NĐ-CP.

3. The inspection of the assessment and acceptance of the building works that must undergo inspection before inauguration according to Article 24 of this Circular:

a) The assessment and acceptance of building works inaugurated before the effective date of the Decree No. 15/2013/NĐ-CP shall comply with the Government's Decree No. 209/2004/NĐ-CP dated December 16, 2004 on construction quality management.

b) The assessment and acceptance of building works that are finished after April 15, 2013 shall comply with the Decree No. 15/2013/NĐ-CP.

#### **Article 36. Effect**

1. This Circular takes effect on September 09, 2013 and supersedes the Circular No. 27/2009/TT-BXD dated July 31, 2009, providing guidance on construction quality management; the regulations on certification of bearing capacity and conformity of building works in the Circular No. 03/2011/TT-BXD dated April 06, 2011 on inspection, verification, and certification of bearing capacity and conformity of construction quality; the Circular No. 02/2006/TT-BXD dated May 17, 2006 providing guidance on keeping engineering documents and as-built drawings of the Ministry of Construction.

2. Organizations and individuals are recommended to report the difficulties during the implementation to the Ministry of Construction for consideration and settlement./.

**THE MINISTER**

**Trinh Dinh Dung**