

THE GOVERNMENT

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SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom - Happiness

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DECREE

**ON MANAGEMENT OF INVESTMENT PROJECTS ON THE CONSTRUCTION OF
WORKS**

THE GOVERNMENT

*Pursuant to the December 25, 2001 Law on Organization of the Government;
Pursuant to the November 26, 2003 Construction Law;
At the proposal of the Minister of Construction,*

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree guides the implementation of the Construction Law regarding the formulation, evaluation and approval of investment projects on the construction of works; the implementation of investment projects on the construction of works; and capability conditions of organizations and individuals engaged in construction activities.

The formulation, evaluation and approval of investment projects on the construction of works funded with official development assistance (ODA) comply with the laws on construction and ODA management and use.

Article 2. Categorization and state management of investment projects on the construction of works

1. Investment projects on the construction of works (below collectively referred to as projects) shall be categorized as follows:

a/ By size and nature: national important projects in which investment is considered and decided by the National Assembly; other projects which are categorized into groups A, B and C as specified in Appendix I to this Decree;

b/ By investment capital source:

- State budget-funded projects;
- Projects funded with state-guaranteed credit or the State's development investment credit;
- Projects funded with development investment capital of state enterprises;
- Projects funded with capital of other sources, including private capital or capital of mixed sources.

2. Investment in the construction of works must be in line with the socio-economic development master plan, branch plans or construction plans, ensure security, social and environmental safety, and comply with the land law and other relevant laws.

3. In addition to the provisions of Clause 2 of this Article, depending on sources of capital used for projects, the State shall also manage projects under the following regulations:

a/ For state budget-funded projects, including component projects, the State shall manage the entire process of construction investment, from identification of investment policies, project formulation, investment decision, designing, estimation, contractor selection, construction to test, take-over and putting of works into operation or use;

b/ For enterprises' projects funded with state-guaranteed credit, the State's development investment credit or development investment capital of state enterprises, the State shall manage them in terms of investment policy and scope. Enterprises having these projects shall themselves organize the implementation and management of the projects in accordance with this Decree and other relevant laws;

c/ For projects funded with capital of other sources, including private capital, investors shall decide by themselves on forms and contents of project management. For projects funded with capital of mixed sources, capital contributors shall reach agreement on methods of management, or manage these projects under regulations applicable to the capital source which accounts for the highest percentage (%) in the total investment.

4. For projects or group-A projects of national importance consisting of different component projects, if each component project can be independently operated or implemented in different investment phases, it may be managed and implemented like an independent project. The investment decider may decide on the division of a project into component projects.

Article 3. Investors in the construction of works

Construction investors are owners of capital or persons assigned to manage and use capital for investing in the construction of works, specifically:

1. For state budget-funded projects, their investors shall be decided by investment deciders in accordance with the State Budget Law before formulating investment projects on the construction of works.

a/ For projects in which investment is decided by the Prime Minister, their investors may be any of the following agencies and organizations: ministries, ministerial-level agencies, government-attached agencies and other central agencies (collectively referred to as ministerial-level agencies). People's Committees of provinces and centrally run cities (collectively referred to as provincial-level People's Committees) and state enterprises:

b/ For projects in which investment is decided by ministers, heads of ministerial-level agencies or presidents of People's Committees at all levels, their investors may be managers or users of works.

In case managers or users of works cannot be identified yet or managers or users of works are ineligible for acting as investors, investment deciders may assign eligible units to act as investors. In case managers or users of works are ineligible for acting as project investors, units assigned to manage or use works shall appoint persons to join investors in formulating projects, designing, monitoring, managing, testing, receiving and putting works into operation or use:

c/ In case investors cannot be identified under Point b of this Clause, investment deciders may authorize other eligible units to act as investors or may concurrently act as investors.

2. For credit-funded projects, borrowers may act as investors.

3. For projects funded with capital of other sources, investors may be owners of capital or representatives as prescribed by law.

Article 4. Investment supervision and assessment for investment projects on the construction of works

1. Projects with state capital accounting for over 50% of their total investment are subject to investment supervision and assessment. For projects funded with capital of other sources, the investment supervision and assessment shall be decided by investment deciders.

2. Investment supervision and assessment requirements and contents include:

a/ Assessment of the project efficiency and feasibility;

b/ Supervision and assessment of the project implementation by investors against the contents approved by competent authorities, and of the observance of regulations on construction investment:

c/ Identification, through investment supervision and assessment, of problems, and adjustment of projects and submission of proposals or recommendations to competent authorities for handling to ensure the project efficiency and feasibility.

3. Organization of investment supervision and assessment:

a/ Investment deciders or persons authorized to issue investment decisions shall organize investment supervision and assessment. Particularly for projects in which investment is decided by the Prime Minister, line ministries shall organize investment supervision and assessment. For projects of which investment supervision and assessment are organized by ministers, heads of ministerial-level agencies or presidents of provincial-level People's Committees, their implementation must be reported to the Ministry of Planning and Investment for synthesis and further reporting to the Prime Minister;

b/ The Ministry of Planning and Investment shall guide the investment supervision and assessment of projects; synthesize the investment supervision and assessment situation nationwide and periodically report thereon to the Prime Minister.

Chapter II

FORMULATION, EVALUATION AND APPROVAL OF INVESTMENT PROJECTS ON THE CONSTRUCTION OF WORKS

Article 5. Making of investment reports on the construction of works (pre-feasibility study reports) and application for investment licenses

1. For projects of national importance, investors must make investment reports on the construction of works and submit them to the National Assembly for consideration of and decision on investment policies. For other projects, investors are not required to make investment reports.

2. An investment report on the construction of works covers:

- a/ The necessity to invest in the construction of the work, advantages and disadvantages; regulations on exploitation and use of national resources, if any;
- b/ The projected investment scope: capacity, construction area; work items; the projected location of the work and land use demand;
- c/ Analysis and preliminary selection of technologies and technical specifications; conditions of the supply of supplies, equipment, raw materials and energy, the provision of services, and technical infrastructure; the ground clearance and resettlement plan, if any; the project's impacts on the environment and ecology, fire and explosion prevention and fighting, security and defense;
- d/ The form of investment, initial projection of the total investment, the project implementation duration, the capital-raising plan according to implementation schedule, the project's socio-economic benefits, and investment phases, if any.

Article 6. Formulation of investment projects on the construction of works (feasibility study reports)

1. When investing in the construction of works, investors shall formulate and submit investment projects to investment deciders for evaluation and approval, except the following cases:

a/ Works only subject to formulation of econo-technical reports on the construction of works as specified in Clause 1, Article 13 of this Decree;

b/ Construction works which are people's individual houses as specified in Clause 5, Article 35 of the Construction Law.

2. A project is composed of explanations as specified in Article 7, and a basic design as specified in Article 8, of this Decree.

3. For projects not included in branch plannings already approved by competent authorities, before formulating investment projects on the construction of works, investors shall report them to line ministries or localities as decentralized for consideration and approval of planning supplementation according to their competence, or submit the planning supplementation to the Prime Minister for approval.

The location and size of a work must conform with the approved construction planning. For a project not included in any construction planning, its location and size must be approved in writing by the provincial-level People's Committee, for group-A projects, or an agency with the planning competence, for projects of groups B and C. The time limit for considering and approving branch or construction planning compliance is 15 working days.

Article 7. Details of explanations of an investment project on the construction of works

1. The investment necessity and objective; assessment of the market demand, sale of products, for production and business projects; product competitiveness; social impacts (if any) on the locality or region; the form of construction investment; the construction location and land use demand: conditions of the supply of raw materials, fuel and other input elements.

2. Description of the work's size and construction area, work items; analysis and selection of technical plans, technologies and capacity.

3. Implementation solutions, including:

a/ The general plan on ground clearance and resettlement and the plan to support technical infrastructure construction, if any;

b/ Architectural design plans, for works in urban centers and works subject to architectural requirements;

c/ The plan on the project operation and labor use;

d/ Implementation phases and schedules and the form of project management.

4. Assessment of environmental impacts, fire and explosion prevention and fighting measures, and security and defense requirements.

5. The project's total investment; the capital arrangement capacity, capital sources and the capacity to allocate capital according to implementation schedule; the capital repayment plan, for projects with capital recovery requirements, and analysis and assessment of the project's economic-financial and social benefits.

Article 8. Details of the basic design of an investment project on the construction of works

1. Basic design means a design made during the formulation of an investment project on the construction of works on the basis of the selected design plan, which must indicate major technical specifications conformable with applicable regulations and standards, as a basis for carrying out subsequent designing steps.

A basic design consists of explanations and drawings.

2. A basic design's explanations cover:

a/ A brief description of the construction location, the design plan: the work's general plan or the plan on work lines, for works to be constructed in lines; locations and sizes of work items; connection among work items and to the region's technical infrastructure;

b/ The technological plan and chain, for works subject to technological requirements;

c/ The architectural plan, for works subject to architectural requirements;

d/ The work's major structure plan, technical and technical infrastructure systems;

dd/ Environmental protection and fire prevention and fighting plans as prescribed by law;

e/ A list of applicable major regulations and standards.

3. A basic design's drawings cover:

a/ The drawing of the work's general plan or the drawing of the plan on work lines, for works to be constructed in lines;

b/ The technological plan and the technological chain drawing, for works subject to technological requirements:

c/ The architectural plan drawing, for works subject to architectural requirements;

d/ Drawings of the work's major structure plan, technical and technical infrastructure systems, connection to the region's technical infrastructure.

Article 9. Dossiers of investment projects on the construction of works to be submitted for evaluation

A dossier of an investment project on the construction of works to be submitted for evaluation comprises:

1. A report of project evaluation, made according to a set form {not printed herein};
2. The project, comprising explanations and a basic design.
3. Relevant legal documents.

Article 10. Competence to evaluate investment projects on the construction of works

1. Investment deciders shall evaluate projects before approving them. In charge of project evaluation are professional units under investment-deciding authorities. Project evaluation units shall seek opinions of state management agencies on basic designs under Clause 6 of this Article and of other concerned agencies in order to evaluate projects. Investment deciders may hire consultants to verify a number or all of the contents specified in Clauses 1 and 2, Article 11 of this Decree.

For projects of which investment decision has been decentralized or authorized, decentralized or authorized persons shall evaluate these projects.

2. The Prime Minister shall set up the State Council for Evaluation of Investment Projects to evaluate projects falling under his investment-deciding competence, and other projects, when finding it necessary. The Minister of Planning and Investment shall act as the chairman of the State Council for Evaluation of Investment Projects.

3. For state budget-funded projects:

a/ Ministerial-level agencies shall evaluate projects falling under their investment-deciding competence. In charge of project evaluation are professional units under investment deciders;

b/ Provincial-level People's Committees shall evaluate projects falling under their investment-deciding competence. Provincial-level Planning and Investment Services shall take charge of project evaluation.

District- or commune-level People's Committees shall evaluate projects falling under their investment-deciding competence. In charge of project evaluation are units with the budget plan-managing function under investment deciders.

4. Investment deciders may themselves evaluate other projects.

5. The evaluation of investment projects on the construction of specific works complies with the Government's Decree on management of investment in the construction of specific works.

6. The evaluation of a basic design shall be conducted simultaneously with but not separately from the evaluation of an investment project.

State management agencies responsible for giving opinions on basic designs include:

a/ Ministries managing specialized construction works, for projects of national importance and group-A projects;

b/ Provincial-level Services managing specialized construction works, for projects of groups B and C.

The Ministry of Construction shall issue a circular defining the competence and responsibility of the above agencies to give opinions on basic designs.

7. The time limit for evaluating a project is counted from the date of receipt of a complete and valid dossier, specifically:

- a/ 90 working days, for projects of national importance;
- b/ 40 working days, for group-A projects;
- c/ 30 working days, for group-B projects;
- d/ 20 working days, for group-C projects.

Article 11. Contents of evaluation of an investment project on the construction of works

1. Examination of elements assuring the project efficiency, such as the necessity of investment; input elements; size, capacity, technologies, implementation duration and schedule; financial analysis, total investment, and socio-economic benefits.

2. Examination of elements assuring the project feasibility, such as compliance with planning: demands for use of land or natural resources (if any); ground clearance and capital-raising capabilities according to the project schedule; the investor's managerial experience: loan repayment ability; fire prevention and fighting measures; factors affecting the project, such as defense, security and environment, and other relevant regulations.

3. Examination of the basic design, covering:

a/ The basic design's conformity with the approved detailed construction planning general plan; the basic design's conformity with the plan on selected work lines, for works to be constructed in lines; the basic design's conformity with the approved construction location and size and planning criteria, for works to be constructed in areas without approved detailed construction plannings;

b/ The compatibility of the connection to the region's technical infrastructure;

c/ The rationality of the technological plan or chain, for works subject to technological requirements;

d/ The application of regulations and standards on construction, environment and fire prevention and fighting;

dd/ Construction capability conditions of consultants or practicing capability of basic design makers as required.

Article 12. Competence to decide on investment in the construction of works

1. For state budget-funded projects:

a/ The Prime Minister shall decide on investment in projects of national importance under the National Assembly's resolutions and other important projects;

b/ Ministers or heads of ministerial-level agencies shall decide on investment in projects of groups A, B and C and may authorize or decentralize their subordinates to decide on investment in projects of groups B and C;

c/ Presidents of People's Committees at all levels shall decide on investment in projects of groups A, B and C within the limits and balancing capacity of local budgets after consulting People's Councils of the same level. Provincial-or district-level People's Committee presidents may authorize or decentralize their subordinates to decide on investment in projects of groups B and C;

d/ Depending on local practical conditions, provincial-level People's Committee presidents shall assign district- or commune-level People's Committee presidents to decide on investment in projects funded with budgets of superior levels.

2. Investors shall themselves decide on investment in, and take responsibility for, Projects funded with capital of other sources or mixed sources.

3. Persons with the investment-deciding competence may issue investment decisions only when project evaluation results are available. Particularly for credit-funded projects, capital lenders shall, before competent persons issue investment decisions, appraise financial and debt payment plans before approving or disapproving the provision of loans.

4. A decision on investment in the construction a work shall be made according to a set form (not printed herein).

Article 13. Econo-technical reports on the construction of works

1. When investing in the construction of the following works, investors are not required to formulate investment projects but shall make only econo-technical reports on the construction of works for submission to investment deciders for approval:

a/ Works constructed for religious purposes;

b/ Construction, renovation, repair or upgrading works capitalized at under VND 15 billion (excluding land use levies) in compliance with socio-economic development, branch or construction plannings, unless investment deciders require the formulation of investment projects.

2. Details of an econo-technical report on the construction of a work are specified in Clause 4, Article 35 of the Construction Law.

3. Persons with the investment-deciding competence defined in Article 12 of this Decree shall evaluate econo-technical reports on the construction of works and issue investment decisions.

4. Investors shall evaluate working drawing designs and cost estimates as a basis for investment deciders to approve econo-technical reports.

Article 14. Adjustment of investment projects on the construction of works

1. An investment project on the construction of a work can be adjusted in one of the following cases:

a/ It is affected by natural disaster, such as earthquake, storm, flood, tsunami, enemy sabotage or other force majeure events;

b/ There arise elements which bring about higher efficiency for the project;

c/ Changes in the construction planning directly affect the project's location, size, nature and objective;

d/ There are abnormal fluctuations in prices of raw materials, materials or fuel or in exchange rates with respect to foreign-currency capital amounts: or the State issues new regulations or policies to allow changes in construction investment prices.

2. When project adjustments result in changes in the project's location, size or objective or an increase in the approved total investment, investors shall report thereon to investment deciders for decision. When project adjustments result in neither changes in the project's location, size or objective nor an increase in the approved total investment, investors may themselves adjust the projects. Adjustments must be reevaluated.

3. Persons who decide on the adjustment of investment projects on the construction of works shall take responsibility before law for their decisions.

Article 15. Contests to select architectural designs of construction works

1. Holding contests to select architectural designs is encouraged for construction works subject to architectural requirements.

2. For large public works subject to specific architectural requirements, investment deciders shall decide on holding a contest to select or shall select optimum architectural design plans meeting requirements on urban beauty and landscape.

3. Authors of selected architectural design plans may have their author rights protected and may, if being fully capable as prescribed, choose to personally negotiate and sign contracts for formulating investment projects on the construction of works and making construction designs. If unable to do so, authors of architectural design plans may enter into partnerships with capable designing consultants in order to sign contracts with investors. If authors of selected architectural design plans refuse to formulate investment projects on the construction of works or to make construction designs, investors may select other contractors in accordance with law.

Chapter III

IMPLEMENTATION OF INVESTMENT PROJECTS ON THE CONSTRUCTION OF WORKS

Section I. DESIGNING FOR THE CONSTRUCTION OF WORKS

Article 16. Construction designing steps

1. Designing for the construction of a work covers the following steps: basic designing, technical designing, working drawing designing and other designing steps according to international practice, as decided by the investment decider upon project approval.

a/ Basic design is specified in Clause 1, Article 8 of this Decree;

b/ Technical design is made on the basis of the basic design under the approved investment project on the construction of works, which must indicate all technical specifications and ensure that to-be-used materials are conformable with applicable regulations and standards, as a basis for carrying out the working drawing designing step;

c/ A working drawing design must indicate all technical specifications and ensure that to-be-used materials and structural details are conformable with applicable regulations and standards, for the construction of works.

2. An investment project on the construction of works may consist of works of one or different types and one or different grades. Depending on the size and nature of a specific work, construction designing may involve one, two or three steps below:

a/ One-step designing means the working drawing designing applicable to works subject to the formulation of econo-technical reports only. In this case, basic designing, technical designing and working drawing designing steps may be combined into the working-drawing designing step.

In case of one-step designing, model or typical designs issued by competent state agencies may be used for working drawing designing;

b/ Two-step designing involves the basic designing and working-drawing designing steps applicable to works subject to project formulation, except works mentioned at Points a and c of this Clause. In this case, the technical designing and working-drawing designing steps may be combined into the working-drawing designing step;

c/ Three-step designing involves the basic designing, technical designing and working-drawing designing steps applicable to works subject to project formulation. Depending on the complexity of works, investment deciders shall decide on three-step designing.

In case of two-step or three-step designing, the subsequent-step designing must be conformable with the approved preceding-step designing.

3. Investors shall make designs for the construction of works. If capable, investors may themselves make these designs, if incapable, they shall hire consultants to do so. Particularly for three-step designing, construction contractors that are fully capable as prescribed may make working drawing designs.

Article 17. Design dossiers, cost estimates for the construction of works

1. A design dossier made for each work comprises design explanations, design drawings, relevant construction survey documents, the maintenance process, and cost estimates for work construction.

2. Design dossiers for the construction of works must be archived under the law on archives.

Article 18. Evaluation and approval of technical designs and working drawing designs

1. Design evaluation and approval in case of three-step designing

a/ For technical designs:

Investors shall evaluate and approve technical designs. The evaluation and approval results must be recorded in writing, stating:

- The technical design's conformity with the basic design;
- The rationality of work structure solutions;
- The observance of applicable construction regulations and standards;
- Assessment of the work's safety;
- The rationality of the selection of technological chains and equipment, for works subject to technological requirements;

- The observance of regulations on environment and fire prevention and fighting.

Investors may hire consultants to verify a number or all of the above contents as a basis for evaluation. Verification results must be presented in writing.

b/ For working drawing designs:

Working drawing designs must be certified with signatures of investors or their authorized representatives. Drawings must be appended with an "approval" stamp before being used for construction. Before approving working drawing designs, investors may hire construction supervision consultants to examine them and sign for certification in the drawings.

2. Evaluation and approval of working drawing designs in case of two-step or one-step designing

a/ In case of two-step designing, investors shall evaluate and approve working drawing designs. In case of one-step designing, investors shall evaluate working drawing designs for investment deciders to approve them together with econo-technical reports on the construction of works.

b/ Contents of the evaluation of working drawing designs are specified at Point a. Clause 1 of this Article.

c/ The appending of stamps on drawings for certification before they are used for construction complies with Point b, Clause 1 of this Article.

3. Expenses for the evaluation or verification of designs for the construction of works shall be included in total investment levels or cost estimates for the construction of works.

Section 2. CONSTRUCTION PERMITS

Article 19. Permits for construction of works

1. Before constructing works, investors shall apply for construction permits, except the following works:

a/ Works classified as state secrets, works to be constructed under urgent orders, and makeshift works serving the construction of principal works;

b/ Works to be constructed in lines not running through urban centers but conformable with approved construction plannings, and works under construction investment projects already approved by competent state agencies;

c/ Construction works under projects on urban centers, industrial parks, export-processing zones, hi-tech parks or residential areas with their 1:500-scale detailed construction plannings already approved by competent state agencies;

d/ Repair, renovation or installation of interior equipment without changing the architecture force-bearing structure and safety of works;

dd/ Small technical infrastructure works in deep-lying and remote communes;

e/ Individual houses in remote or deep-lying areas outside urban centers or consolidated residential areas; and individual houses in rural population areas without approved construction plannings.

2. For the construction of individual works or houses in areas for which approved construction plannings have been publicized but not yet implemented, only temporary construction permits

specifying the existence duration of works corresponding to the planning implementation schedule will be granted.

3. The conditions for the grant of permits for construction of urban works are specified in Article 65 of the Construction Law. The rights and obligations of applicants for construction permits are defined in Article 68 of the Construction Law.

4. A construction permit shall be made according to a set form, (not printed herein).

Article 20. Dossiers of application for permits for construction of urban works or houses

A dossier of construction permit application comprises:

1. A construction permit application, made according to a set form (not printed herein). In case of application for temporary-construction permits, the application must also contain the applicant's commitment to dismantle the work upon ground clearance by the State.

2. A copy of any land use right-related paper as prescribed by law.

3. The design drawing displaying the locations of the level ground, cross sections and principal vertical sections; the work's foundation ground; a plan on the locations or lines of works; a plan on electricity and water supply and rainwater and wastewater drainage systems and their technical connection points. Particularly for repair or renovation works requiring construction permits, photos of the works' present state are required.

Article 21. Dossiers of application for rural-house construction permits

A dossier of application for a rural-house construction permit comprises:

1. A construction permit application, made according to a set form (not printed herein).

2. A copy of any land use right-related paper as prescribed by law.

3. The plan of the construction ground on the land lot, and adjacent works, if any, made by the house owner himself/herself.

Article 22 Receipt of dossiers of construction permit application

1. Construction licensing agencies shall receive dossiers of construction permit application and, depending on the types of dossiers, examine their validity in accordance with Article 20 or 21 of this Decree.

2. Upon receiving complete and valid dossiers, construction licensing agencies shall issue receipts indicating the date for reply on dossier examination results. Such a receipt shall be made in two copies, one to be handed to the applicant and another to be kept at the construction licensing agency.

3. For an invalid dossier of construction permit application, the construction licensing agency shall give explanations and guide the applicant to complete the dossier as required. The time for dossier completion will not be counted in the time limit for the grant of a construction permit.

Article 23. Competence to grant construction permits

1. Provincial-level People's Committees shall grant construction permits for construction works of special grade and grade I; religious works; works of historical-cultural relics; works of monuments, advertisements and mural paintings within the administrative boundaries under their management; works situated along high streets and thoroughfares in urban centers; works under

foreign-invested projects; and works under other projects and works as prescribed by provincial-level People's Committees.

2. District-level People's Committees shall grant construction permits for other works and individual houses in urban centers within the administrative boundaries under their management, excluding works specified in Clause 1 of this Article.

3. Commune-level People's Committees shall grant construction permits for individual houses in rural population areas within the administrative boundaries under their management for which construction plannings have been approved.

Article 24. Adjustment of construction permits

1. When wishing to adjust construction designs under granted construction permits, investors shall request the adjustment of construction permits before constructing works according to adjustments. Construction licensing agencies have the competence to adjust construction permits, ensuring conformity with construction plannings, and shall take responsibility for such adjustments. Adjustments to construction permits shall be additionally written in the "extension, adjustment" section in granted construction permits.

2. A dossier of request for construction permit adjustment comprises:

a/ An application for adjustment;

b/ The original of the granted construction permit;

c/ The adjusted design drawing.

3. The time limit for considering the requested adjustment of a construction permit is 10 working days from the date of receipt of a complete and valid dossier.

Article 25. Responsibilities of construction licensing agencies

1. To publicly post up at their head offices information on the conditions, order and procedures for granting construction permits.

2. To supply in writing information on the grant of construction permits at the request of applicants. The time limit for information supply is 7 working days as from the date of receipt of a request.

3. To consult concerned agencies when it is necessary to clarify information on the grant of construction permits.

Within 10 working days after receiving written requests for opinions, consulted organizations shall issue written replies to construction licensing agencies. Past this time limit, if they give no written replies, they will be regarded as having agreed with construction licensing agencies and shall take responsibility before law for all consequences caused by their non-reply or late reply.

4. To grant a construction permit within 20 working days from the date of receipt of a complete and valid dossier, or 15 working days, for individual houses.

5. To take responsibility before law and compensate for damage caused by improper licensing or licensing behind the time limit specified in Clause 4 of this Article.

6. To collaborate with commune-level People' Committees of localities where exist construction works in inspecting construction under permits and handle violations according to regulations. If

persons possessing construction permits fail to observe decisions on construction suspension, to revoke construction permits and transfer the cases to competent authorities for handling under regulations.

7. To request commune-level People's Committees of localities where exist construction works to request competent agencies to stop providing electricity and water services, or to suspend business and service activities, for works which are constructed in contravention of plans or granted construction permits or constructed without permits.

8. To settle according to law complaints and denunciations about the grant of construction permits.

9. To collect fees for the grant of construction permits under regulations.

10. Neither to designate their attached designing organizations and individuals nor to set up designing units to make designs for construction permit applicants.

Article 26. Extension of construction permits

1. Within 12 months from the date of grant of a construction permit, if the construction of a work has not started, the applicant shall apply for the extension of this construction permit.

2. A dossier of application for construction permit extension comprises:

a/ An application for extension;

b/ The original of the granted construction permit.

3. The time limit for consideration and grant of the extension of a construction permit is 5 working days from the date of receipt of a complete and valid dossier.

4. Construction licensing agencies may extend construction permits.

Section 3. MANAGEMENT OF THE CONSTRUCTION OF WORKS

Article 27. Contents of management of the construction of works

Construction management means management of construction quality, management of construction schedule, management of construction volumes, management of labor safety at construction sites, and management of the construction environment. Particularly, construction quality management complies with the Decree on quality management of construction works.

Article 28. Management of construction schedule

1. A construction schedule must be prepared before the construction of a work. The schedule of construction of a work must be compatible with the approved general schedule of a project.

2. For big construction works requiring a long construction duration, their construction schedules must be prepared on a monthly, quarterly or yearly basis.

3. Construction contractors shall prepare detailed construction schedules and may coordinate the performance of different jobs, ensuring their compatibility with the general schedule of a project.

4. Investors, construction contractors, supervision consultants and involved parties shall oversee construction schedules and adjust them in case the construction duration at certain stages is prolonged, provided that such adjustment does not affect the general schedule of a project.

If deeming that the general schedule of a project may be prolonged, the investor shall report such to the investment decider to decide on the adjustment of the project's general schedule.

5. It is encouraged to accelerate construction progress while ensuring the quality of works.

If the construction progress acceleration brings about higher efficiency for a project, the construction contractor is entitled to reward as contracted. If the construction progress prolongation causes damage, the violator shall compensate for the damage and be fined for contract breaches.

Article 29. Management of construction volumes

1. A work must be constructed according to the approved design volume.

2. Construction volumes shall be calculated and certified between investors, construction contractors and supervision consultants on the basis of the construction duration or stages, and compared with the approved design volumes as a basis for take-over test and payment as contracted.

3. When arises a volume in excess of the approved design volume or outside the approved cost estimate of a work, the investor and construction contractor shall consider how to handle such volume. Particularly for state budget-funded works, when such a volume results in an increase in the total investment, the investor shall report such to the investment decider for consideration and decision.

Arising volumes accepted and approved by investors or investment deciders serve as a basis for payment and finalization for works.

4. Involved parties are forbidden to declare construction volumes which are not performed or higher than actually performed ones or to collude with one another to falsify volumes serving as a basis for payment.

Article 30. Management of labor safety at construction sites

1. Construction contractors shall work out measures to ensure safety for people and works at construction sites. Safety measures which are related to different parties must be agreed upon by those parties.

2. Safety measures and rules must be publicized at construction sites for everyone to know and observe. At dangerous places at construction sites, there must be guards or warnings to prevent accidents.

3. Construction contractors, investors and involved parties shall regularly inspect and supervise labor safety at construction sites and stop construction activities when detecting labor safety-related violations. Those who let labor safety-related violations occur at construction sites under their management shall take responsibility before law.

4. Construction contractors shall provide training in, guide and disseminate labor safety rules. For a number of jobs subject to strict labor safety requirements, laborers must possess labor safety training certificates. The employment of laborers who have not been provided with training in and guidance on labor safety is prohibited.

5. When employing laborers to work at construction sites, construction contractors shall supply them with adequate labor protection and safety equipment as prescribed.

6. Upon the occurrence of labor accidents, construction contractors and involved parties shall handle them, report thereon to state management agencies in charge of labor safety under law and, at the same time, remedy and compensate for damage caused by their failure to ensure labor safety.

Article 31. Management of the construction environment

1. Construction contractors shall apply measures to create a safe environment for laborers working at construction sites and protect the surrounding environment, including measures to control dust and noise, dispose of wastes and clean up the sites. For construction works in urban centers, they shall take measures to cover and collect wastes and take them to designated places.

2. In the course of transporting construction materials and wastes, covering measures to ensure environmental safety and sanitation must be taken.

3. Construction contractors and investors shall inspect and supervise the protection of the construction environment while submitting to inspection and supervision by environment state management agencies. If construction contractors fail to observe environmental protection regulations, investors and environment state management agencies may stop construction activities and request construction contractors to properly apply environmental protection measures.

4. Those who let environment-harming acts occur in the course of construction of works shall take responsibility before law and compensate for damage caused by their faults.

Article 32. Dismantlement of construction works

1. A construction work or work part shall be dismantled in the following cases:

a/ Ground clearance;

b/ The work is likely to collapse, threatening the life of people or causing danger to adjacent works;

c/ The work is constructed in an area where construction is banned under Clause 1, Article 10 of the Construction Law;

d/ Part or the whole of the work is constructed in contravention of the construction planning or construction permit;

e/ Other cases as provided for by law.

2. The dismantlement of a construction work must adhere to the following principles:

a/ It is conducted under a dismantlement decision;

b/ It is conducted according to a dismantlement plan as prescribed;

c/ It must ensure safety for people and adjacent works;

d/ It must ensure environmental sanitation;

dd/ It must be supervised to prevent possible risks.

Section 4. FORMS OF MANAGEMENT OF INVESTMENT PROJECTS ON THE CONSTRUCTION OF WORKS

Article 33. Forms of project management

1. Investment deciders shall decide on forms of project management under Clause 2, Article 45 of the Construction Law.

2. Investors that personally manage projects shall set up project management units to take charge of project management. Project management units must be capable of performing project management tasks to meet the requirements of investors. Project management units may, subject to investor approval, hire consultants to manage and supervise jobs they are incapable of performing.

For small and simple projects capitalized at under VND 7 billion each, investors are not required to set up project management units and may use their professional apparatuses to manage and administer the projects or hire professionally qualified and experienced persons to assist them in managing project implementation.

3. In case investors hire consultants to manage and administer projects, those consultants must be fully capable of managing projects, depending on the sizes and nature of projects. The responsibilities and powers of project management consultants shall be agreed in contracts between the two parties. Project management consultants may hire other consultants to manage projects, provided that such is approved by investors and compliant with contracts signed with investors.

In case of hiring project management consultants, investors may still use their professional units or designate other units to inspect and monitor contract performance by project management consultants.

Article 34. Tasks and powers of investors and project management units set up by investors

1. Investors shall perform the tasks and exercise the powers from project preparation and implementation to test, take-over and putting of works into operation or use to ensure project efficiency and feasibility and law observance. Project management units may, subject to investor approval, manage different projects on the principles that each project will be implemented without interruption, and managed and finalized under regulations. The assignment of tasks and authorization of powers to project management units must be indicated in decisions on their setting up decisions. Investors shall direct, inspect, and take responsibility for, the performance of tasks and powers of project management units.

2. Project management units shall perform the tasks assigned and powers authorized by investors and take responsibility before investors and law for these tasks and powers.

Article 35. Tasks and powers of investors and project management consultants hired by investors

1. Investors shall perform the tasks and powers from project preparation and implementation to test, take-over and putting of works into operation or use to ensure project efficiency and feasibility and law observance. Investors shall select and sign contracts with project management consultants that are able to assist them in managing project implementation. Investors shall inspect and oversee contract performance by project management consultants.

2. Project management consultants shall perform the tasks and powers as agreed in contracts signed between them and investors, and take responsibility before law and investors for the fulfillment of contractual commitments.

Chapter IV

CAPABILITY CONDITIONS OF ORGANIZATIONS AND INDIVIDUALS ENGAGED IN CONSTRUCTION ACTIVITIES

Article 36. General provisions on capability conditions of organizations and individuals

1. In order to carry out construction activities, organizations and individuals must be fully capable for specific kinds of projects, classes and grades of works and jobs as provided for in this Decree.

2. Organizations and individuals must be fully capable to carry out the following activities:

a/ Formulation of investment projects on the construction of works;

b/ Management of investment projects on the construction of works;

c/ Construction planning designing;

d/ Construction designing;

e/ Construction survey;

f/ Construction;

g/ Construction supervision;

h/ Specialized construction testing;

i/ Quality inspection of construction works;

j/ Certification of force-bearing safety eligibility of construction works and certification of quality conformity of construction works.

The capability of organizations and individuals to carry out the above construction activities shall be expressed in the form of practicing certificates or capability conditions relevant to jobs they perform.

3. In order to carry out construction activities, individuals must possess diplomas or certificates relevant to jobs they perform, which are issued by lawful training institutions.

4. Holders of the title of manager of construction-planning design or construction design blueprint; designing manager; construction survey manager; or construction supervisor, and independent practitioners that perform construction planning designing, construction designing or construction supervision must possess practicing certificates as required. To join in project management, individuals must possess certificates of professional qualifications in the management of investment projects on the construction of works.

5. To ensure the quality of construction works, organizations and individuals carrying out construction activities must have sufficient capability suitable to each bidding package or specific job.

6. The construction activity capability of organizations shall be classified into different ranks, depending on the construction-practicing capability of their individual employees and their construction experience, financial capacity, equipment and managerial capability.

The Ministry of Construction shall establish a national system of information on capability and activities of construction consultants and construction contractors, including foreign construction contractors in Vietnam.

7. For projects funded with state budget, state-guaranteed credit or the State's development investment credit, contractors that make technical designs or working drawing designs may not sign construction supervision consultancy contracts with investors, for works designed by the contractors, while construction supervision contractors may not sign contracts with construction contractors that inspect the quality of construction works, for works supervised by supervision contractors, unless it is permitted by investment deciders.

8. When selecting contractors to perform construction jobs, investors shall base themselves on this Decree's provisions on capability conditions and take responsibility before law for damage caused by their selection of contractors incapable to perform certain jobs.

Article 37. Practicing certificates

1. Practicing certificate is a written practicing-capability certification granted to an engineer or architect who is professionally qualified and experienced for practicing construction planning designing, construction survey, designing or supervision.

2. Practicing certificates shall be made according to set forms and are valid nationwide. A practicing certificate must clearly indicate the permitted practicing scope and domain.

3. Construction practicing certificates shall be granted by directors of provincial-level Construction Services who shall decide to set up advisory councils to assist them in granting construction practicing certificates under regulations.

Article 38. Conditions for grant of architect's practicing certificates

To be granted architect's practicing certificates, applicants must have a university or higher degree in the architecture or construction planning discipline, have at least 5 years' experience in designing and have joined in making architectural designs for at least 5 works or 5 approved construction planning blueprints.

Article 39. Conditions for grant of engineer's practicing certificates

To be granted engineer's practicing certificates, applicants must have a university or higher degree in a discipline relevant to the domain in which they apply for practicing registration, have at least 5 years' experience in such domain and have joined in making designs or conducting surveys for at least 5 works.

Article 40. Conditions for grant of construction supervisor's practicing certificates

1. To be granted construction supervisor's practicing certificates, applicants must have a university or higher degree in a discipline relevant to the domain in which they apply for practicing registration; have personally joined in designing or construction for at least 3 years or 5 works, or have experience in construction supervision for at least 3 years before the Construction Law takes effect; and have attended a training course on construction supervision operations.

2. Persons who have a collegial or secondary education degree in a relevant discipline, have personally joined in designing, construction or construction supervision for at least 3 years, and have attended a training course on construction supervision operations, will be granted construction supervisor's practicing certificates. These certificates will be valid for supervision of grade-IV works only.

Article 41. Capability conditions for project formulation managers

1. Project formulation managers are classified into 2 classes, depending on categories of works. Project formulation managers must have a university degree in a discipline relevant to the nature and requirements of projects, and satisfy relevant conditions for each of the classes below:

a/ Class 1: having continuously worked in project formulation for at least 7 years, having worked as managers for formulating one group-A project or 2 group-B projects of the same category, or having worked as class-1 designing managers for works of the same type with projects.

b/ Class 2: having continuously worked in project formulation for at least 5 years, having worked as managers for formulating one group-B project or 2 group-C projects of the same category, or having worked as designing managers of class 2 or class 1 for works of the same category with projects.

c/ Particularly for deep-lying and remote areas, persons who have a collegial or secondary education degree in a discipline relevant to the category of projects, have continuously worked in project formulation or designing for at least 5 years will be recognized as class-2 project formulation managers.

2. Scope of activity:

a/ Class-1 project formulation managers may work as project formulation managers of projects of national importance and projects of groups A, B and C of the same category;

b/ Class-1 project formulation managers may work as project formulation managers of projects of groups B and C of the same category;

c/ Unranked persons may work as managers for formulating econo-technical reports on the construction of works of the same category; persons who have worked as managers for formulating 5 econo-technical reports on the construction of works may work as managers for formulating group-C projects of the same category.

Article 42. Capability conditions for project-formulation consultancy organizations

1. Depending on categories of projects, project-formulation consultancy organizations are classified into 2 classes below:

a/ Class 1: having at least 20 architects, engineers and economic engineers who meet the requirements of projects, including those eligible for working as class-1 project formulation managers or class-1 designing managers of works of the same category;

b/ Class 2: having at least 10 architects, engineers and economic engineers who meet the requirements of projects, including those eligible for working as class-2 project formulation managers or class-2 designing managers of works of the same category.

2. Scope of activity:

a/ Class-1 project-formulation consultancy organizations may formulate projects of national importance and projects of groups A, B and C of the same category;

b/ Class-2 project-formulation consultancy organizations may formulate projects of groups B and C of the same category;

c/ Organizations unqualified for any class may only make econo-technical reports of works of the same category.

Article 43. Capability conditions for project-management consultancy directors

1. Project-management consultancy directors are classified into 2 classes depending on categories of projects. Project-management consultancy directors must have a university degree in a construction discipline relevant to the requirements of projects, possess a project management certificate and satisfy conditions for each of the classes below:

a/ Class-1 project-management consultancy directors: having worked continuously in designing or construction for at least 7 years, having worked as project-management consultancy directors or deputy directors of one group-A project or 2 group-B projects of the same category, or having worked as class-1 construction-site chief commanders or class-1 designing managers;

b/ Class-2 project-management consultancy directors: having worked continuously in designing or construction for at least 5 years, having worked as project-management consultancy directors or deputy directors of one group-B project or 2 group-C projects of the same category, or having worked as class-2 construction-site chief commanders or class-2 designing managers.

c/ For deep-lying and remote areas, persons who have a collegial or secondary education degree in a construction discipline relevant to the category of works, have at least 5 years' experience in project formulation, designing or construction may hold the title of class-2 project-management consultancy director.

2. In case investors set up project management units, project management directors must have a university or higher degree in a relevant discipline, possess a project management certificate and have at least 3 years' professional experience. Particularly for group-C projects in deep-lying and remote areas, project management directors may be persons having a collegial or secondary education degree in a relevant discipline and having at least 3 years' professional experience. Investors may appoint persons in their apparatuses or hire other persons satisfying the above conditions to work as project management directors.

3. Scope of activity:

a/ Class-1 project-management consultancy directors may manage projects of national importance and projects of groups A, B and C;

b/ Class-2 project-management consultancy directors may manage projects of groups B and C;

c/ Unranked persons may manage only econo-technical reports on the construction of works: persons who have managed 5 econo-technical reports on the construction of works may manage group-C projects of the same category.

Article 44. Capability conditions for project-management consultancy organizations

1. Project-management consultancy organizations are classified into 2 classes below:

a/ Class 1:

- Having class-1 project-management consultancy directors suitable to the category of projects;
- Having at least 30 architects, engineers and economic engineers who meet the requirements of projects, including at least 3 economic engineers;
- Having managed at least one group-A project or 2 group-B projects of the same category.

b/ Class 2:

- Having class-1 or class-2 project-management consultancy directors suitable to the category of projects;

- Having at least 20 architects, engineers and economic engineers who meet the requirements of projects, including at least 2 economic engineers;
- Having managed at least one group-B project or 2 group-C projects of the same category.

2. Scope of activity:

a/ Class-1 project-management consultancy organizations may manage projects of national importance and projects of groups A, B and C;

b/ Class-2 project-management consultancy organizations may manage projects of groups B and C;

c/ Organizations unqualified for any class may manage econo-technical reports on the construction of works.

3. Project-management consultancy organizations which are unqualified for any class but have managed at least 5 econo-technical reports on the construction of works may manage group-C projects.

Article 45. Capability conditions for construction survey managers

1. Construction survey managers are classified into 2 classes below:

a/ Class 1: possessing an engineer's practicing certificate, having worked as manager of at least one survey task of works of grade I or higher grade, or 5 survey tasks of grade-II works;

b/ Class 2: possessing an engineer's practicing certificate, having worked as manager of at least one survey task of works of grade II or 3 survey tasks of grade-III works, or having joined in at least 5 survey tasks of works of grade II or higher grade.

2. Scope of activity:

a/ Class-1 construction survey managers may work as survey managers of works of special-grade and grades I, II, III and IV of the same category;

b/ Class-2 construction survey managers may work as survey managers of works of grades II, III and IV of the same category;

c/ For topographical surveys, survey managers may act as managers of surveys of all sizes.

Article 46. Capability conditions for construction-survey consultancy organizations

1. Construction-survey consultancy organizations are classified into 2 classes below:

a/ Class 1:

- Having at least 20 engineers meeting requirements of survey tasks, including those eligible for working as class-1 survey managers;

- Having sufficient equipment suitable to each type of survey and standard laboratories;

- Having performed at least one survey task of special-grade or grade-I works of the same category or 2 survey tasks of grade-II works of the same category.

b/ Class 2:

- Having at least 10 engineers meeting requirements of survey tasks, including those eligible for working as class-2 survey managers;

- Having sufficient survey equipment for conducting survey of each type;
- Having performed at least one survey task of grade-II works of the same category or 2 survey tasks of grade-III works of the same category.

2. Scope of activity:

a/ Class-1 construction-survey consultancy organizations may perform survey tasks of works of special grade and grades I, II, III and IV of the same category;

b/ Class-2 construction-survey consultancy organizations may perform survey tasks of works of grades II, III and IV of the same category;

c/ For topographical surveys, only class-1 and class-2 survey organizations may conduct topographical surveys of all sizes.

3. For construction survey organizations which are unqualified for any class but have performed at least 5 construction survey tasks of grade-IV works may perform construction survey tasks of grade-III works of the same category.

Article 47. Capability conditions for construction designing managers

1. Construction designing managers are classified into 2 classes below:

a/ Class 1:

- Having an architect's or engineer's practicing certificate relevant to jobs they perform;
- Having worked as designing managers of at least one special-grade or grade-I work or 2 grade-II works of the same category, or having worked as chief designers in one principal professional domain of 3 special-grade or grade-I works of the same category.

b/ Class 2:

- Having an architect's or engineer's practicing certificate relevant to jobs they perform;
- Having worked as designing managers of at least one grade-II work or 2 grade-III works of the same category, or having worked as chief designers in one principal professional domain of 3 grade-II works of the same category.

2. Scope of activity:

a/ Class-1 construction designing managers may work as designing managers of works of special grade and grades I, II, III and IV of the same category, and as managers for formulating projects of groups A, B and C of the same category;

b/ Class-2 construction designing managers may work as designing managers of works of grades II, III and IV of the same category and as managers for formulating projects of groups B and C of the same category.

Article 48. Capability conditions for construction chief-designers

1. Construction chief-designers are classified into 2 classes below:

a/ Class 1:

- Having an architect's or engineer's practicing certificate relevant to jobs they perform;

- Having worked as chief designers of at least one special-grade or grade-I work or 2 grade-II works of the same category.

b/ Class 2:

- Having an architect's or engineer's practicing certificate relevant to jobs they perform;

- Having worked as chief designers of at least one grade-II work or 2 grade-III works of the same category, or having joined in designing 5 works of the same category.

c/ Particularly for deep-lying and remote areas, persons having a collegial or secondary education degree in a discipline relevant to the category of works, having worked continuously in designing for at least 5 years may work as chief designers of grade-III or grade-IV works, except works subject to force-bearing safety inspection and certification under regulations.

2. Scope of activity:

a/ Class-1 construction chief-designers may work as chief designers in relevant professional domains for works of special grade and grades I, II, III and IV;

b/ Class-2 construction chief-designers may work as chief designers in relevant professional domains for works of grades II, III and IV.

Article 49. Capability conditions for construction-designing consultancy organizations

1. Depending on the category of works, construction-designing consultancy organizations are classified into 2 classes below:

a/ Class 1:

- Having at least 20 architects and engineers trained in relevant disciplines, including those eligible for working as class-1 construction designing managers;

- Having sufficient class-1 chief designers trained in disciplines relevant to works of the same category;

- Having designed at least one special-grade or grade-I work or 2 grade-II works of the same category.

b/ Class 2:

- Having at least 10 architects and engineers trained in relevant disciplines, including those capable of working as class-2 construction designing managers;

- Having sufficient class-2 chief designers trained in disciplines relevant to works of the same category;

- Having designed at least one grade-II work or 2 grade-III works of the same category.

2. Scope of activity:

a/ Class-1 construction-designing consultancy organizations may design works of special grade and grades I, II, III and IV of the same category; and formulate projects of national importance and projects of groups A, B and C of the same category;

b/ Class-2 construction-designing consultancy organizations may design works of grades II, III and IV of the same category; and formulate projects of groups B and C of the same category;

c/ Organizations ineligible for being classified may design grade-IV works of the same category and formulate economic-technical reports on the construction of works of the same category.

3. Designing consultancy organizations which are unqualified for any class but have designed at least 5 grade-IV works may design grade-III works of the same category.

Article 50. Capability conditions for construction-designing chief verifiers and construction-designing verification consultancy organizations

1. The capability conditions of construction-designing chief verifiers are similar to those for construction chief designers as specified in Article 48 of this Decree.

2. The capability conditions of construction-designing verification consultancy organizations are similar to those for construction-designing consultancy organizations as specified in Article 49 of this Decree.

Article 51. Capability conditions of construction-supervision consultancy organizations

1. Depending on the category of works, construction supervision organizations are classified into 2 classes below:

a/ Class 1:

- Having at least 20 persons who possess a construction supervision-practicing certificate in a relevant discipline;

- Having supervised the construction of at least one special-grade or grade-I work or 2 grade-II works of the same category.

b/ Class 2:

- Having at least 10 persons who possess a construction supervision-practicing certificate in a relevant discipline;

- Having supervised the construction of at least one grade-II work or 2 grade-III works of the same category.

2. Scope of activity:

a/ Class-1 construction-supervision consultancy organizations may supervise the construction of works of special grade and grades I, II, III and IV of the same category;

b/ Class-2 construction supervision consultancy organizations may supervise the construction of works of II, III and IV of the same category;

c/ Organizations unqualified for any class may supervise the construction of grade-IV works of the same category.

3. For construction-supervision consultancy organizations which are unqualified for any class but have supervised the construction of at least 5 grade-IV works may supervise the construction of grade-III works of the same category.

Article 52. Capability conditions for construction-site chief commanders

1. Construction-site chief commanders are classified into 2 classes. Construction-site chief commanders must possess a university or higher-degree diploma in a discipline relevant to the category of works and satisfy the conditions for each of the classes below:

a/ Class 1:

- Having worked continuously in construction for at least 7 years;
- Having worked as construction-site chief commanders of one special-grade or grade-I work or 2 grade-II works of the same category.

b/ Class 2:

- Having worked continuously in construction for at least 5 years;
- Having worked as construction-site chief commanders of one grade-II work or 2 grade-III works of the same category.

c/ For deep-lying and remote areas, persons who have a collegial or secondary education degree in a construction discipline relevant to the category of works and have at least 5 years" construction experience may hold the title of class-2 chief commander.

2. Scope of activity:

a/ Class-1 construction-site chief commanders may work as chief commanders of works of special grade and grades I, II, III and IV of the same category;

b/ Class-2 construction-site chief commanders may work as chief commanders of works of II, III and IV of the same category;

c/ Unranked persons may work as chief commanders of grade-IV works only; persons who have worked as chief commanders of 5 grade-IV works may work as chief commanders of grade-III works of the same category.

Article 53. Capability conditions for construction organizations

1. Depending on the category of works, construction organizations are classified into 2 classes below:

a/ Class 1:

- Having class-1 chief commanders of works of the same category;
- Having sufficient architects and engineers trained in disciplines relevant to the category of works to be constructed;
- Having sufficient technicians who possess a training certificate relevant to jobs they perform;
- Having major construction equipment for the construction of works;
- Having constructed at least one special-grade or grade-I work or 2 grade-II works of the same category.

b/ Class 2:

- Having class-1 or class-2 chief commanders of works of the same category;
- Having sufficient architects and engineers trained in disciplines relevant to the category of works to be constructed;
- Having sufficient technicians who possess a training certificate relevant to jobs they perform;
- Having major construction equipment for the construction of works;

- Having constructed at least one grade-II work or 2 grade-III works of the same category.

2. Scope of activity:

a/ Class-1 construction organizations may construct works of special grade and grades I, II, III and IV of the same category;

b/ Class-2 construction organizations may construct works of grades II, III and IV of the same category;

c/ Organizations unqualified for any class may construct renovation or repair works capitalized at under VND 3 billion and individual houses.

3. Construction organizations which are ineligible for being ranked but have constructed 3 renovation works may construct grade-IV works and then, if having constructed at least 5 grade-IV works, may construct grade-III works of the same category.

Article 54. Conditions for independent construction designing, survey or supervision practitioners

1. The conditions for independent construction designing, survey or supervision practitioners are specified as follows:

a/ Having a practicing certificate relevant to the domain of practice;

b/ Having business registration for practicing construction designing, survey or supervision as prescribed by law.

2. Scope of activity:

a/ Independent construction-survey practitioners may advise investors only on the elaboration of survey tasks and evaluation and approval of the results of surveys of the types specified in their certificates;

b/ Independent construction-designing practitioners may design grade-IV works of the same category and individual houses;

c/ Independent construction-supervision practitioners may supervise the construction of grade-IV works of the same category and individual houses.

3. Independent practitioners shall operate in accordance with law.

Article 55. Rights and obligations of practicing certificate holder

1. Practicing certificate holders may:

a/ Use their practicing certificates for performing jobs in accordance with law;

b/ Complain about and denounce acts violating regulations on the grant of practicing certificates.

2. Obligations of practicing certificate holders:

a/ To attend training courses on professional operations related to construction designing, survey or supervision practicing;

b/ To perform only construction designing, survey or supervision jobs indicated in their practicing certificates;

c/ To take responsibility before law for details of dossiers they compile and for the quality of jobs they perform;

d/ Not to erase or lend their practicing certificates.

Article 56. Capability conditions for foreign individuals and organizations carrying out construction activities in Vietnam

To practice project formulation, project management, construction survey, construction designing, construction design verification, construction or construction supervision in Vietnam, foreign organizations and individuals must be fully capable as provided for in this Decree and guided by the Ministry of Construction.

Chapter V

IMPLEMENTATION PROVISIONS

Article 57. Organization of implementation

1. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, presidents of provincial-level People's Committees, heads of political organizations, socio-political organizations and socio-politico-professional organizations, and concerned organizations and individuals shall implement this Decree.

2. The Ministry of Finance shall provide guidance on insurance in construction investment activities.

3. Projects approved prior to the effective date of this Decree are not required to be submitted for re-approval, while subsequent jobs must be performed in accordance with this Decree.

Construction investment expenses shall be managed under the Government's Decree No. 99/2007/ND-CP of June 13, 2007, on management of construction investment expenses, and Decree No. 03/2008/ND-CP of January 7, 2008, amending and supplementing a number of articles of Decree No. 99/2007/ND-CP on management of construction investment expenses. The selection of construction contractors complies with the Government's Decree No. 58/2008/ND-CP of May 5, 2008, guiding the implementation of the Bidding Law and the selection of construction contractors under the Construction Law.

4. The Ministry of Construction shall detail the determination of investors; project evaluation; construction licensing; project management and professional retraining in project management; construction supervision; competition to select construction architectural designs; archive of design dossiers; dismantlement of construction works; capability conditions for organizations and individuals to carry out construction activities; grant of practicing certificates; and councils for consultancy on other relevant matters, and guide the transitional implementation.

Article 58. Effect

This Decree takes effect on April 2, 2009, and replaces the Government's Decree No. 16/2005/ND-CP of February 7, 2005, on management of investment projects on the construction of works, and Decree No. 112/2006/ND-CP of September 29, 2006, amending and supplementing a number of articles of Decree No. 16/2005/ND-CP on management of investment projects on the construction of works. Previous regulations issued by the Government, ministries, ministerial-level agencies or localities which are contrary to this Decree are all annulled.

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Tan Dung

APPENDIX NO. I

CATEGORIES OF INVESTMENT PROJECTS ON THE CONSTRUCTION OF WORKS
(To the Government's Decree No. 12/2009/ND-CP of February 12, 2009)

No.	Categories of investment projects on the construction of works	Total investment level
	Projects of national importance	Under the National Assembly's Resolution No. 66/2006/QH11
I	GROUP-A PROJECTS	
1	Investment projects on the construction of works in the domains of national security or defense maintenance, which are national secrets or of important socio-political significance	Unlimited
2	Investment projects on the construction of works in the domains of production of hazardous substances or explosives, and industrial park infrastructure	Unlimited
3	Investment projects on the construction of works in the domains of power industry, oil and gas extraction, chemicals, fertilizer, machine manufacture, cement, metallurgy, and mineral exploitation and processing; and projects on transport (bridges, seaports, river ports, airports, railways, national highways), and construction of residential areas	Over VND 1.5 trillion
4	Investment projects on the construction of works in the domains of irrigation, transport (other than those mentioned at Point 1-3), water supply and drainage, technical infrastructure, electric techniques, manufacture of information, electronic, informatics, pharmaceutical or medical equipment, other mechanical engineering, materials production, and post and telecommunications	Over VND 1 trillion
5	Investment projects on the construction of works in the domains of light industry, chinaware, porcelain, glassware, printing, national parks, nature conservation	Over VND 700 billion

	zones, agricultural and forestry production, aquaculture, and agricultural, forestry and fishery product processing	
6	Investment projects on the construction of works in the domains of healthcare, culture, education, radio, television, other civil construction (except the construction of residential areas), warehousing, tourism, physical training and sports, and scientific research; and other projects	Over VND 500 billion
II	GROUP-B PROJECTS	
1	Investment projects on the construction of works in the domains of power industry, oil and gas extraction, chemicals, fertilizer, machine manufacture, cement, metallurgy, and mineral exploitation and processing; projects on transport (bridges, seaports, river ports, airports, railways and national highways), and construction of residential areas	Between VND 75 billion and 1.5 trillion
2	Investment projects on the construction of works in the domains of irrigation, transport (other than those mentioned at Point II-1), water supply and drainage, technical infrastructure, electric techniques, production of information, electronic, informatics, pharmaco-chemical or medical equipment, other mechanical engineering, materials production, and post and telecommunications	Between VND 50 billion and 1 trillion
3	Investment projects on the construction of works in the domains of technical infrastructure of new urban centers, light industry, chinaware, porcelain, glassware, printing, national parks, nature conservation zones, agricultural and forestry production, aquaculture, and agricultural, forestry and fishery product processing	Between VND 40 billion and 700 billion
4	Investment projects on the construction of works in the domains of healthcare, culture, education, radio, television, other civil construction (except the construction of residential areas), warehousing, tourism, physical training and sports, and scientific research; and other projects	Between VND 30 and 500 billion
III	GROUP-C" PROJECTS	
1	Investment projects on the construction of works in the domains of power industry, oil and gas extraction, chemicals, fertilizer, machine manufacture, cement, metallurgy, mineral exploitation and processing; projects on transport (bridges, seaports, river ports, airports, railways and national highways). General education schools under planning (regardless of capital level), and construction of residential areas	Under VND 75 billion
2	Investment projects on the construction of works in the domains of irrigation, transport (other than those	Under VND 50 billion

	mentioned at Point III-1), water supply and drainage, technical infrastructure, electric techniques, production of information, electronic, informatics, pharmaco-chemical or medical equipment, other mechanical engineering, materials production, and post and telecommunications	
3	Investment projects on the construction of works in the domains of light industry, chinaware, porcelain, glassware, printing, national parks, nature conservation zones, agricultural and forestry production, aquaculture, and agricultural, forestry and fishery product processing	Under VND 40 billion
4	Investment projects on the construction of works in the domains of healthcare, culture, education, radio, television, other civil construction (except the construction of residential areas), warehousing, tourism, physical training and sports, and scientific research; and other projects	Under VND 30 billion

Notes:

1. Group-A projects on railways or roads must be phased out depending on the length and grade of railways, roads and bridges under the Transport Ministry's guidance.
2. Projects on the construction of working offices or buildings of state agencies must be implemented under the Prime Minister's decisions.-