

No. 32/2011/TT-BKHCN

Hanoi, November 15, 2011

CIRCULAR

ON CRITERIA FOR DETERMINING HI-TECH APPLICATION PROJECTS AND INVESTMENT PROJECTS ON HI-TECH PRODUCT MANUFACTURE, AND EVALUATION OF DOSSIERS OF APPLICATION FOR CERTIFICATES OF HI-TECH APPLICATION ACTIVITIES, NEW ENTERPRISES ESTABLISHED UNDER INVESTMENT PROJECTS ON HI-TECH PRODUCT MANUFACTURE AND HI-TECH ENTERPRISES

Pursuant to the November 13, 2008 Law on High Technology;

Pursuant to the Government’s Decree No. 28/2008/ND-CP of March 14, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Science and Technology;

Pursuant to the Prime Minister’s Decision No. 49/2010/QD-TTg of July 19, 2010, approving the list of high technologies prioritized for development investment and the list of hi-tech products encouraged for development;

Pursuant to the Prime Minister’s Decision No. 55/2010/QD-TTg of September 10, 2010, guiding the competence, order and procedures for certification of organizations and individuals engaged in hi-tech application activities, certification of organizations and individuals engaged in hi-tech research and development and recognition of hi-tech enterprises;

The Minister of Science and Technology provides the criteria for determining hi-tech application projects and hi-tech product manufacture investment projects, and the evaluation of application dossiers for certificates of hi-tech application activities, new enterprises established under hi-tech product manufacture investment projects and hi-tech enterprises as follows:

Article 1. Scope of regulation and subjects of application

This Circular provides criteria for determining hi-tech application projects and hi-tech product manufacture projects invested in Vietnam; and the evaluation of application dossiers for certificates of hi-tech application activities, new enterprises established under hi-tech product manufacture investment projects and hi-tech enterprises (below referred to as certificates).

This Circular applies to Vietnamese organizations and individuals, overseas Vietnamese and foreign organizations and individuals participating in or carrying out hi-tech application activities, new enterprises established under hi-tech product manufacture investment projects and hi-tech enterprises in Vietnam.

Article 2. Criteria for determining hi-tech application projects

1. A project determined as a hi-tech application project must satisfy the following criteria:

a/ The technology used in the project is of new generation and on the list of high technologies prioritized for development investment promulgated together with the Prime Minister's Decision No. 49/2010/QĐ-TTg of July 19, 2010;

b/ The project falls into one of the following cases:

- It uses hi-tech research results to renew technologies and renew and increase the added value of products, contributing to modernizing or forming a new manufacture industry or service in Vietnam;

- It makes hi-tech products on a trial basis in order to improve technology;

- It masters and adapts imported high technologies to practical conditions in Vietnam while using import-substitute domestic materials, supplies, components and parts.

c/ Holders of tertiary or higher degree directly engaged in research and development activities account for at least 5% of the project's employees;

d/ The total average spending on annual research and development activities in Vietnam accounts for at least 1% of the project's total turnover. Spending on research and development covers:

- Salaries, wages and allowances for researchers and research assistants; remunerations for experts giving comments, counter-argument and assessment of research results; wages for other employees engaged in research activities; expenses for scientific seminars and conferences on the project's research; expenses for professional training for researchers;

- Procurement and transportation of materials, supplies, chemicals, fuel and energies used for research activities;

- Procurement of sample products, documents, observation and survey statistics, e-information, stationery, labor safety devices and inexpensive non-durable supplies used for research activities;

- Rent of facilities and equipment for research, experiment and testing activities.

e/ The project's quality control system meets national standards TCVN ISO 9001:2008, CMM (Capability Maturity Model) or GMP (Good Manufacturing Practice) standards (depending on national or international standards applied by the project);

f/ The project complies with technical standards and regulations on environment applicable to its operation domain under Vietnamese law. Projects are encouraged to meet international environmental standards such as ISO 14000 or equivalent.

2. An ongoing hi-tech application project applying for a certificate must fully meet the criteria provided in Clause 1 of this Article.

3. A hi-tech application project applying for a certificate, which has not been implemented, must pledge to meet the criteria provided in Clause 1 of this Article within 12 months after obtaining the certificate.

Article 3. Criteria for determining hi-tech product manufacture investment projects

1. A project is determined as a hi-tech product manufacture investment project must meet the following criteria:

a/ It makes hi-tech products or provides hi-tech services on the list of hi-tech products encouraged for development promulgated together with the Prime Minister's Decision No. 49/2010/QĐ-TTg of July 19, 2010;

b/ Its products have superior quality and properties and high added value, are environment-friendly and can substitute imports;

c/ Its technological line is advanced and operates under programmed control. The technological line's main parts are of technologies applied to the project's operation domain updated within 5 years from the time of investment;

d/ Its quality control system meets national standards TCVN ISO 9001:2008, CMM or GMP standards (depending on national or international standards applied by the project);

e/ It complies with standards and technical regulations on environment applicable to its operation domain under Vietnamese law. Projects are encouraged to meet international environmental standards such as ISO 14000 or equivalent.

2. An ongoing hi-tech product manufacture investment project applying for a certificate must fully meet the criteria provided in Clause 1 of this Article.

3. A hi-tech product manufacture investment project applying for a certificate, which has not been implemented, must pledge to meet the criteria provided in Clause 1 of this Article within 12 months after obtaining the certificate.

Article 4. Evaluation of certificate application dossiers

1. Within 10 working days after receiving a complete and valid dossier, the director of the Certification Office of Hi-Tech Activities and S&T Enterprises (below referred to as the Certification Office) shall issue a decision to form an expert team to evaluate the certificate application dossier.

a/ The expert team is composed of 5-7 members, including the team head being a leader of the Certification Office, the secretary being a staff member of the Certification Office, representatives of related units of the Ministry of Science and Technology and specialists and scientists in the domains to be evaluated;

b/ Dossier evaluation meeting

- The expert team secretary shall provide team members with related documents at least 5 working days before the meeting is held;

- The expert team meeting shall be held within 10 working days after the issuance of the decision to form the team and attended by at least two-thirds of the team members. The team shall operate on the principle of collegialism and secret ballot to approve the certificate grant. A decision is made when at least two-thirds of members present at the meeting vote for it.

c/ Based on the expert team's conclusions, the Certification Office shall finalize and submit the dossier to the Minister of Science and Technology for consideration and grant of a certificate to the applicant.

2. For a complicated and large-scale application case, the Certification Office director shall propose the Minister of Science and Technology to form a consultancy council for dossier evaluation:

a/ The Minister of Science and Technology shall issue a decision to form a consultancy council to evaluate a certificate application dossier (below referred to as the Council) at the proposal of the Certification Office director;

b/ The Council is composed of 9-11 members, including the chairman, vice chairman and members. The Council has 2 counter-argument members who are experts in the domains related to the certificate application dossier. Half of the Council members are prestigious and responsible specialists with professional qualifications and knowledge on the high technology concerned and at least 5 recent years working in the high technology concerned. The other Council members are representatives of state management agencies, policymaking agencies, ministries, sectors, corporations, economic groups and enterprises. Persons related to the certificate applicant may not join the Council;

c/ The Council shall operate under Articles 5 and 6 of this Circular. The Certification Office director shall propose the Minister of Science and Technology to consider and decide on problems arising in the operation of the Council;

d/ The Certification Office shall assume the prime responsibility for holding the meeting to evaluate the certificate application dossier. Council members shall conduct evaluation in an honest, objective and fair manner under this Circular and related documents. The Council shall keep confidential information related to the certificate application dossier;

e/ Based on the Council's conclusions, the Certification Office shall finalize and submit the dossier to the Minister of Science and Technology for consideration and decision to grant a certificate to the applicant.

3. Information on organizations and persons obtaining certificates shall be published on the website of the Certification Office.

Article 5. Working principles of the Council

1. The Council shall work on the basis of documents sent by the Certification Office at least 5 days before the Council commences its meeting.

2. The Council's meeting must be attended by at least two-thirds of the Council members, including the chairman or vice chairman chairing the meeting and the two counter-argument members. Written opinions of absent members are only for reference. When necessary, the Council may propose the Ministry of Science and Technology (through the Certification Office) to invite outside specialists in the domains related to the certificate application dossier to act as counter-argument experts for the dossier evaluation.

3. The Council shall work on the principle of democracy and objectiveness and take personal responsibility for the objectiveness and accuracy of contents of the certificate application dossier and take collegial responsibility for the Council's general conclusions.

Article 6. Working order of the Council

1. The Council shall assign a member to act as its secretary to record opinions of members, working results of the Council and other related documents.

2. Counter-argument members shall give opinions and comments on each content and information declared in the certificate application dossier and specifically evaluate their strengths and weaknesses according to prescribed requirements.
3. The Council shall discuss and comment on each evaluation criterion and condition related to the certificate application dossier. Outside counter-argument specialists (if any) shall not participate in the Council's meeting after answering Council members' questions.
4. The Council shall vote for evaluation of the certificate application dossier. The Council shall elect a vote counting board (composed of 3 Council members with one as the head) and cast a secret ballot to approve the certificate grant.
5. The certificate application dossier must obtain approval of certificate grant by at least two-thirds of the Council members present at the meeting according to voting results provided by the vote counting board. The number of these members must be at least half of the total number of the Council members. The Council shall make a record of its meeting and send it to the Certification Office.
6. Completing the evaluation process, the Certification Office shall summarize and finalize the certificate application dossier and submit it to the Minister of Science and Technology for consideration and decision to grant a certificate.

Article 7. Funds for evaluation of certificate application dossiers

1. Funds for dossier evaluation shall be taken from the non-business funds for science and technology annually allocated to the Certification Office by the Ministry of Science and Technology.
2. Spending contents and levels comply with Part II of Joint Circular No.44/2007/TTLT-BTC-BKHCN of May 7, 2007, of the Ministry of Finance and the Ministry of Science and Technology, and match allocated annual state budget spending estimates.
3. Based on allocated estimates, the Certification Office shall annually spend their funds under this Circular and regulations on state budget management. Payment and finalization of these funds comply with the State Budget Law and its guiding documents.

Article 8. Forms of the certificate application dossier

1. Application for a certificate of hi-tech application activities for organizations and individuals; application for a certificate of a new enterprise established under a hi-tech product manufacture investment project, application for recognition of a hi-tech enterprise.
2. Explanation about a hi-tech application project; explanation about an enterprise meeting criteria of hi-tech product manufacture investment projects; explanation about an enterprise satisfying the conditions provided in Clause 1, Article 18 of the High Technology Law.
3. Application for certification of explanation about a hi-tech application project.
4. Certificate of hi-tech activities for organizations and individuals; certificate of an enterprise established under a hi-tech product manufacture investment project; certificate of a hi-tech enterprise.

(All the forms mentioned above are not printed herein)

Article 9. Implementation responsibilities

1. Organizations and persons obtaining a certificate shall send to the Certification Office reports on their operation every 12 months after obtaining such certificate.
2. The Certification Office shall act as the focal point for receiving dossiers and organizing dossier evaluation; examine and settle problems arising in the implementation of this Circular and propose to the Minister of Science and Technology matters beyond its competence.

Article 10. Implementation provisions

1. This Circular takes effect 45 days from the date of its signing.
2. Any problems arising in the course of implementation should be promptly reported in writing to the Ministry of Science and Technology for consideration and settlement.-

**FOR THE MINISTER OF SCIENCE AND
TECHNOLOGY
DEPUTY MINISTER**

Chu Ngoc Anh

ATTACHED FILE

