

THE GOVERNMENT

No. 42/2017/ND-CP

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Hanoi, April 5, 2017

DECREE

**ON AMENDMENTS TO THE GOVERNMENT'S DECREE NO.59/2015/ND-CP DATED
JUNE 18, 2015 ON MANAGEMENT OF CONSTRUCTION PROJECTS**

Pursuant to the Law on Government organization dated June 19, 2015;

Pursuant to the Law on Construction dated June 18, 2014;

Pursuant to the Law on Investment dated June 18, 2014;

Pursuant to the Law on urban planning dated June 17, 2009;

At the request of the Minister of Construction;

The Government promulgates a Decree on amendments to the Government's Decree No. 59/2015/ND-CP dated June 18, 2015 on management of construction projects.

Article 1. Some articles of the Government's Decree No. 59/2015/ND-CP dated June 18, 2015 on management of construction projects shall be amended as follows:

1. Clause 1 Article 5 shall be amended as follows:

“1. Construction projects shall be classified according to their size, characteristics, type of Permanent Works of the project. The following types of projects are classified according to criteria in accordance with law on public investment: projects of national importance, projects group A, projects group B and projects group C”.

2. Clause 2 Article 7 shall be amended as follows:

“2. Contents of pre-feasibility study report shall be consistent with Article 53 of the Law on Construction 2014, in which the preliminary design in the pre-feasibility study report shall contain:

- a) Preliminary design on location; project scale; location, types and grades of Permanent Works;
- b) Preliminary drawings of construction site of project; drawings showing preliminary design solution of Permanent Works;

c) Preliminary technology lines and technology equipment (if any)”.

3. Clause 1 Article 8 shall be amended as follows:

“1. The power to make or assess of the pre-feasibility study report and decision on the construction investment policy shall be consistent with law on public investment”.

4. Clause 2, Clause 3, Clause 5 shall be amended, and Clause 8 shall be added to Article 10 as follows:

“2. Regarding construction projects funded by government budget capital:

a) Excluding projects prescribed in Point c of this Clause, the construction authority affiliated to the Ministry of Construction, the Ministry of specialized construction management prescribed in Article 76 of this Decree (hereinafter referred to as Ministry of specialized construction management) shall appraise the following projects in terms of the contents prescribed in Article 58 of the Law on Construction 2014: Projects assigned by the Prime Minister; projects group A; group-B and projects group C (other than those of which an eco-technical report is required) subject to investment decisions issued by Ministries, ministerial-level agencies, Governmental agencies, central authorities of political organizations, socio-political organizations (hereinafter referred to as central government authorities); projects to be constructed in administrative divisions of at least 2 provinces;

b) Except for projects prescribed in Point a of this Clause, each Service of Construction, Service of specialized construction management prescribed in Article 76 of this Decree (hereinafter referred to as Service of specialized construction management) shall assess projects group B and projects group C to be constructed in administrative divisions of the province in terms of the contents as prescribed in Article 58 of the Law on Construction 2014;

c) Services of specialized construction management affiliated to Hanoi city, Ho Chi Minh City shall appraise projects subject to investment decisions of the People’s Committee of city;

d) If the authority in charge of appraising project is a construction authority affiliated to the investment decision maker, it shall consolidate appraisal results and present the project for approval; if not, the investment decision maker shall consider and assign an affiliated authority to consolidate appraisal results and present the project for approval.

3. Regarding construction projects funded by capital derived from loans, bonds, funds, etc:

a) The construction authority affiliated to Ministry of specialized construction management shall appraise basic designs of the following projects in terms of the contents prescribed in Clause 2 Article 58 of the Law on Construction 2014 (except for the technology design aspect): projects assigned by the Prime Minister, projects group A; projects group B, projects group C (except for projects of which an eco-technical report is required) that are subject to investment decisions of central government authorities, economic groups, state-owned general companies under establishment decisions of the Prime Minister (hereinafter referred to as economic groups, state-

owned general companies) or Ministry-affiliated general companies; projects to be constructed in administrative divisions of at least 2 provinces, other than projects prescribed in Points c, dd of this Clause;

b) Each Service of specialized construction management shall appraise basic designs of projects group B, projects group C to be constructed in administrative divisions of the province in terms of the contents prescribed in Clause 2 Article 58 of the Law on Construction 2014 (except for technology design aspect), other than projects prescribed in Points a, d and dd of this Clause;

c) Services of specialized construction management affiliated to Hanoi city, Ho Chi Minh City shall appraise basic designs of projects subject to investment decisions of the People's Committee of city;

d) The specialized authority affiliated to the investment decision maker shall appraise technology design aspects (if any) and other contents of feasibility study reports as prescribed in Article 58 of the Law on Construction 2014, consolidate appraisal results and present the project for approval; appraise projects of which primary contents are procurement of goods, provision of services but relating to construction aspect, including Sections, or the Work which does not affect investment objects, safety in operation and use, and the cost amount of construction phase is under VND 5 billion;

dd) If an economic group or state-owned general company which is qualified wishes to carry out self-appraisal, the Minister of specialized construction management shall consider authorizing the economic group or state-owned general company to carry out self-appraisal of projects group B, projects group C of which there are Works less than or equal to level II subject to investment decisions of the economic group or state-owned general company under management of the Ministry of specialized construction management.

The authorization shall be granted in accordance with rules and conditions as prescribed by law. The authorized person shall be answerable to the appraisal results provided by him/herself. The appraisal results shall be sent to the construction authority affiliated to the Ministry of specialized construction management for management as prescribed.

5. Regarding construction projects funded by other capital source:

a) Construction authorities affiliated to the Ministry of specialized construction management shall appraise basic designs in terms of contents as prescribed in Clause 2 Article 58 of the Law on Construction 2014 (excluding technology design aspect) of projects of which there are Works of at least level I (except for residential projects with the scope of less than 25 storeys and not exceeding 75m in height); public work projects, projects creating major impact on landscape, environment and community safety to be constructed in administrative divisions of at least 2 provinces;

b) Services of specialized construction management shall appraise basic designs in terms of the contents prescribed in Clause 2 Article 58 of the Law on Construction 2014 (except for technology design aspect) of residential projects with the scope of less than 25 storeys and not

exceeding 75m in height; for public work projects, projects creating major impact on landscape, environment and community safety relating to class II and class III Works to be constructed in administrative divisions of the province;

c) The investment decision maker shall appraise the whole project as prescribed in Article 58 of the Law on Construction 2014, excluding appraisal of fundamental designs carried out by the construction authority prescribed in Point a and Point b of this Clause.

8. The competent authority shall grant authorization of the projects and basic designs in conformity with rules and conditions as prescribed in Clause 6 Article 34 of the Law on Government organization and Article 13, Article 14 of the Law on organization of local governments, in particular:

a) The construction authority affiliated to Ministry of specialized construction management is entitled to authorize Services of specialized construction management to appraise projects and basic designs of specific projects under their competence with the consent of Minister of specialized construction management;

b) Each People's Committee of province shall, according to particular conditions of the province, consider authorizing the committee divisions in charge of construction management affiliated to the People's Committee of districts, management boards of industrial zones, export processing zones, hi-tech zones, economic zones to appraise projects and basic designs of projects under appraisal competence of the Services of specialized construction management".

5. Article 13 shall be amended as follows:

“Article 13. Construction economic-technical reports

Only the construction economic-technical report is required in a construction project prescribed in Clause 2 Article 5 of this Decree. The power to appraise or approve a construction economic-technical report:

1. Regarding a project funded by government budget of which a construction economic-technical report is required:

a) The construction authority affiliated to Ministry of specialized construction management shall appraise the construction economic-technical reports in projects of at least class I subject to investment decision of central government authorities in terms of the contents prescribed in Clause 4 Article 58 of the Law on Construction 2014;

b) Each Service of specialized construction management shall appraise the construction economic-technical reports in projects subject to investment decision of the People's Committee of province in terms of the contents prescribed in Clause 4 Article 58 of the Law on Construction 2014;

c) According to the authorization of the People's Committee of the province, committee divisions in charge of construction management affiliated to the People's Committees of districts shall appraise projects of which construction economic-technical reports are required subject to investment decisions of the People's Committees of districts or the People's Committees of the communes in terms of the contents prescribed in Clause 4 Article 58 of the Law on Construction 2014.

c) The specialized agency affiliated to the investment decision maker shall appraise projects of which construction economic-technical reports are required subject to investment decisions of Ministries and central government authorities in terms of the contents prescribed in Clause 4 Article 58 of the Law on Construction 2014. The appraisal results shall be sent to the construction authority affiliated to the Ministry of specialized construction management for management as prescribed.

If the specified agency affiliated to the investment decision maker is not qualified to carry out the appraisal, the investor is required to apply for appraisal to the specialized agency affiliated to Ministry of specialized construction management or the Service of specialized construction management in the province where the project is carried out.

2. Regarding a project funded by government budget of which a construction economic-technical report is required:

a) The construction authority affiliated to Ministry of specialized construction management shall appraise the construction drawing design and construction estimate (except for technology design aspect) of construction economic-technical reports in projects of at least class I subject to investment decisions of central government authorities, economic groups, state-owned general companies in terms of the contents prescribed in Points c, d, dd and e Clause 4 Article 58 of the Law on Construction 2014;

b) Each Service of specialized construction management shall appraise the construction drawing design and construction estimate of the construction economic-technical reports in projects subject to investment decision of the People's Committee of province in terms of the contents prescribed in Points c, d, dd and e Clause 4 Article 58 of the Law on Construction 2014;

c) According to the authorization of the People's Committee of the province, committee divisions in charge of construction management affiliated to the People's Committees of districts shall appraise the construction drawing design and construction estimate (except for technology design aspect) of projects of which construction economic-technical reports are required subject to investment decisions of the People's Committees of districts or the People's Committees of the communes in terms of the contents prescribed in Points c, d, dd, and e Clause 4 Article 58 of the Law on Construction 2014.

d) The investment decision maker shall appraise projects prescribed in Clauses a, b, and c of this Article in terms of the contents prescribed in Points a and b Clause 4 Article 58 of the Law on Construction 2014 and the technology design aspect (if any);

dd) The specialized agency affiliated to the investment decision maker shall appraise projects of which construction economic-technical reports are required subject to investment decisions of Ministries, central government authorities, economic groups, state-owned general companies in terms of the contents prescribed in Clause 4 Article 58 of the Law on Construction 2014, Except for projects as prescribed in Point a hereof. The appraisal results shall be sent to the construction authority affiliated to the Ministry of specialized construction management for management as prescribed.

If the specified agency affiliated to the investment decision maker is not qualified to carry out the appraisal, the investor is required to present construction drawing design or construction estimate to the specialized agency affiliated to Ministry of specialized construction management or the Service of specialized construction management in the province where the project is carried out.

3. Regarding a project funded by government budget of which a construction economic-technical report is required:

a) Construction authorities affiliated to the Ministry of specialized construction management shall appraise construction drawing design (excluding technology design aspect) of projects of which there are Works of at least level I (except for residential projects with the scope of less than 25 storeys and not exceeding 75 in height); public work projects, projects creating major impact on landscape, environment and community safety to be constructed in administrative divisions of at least 2 provinces in terms of contents as prescribed in Points c and d Clause 4 Article 58 of the Law on Construction 2014.

b) Services of specialized construction management shall appraise construction drawing design (excluding technology design aspect) of projects of which there are Works of at least level I (except for residential projects with the scope of less than 25 storeys and not exceeding 75 in height); public work projects, projects creating major impact on landscape, environment and community safety relating to Works class II or class III to be constructed in administrative divisions of at least 2 provinces in terms of contents as prescribed in Points c and d Clause 4 Article 58 of the Law on Construction 2014, except for projects prescribed in Point a hereof;

c) The investment decision maker shall appraise the whole economic-technical reports as prescribed in Article 58 of the Law on Construction 2014, excluding appraisal of basic designs carried out by the construction authority prescribed in Point a and Point b of this Clause.

4. The investment decision maker shall approve construction drawing design and construction estimate of construction economic-technical reports”.

6. Article 15 shall be amended as follows:

“1. Any contest or selection of architecture design plans shall be proposed in an investment policy or pre-feasibility study report.

2. Public works with large scale or particular architecture requirements that require contests or selection of architecture design plans include:

a) Public works class I or special class;

b) Public works with particular architecture requirements, including: Central railway stations of provinces, or civil airports; bridges in urban areas of at least class II, railway stations in urban areas of at least class II; monuments, works being symbol of tradition, culture, and history of the localities; works with significance, prominence in urban and on the main roads being determined in construction planning project, urban design, regulations on urban planning and architecture management that are approved by competent authorities.

3. The Ministry of Construction shall provide guidelines for the council in charge of contest or selection of architecture design plans; methods; procedures, entitlements and responsibilities of relevant agencies, organizations, and individuals, and expenses associated with the contest or selection of architecture design plans.

4. If the entity whose architecture design plan is selected meets certain conditions as prescribed, it shall be given priority to conduct the following design steps of the project”.

7. Clause 1, Clause 3 Article 17 shall be amended as follows:

“1. Ministers, Heads of central government authorities, Presidents of People’s Committees of provinces or districts, President of the Member assembly, President of the Board of Directors of economic groups or state-owned general companies shall decide to establish field-based PMB or area-based PMB that acts as the investor of projects and concurrently manage multiple projects funded by government budget capital or capital derived from loans, bonds, funds, etc, acts as process engineer of other projects whenever necessary.

Subject to number and scope of projects authorized for management and specific implementation conditions, the Minister may authorize the Director General affiliated to the Ministry to establish an affiliated project management board to manage all projects subject to investment decisions of the General Department.

3. Operation of the field-based PMB or the area-based PMB:

a) A field-based PMB or area-based PMB established by the Minister, Head of central government authority, the President of People’s Committee of province or district is a particular public service provider exercising financial autonomy and self-assuring current expenditures as prescribed in the Government's Decree No. 16/2015/ND-CP dated February 14, 2015 on financial autonomy of public service providers;

b) A field-based PMB or area-based PMB established by duly authorized representative of economic group, state-owned general company is a subsidiary doing independent cost-accounting or a unit doing dependent cost-accounting on legal status of the parent company for management of the project. A field-based PMB or area-based PMB which is reorganized or established under a resolution of the Board of members, Board of Directors and exercise financial autonomy or is financed operational funding in case of a unit doing dependent cost-accounting on parent company.

c) The field-based PMB or the area-based PMB shall have a complete legal status, use its own seal and open its account at a State Treasury and a commercial bank as prescribed; exercise rights and fulfill obligations of the investor and directly manage its assigned projects; take legal responsibility and take responsibility to the investment decision maker for its operation; and operation of the completed works as assigned”.

8. Clause 1 Article 21 shall be amended as follows:

“1. The investor shall use its legal status and qualified affiliated units to directly manage construction projects with less than VND 15 billion in total investment; in case of ineligibility, the investor is entitled to hire an entity meeting conditions as prescribed in this Decree”.

9. Clause 1 Article 24 shall be amended as follows:

“1. Competence in appraisal of construction design and estimate:

a) The construction authority affiliated to Ministry of specialized construction management prescribed in Article 76 of this Decree shall appraise engineering design and construction estimate (for three-step design), construction drawing design, construction estimate (for two-step design) of Works special class or class I (except for residential works with the scope of less than 25 storeys and not exceeding 75m in height); Works assigned by the Prime Minister and Works of the projects under its investment decision; Works in projects to be constructed in administrative divisions of at least 2 provinces, except for Works prescribed in Point c hereof;

b) Each Service of specialized construction management shall appraise engineering design and construction estimate (for three-step design), construction drawing design, construction estimate (for two-step design) of residential works with the scope of less than 25 storeys and not exceeding 75m in height; Works of less than or equal to class II to be constructed in administrative divisions of at least 2 provinces, except for Works prescribed in Point a hereof;

c) The Service of specialized construction management affiliated to Hanoi city or Ho Chi Minh City shall appraise engineering design, construction estimate (for three-step design); construction drawing design, construction estimate (for two-step design) of Works in projects subject to investment decisions of the People’s Committee.

10. Clause 1 Article 25 shall be amended as follows:

“1. Competence in appraisal of construction design and estimate:

a) The construction authority affiliated to Ministry of specialized construction management shall appraise engineering design and construction estimate (for three-step design), construction drawing design, construction estimate (for two-step design) of Works special class or class I (except for residential works with the scope of less than 25 storeys and not exceeding 75m in height); Works of at least class III of projects subject to economic groups, state-owned general companies under its management; Works assigned by the Prime Minister and Works of the

projects under its investment decision; Works in projects to be constructed in administrative divisions of at least 2 provinces, except for Works prescribed in Point c and Point d hereof;

b) Each Service of specialized construction management shall appraise engineering design and construction estimate (for three-step design) and construction drawing design, construction estimate (for two-step design) of residential works with the scope of less than 25 storeys and not exceeding 75m in height; Works of at least class III to be constructed in administrative divisions of at least 2 provinces, except for Works prescribed in Point a and d hereof;

c) The Service of specialized construction management affiliated to Hanoi city or Ho Chi Minh City shall appraise engineering design, construction estimate (for three-step design); construction drawing design, construction estimate (for two-step design) of Works in projects subject to investment decisions of the People's Committee;

dd) If an economic group or state-owned general company which is qualified wishes to carry out self-appraisal, the Minister of specialized construction management shall consider authorizing the economic group or state-owned general company to appraise engineering design, construction estimate (for three-step design); construction drawing design, construction estimate (for two-step design) of Works less than or equal to level II subject to investment decisions of the economic group or state-owned general company under management of the Ministry of specialized construction management.

The authorization shall be granted in accordance with rules and conditions as prescribed by law. The authorized person shall be answerable to the appraisal results provided by him/herself. The appraisal results shall be sent to the construction authority affiliated to the Ministry of specialized construction management for management as prescribed;

dd) The investment decision maker shall appraise the design and estimate of remaining types of Works; appraise design and estimate of technology aspects (if any) of the Works prescribed in Points a, b, and c of this Clause”.

11. Clause 1 Article 26 shall be amended as follows:

“1. Competence in appraisal of construction design and estimate:

a) The construction authority affiliated to Ministry of specialized construction management shall appraise engineering design (for three-step design), construction drawing design (for two-step design) of Works special class or class I (except for residential works with the scope of less than 25 storeys and not exceeding 75m in height); public works, Works creating major impact on landscape, the environment and community safety of projects to be constructed in administrative divisions of at least 2 provinces;

b) Each Service of specialized construction management shall appraise engineering design (for three-step design) and construction drawing design (for two-step design) of residential works creating major impact on landscape, environment and community safety of Works class II, III to

be constructed in administrative divisions of the province, except for Works prescribed in Point a of this Clause;

c) The investment decision maker shall appraise the design and estimate of remaining types of Works; appraise design and estimate of technology aspects (if any) of the Works prescribed in Points a and b of this Clause”.

12. Clause 5 shall be amended, and Clause 9 and 10 shall be added to Article 30 as follows:

“5. If the construction project has different types and classes of Works, the appraising agency must appraise the permanent works with the highest level of the project.

9. The competent authority shall grant authorization of the projects and basic design and construction estimate in conformity with rules and conditions as prescribed in Clause 6 Article 34 of the Law on Government organization and Article 13, Article 14 of the Law on organization of local governments, in particular:

a) The construction authority affiliated to Ministry of specialized construction management is entitled to authorize Services of specialized construction management to appraise designs and construction estimate of specific projects under their competence with the consent of Minister of specialized construction management;

b) Each People's Committee of province shall, according to particular conditions of the province, consider authorizing the committee divisions in charge of construction management affiliated to the People’s Committee of districts, management boards of industrial zones, export processing zones, hi-tech zones, economic zones to appraise designs and construction estimate of projects under appraisal competence of the Services of specialized construction management.

10. With regard to projects to be carried out in the form of EPC general contractor, the Ministry of Construction shall provide guidelines for appraisal of construction designs”.

13. Article 47 shall be amended as follows:

“Article 47. License for construction planning practice

1. Any individual who is issued with a license for construction planning practice must obtain at least a bachelor’s degree in architecture, planning or other majors suitable for the request of planning project and meet requirements below:

a) Class I: The person has held the position of planning leader or planning appraisal leader in charge of at least 5 planning projects subject to approval of the Prime Minister or 10 planning projects (in which at least 5 regional-based or general-based projects) subject to approval of the People's Committee of province; projects prescribed in this Point must be approved by competent authorities;

b) Class II: The person has held the position of planning leader or planning appraisal leader in charge of at least 6 planning projects subject to approval of the People's Committee of province or 12 planning projects (in which at least 3 general-based projects of commune) subject to approval of the People's Committee of district; projects prescribed in this Point must be approved by competent authorities;

c) Class III: The person has held the position of planning leader or planning appraiser in charge of at least 1 planning project subject to approval of the Prime Minister, 3 planning projects subject to approval of the People's Committee of province, or 5 planning projects subject to approval of the People's Committee of district; projects prescribed in this Point must be approved by competent authorities.

2. Operation scope

a) Class I: The person has held the position of project leader or design leader in a certain aspect of the construction plans construction planning projects;

b) Class II: The person has held the position of project leader or design leader in a certain aspect of construction planning projects, except for interprovincial construction planning projects;

c) Class III: The person has held the position of leader of construction planning projects subject to approval of the People's Committee of district, design leader in a certain aspect of construction planning projects subject to approval of the People's Committee of province and district;

d) Any individual who has not been issued with a license for construction planning practice is entitled to make all kinds of planning projects in conformity with his/her major, providing he/she has not held the position of project leader or design leader.

14. Clause 1 Article 48 shall be amended as follows:

“1. Licenses for construction design practice shall be issued to following fields:

a) Construction architecture design;

b) Construction structure design;

c) Construction electricity – mechanics design;

d) Water supply – drainage design;

dd) Air ventilation – heat supply and dissipation design;

e) Fire safety design”.

15. Clause 2 Article 49 shall be amended as follows:

“2. Requirements for issuance of licenses for construction supervision practice:

- a) Class I: a) Class I: The person has held the position of chief supervisor or direct supervisor in charge of at least 1 Work class I or at 2 Works class II that conform to his/her license;
- b) Class II: The person has held the position of chief supervisor or direct supervisor in charge of at least 1 Work class II or at 2 Works class III that conform to his/her license;
- c) Class III: The person has held the position of chief supervisor or direct supervisor in charge of at least 1 Work class III or at 2 Works class IV that conform to his/her license”.

16. Article 50 shall be amended as follows:

“Requirements for issuance of licenses for construction inspection practice:

- a) Class I: The person has held the position of inspection leader or design leader of at least 1 Works class I or 2 Works class II that conform to his/her license;
- b) Class II: The person has held the position of inspection leader or design leader of at least 1 Works class II or 2 Works class III that conform to his/her license;
- c) Class III: The person has held the position of inspector or designer of at least 2 Works class III or 3 Works class IV that conform to his/her license.

2. Operation scope:

- a) Class I: The person has held the position of leader in charge of inspecting quality, identifying causes of defect, breakdowns, inspecting used-by dates of Parts, Works of all levels that conform to his/her license; has held the position of leader in charge of inspecting quality of building materials, construction products, building components;
- b) Class II: The person has held the position of leader in charge of inspecting quality, identifying causes of defect, breakdowns, inspecting used-by dates of Parts, Works of less than or equal to level II that conform to his/her license; has held the position of leader in charge of inspecting quality of building materials, construction products, building components;
- c) Class III: The person has held the position of leader in charge of inspecting quality, identifying causes of defect, breakdowns, inspecting used-by dates of Parts, Works of level III, level IV that conform to his/her license; has held the position of leader in charge of inspecting quality of building materials, construction products, building components”.

17. Article 51 shall be amended as follows:

“Article 51. Qualification requirements for persons in charge of labor safety

A person in charge of labor safety or a full-time official in charge of labor safety in executing the Works shall comply with practice requirements as prescribed by law on occupational safety and hygiene”.

18. Article 54 shall be amended as follows:

“Article 54. License for project management practice

1. A person holding position of project manager shall obtain a license for project management practice in accordance with types and scope of the project as prescribed in this Article.

2. The person must have qualifications in conformity with the project requirements, obtain a license for project management practice and meet respective requirements below:

a) Class I: Held the position of project manager of 1 project group A or 2 projects group B of the same type;

b) Class II: Held the position of project manager of 1 project group B or 2 projects group C of the same type;

c) Class III: Directly engaged in project management of 1 project group C of the same type.

3. Operation scope:

a) Class I: The person has held the position of project manager of all project groups that conform to his/her license;

b) Class II: The person has held the position of project manager of projects group B or C that conform to his/her license;

c) Class III: The person has held the position of project manager of projects group C and projects of which solely economic-technical reports are required that conform to those specified in the license”.

19. Article 57 shall be amended as follows:

“Article 57. General regulations on certificate of eligibility for construction activities

1. Any entity engaging in the following areas must obtain a certificate of eligibility for construction activities:

a) Construction survey;

b) Construction planning formulation;

c) Design and design assessment;

d) Construction project formulation and inspection;

dd) Management consultancy;

e) Construction execution;

g) Construction supervision;

h) Construction inspection;

l) Construction cost management.

2. General requirements for issuance of certificates of eligibility for construction activities:

a) Having a business registration certificate or an establishment decision issued by the competent agency as prescribed.

b) Every individual occupying key position must conclude a labor contract with the applicant for issuance of the certificate of eligibility for construction activities;

c) With regard to particular projects or Works, namely: Nuclear power plants, harmful chemicals manufacturers, explosive manufacturers, the individuals occupying key positions shall participate in training courses related to the project field beside their required licenses.

3. The certificate of eligibility for construction activities shall remain valid for 5 years. The entity must apply for reissuance of the expired certificate of eligibility or upon its demand. In case of changes of the certificate of eligibility, an application for reissuance is required within 20 days from the date of changes.

4. The Ministry of Construction shall carry out centralized management in terms of certificate of eligibility for construction activities nationwide through the issuance and management of reference number of certificate of eligibility for construction activities; make public the list of entities obtaining certificates of eligibility for construction activities on its website”.

20. Article 66 shall be amended as follows:

“Article 66. Certificate of eligibility for construction supervision

1. Class I:

a) There are at least 10 people obtaining licenses for construction supervision practice class I that conform to their certificates;

b) There are at least 15 employees in the quality control system of the construction supervision organization who have professional competence that conform to the certificate;

c) The organization carried out construction supervision of at least 1 Work class I or 2 Works class II that conforms to its certificate.

2. Class II:

a) There are at least 10 people obtaining licenses for construction supervision practice class II that conform to their certificates;

b) There are at least 15 employees in the quality control system of the construction supervision organization who have professional competence that conform to the certificate;

c) The organization carried out construction supervision of at least 1 Work class II or 2 Works class III that conforms to its certificate.

3. Class III:

a) There are at least 5 people obtaining licenses for construction supervision practice class III that conform to their certificates;

b) There are at least 10 employees in the quality control system of the construction supervision organization who have professional competence that conform to the certificate.

4. Operation scope:

a) Class I: The organization is entitled to supervise all Work classes that conform to its certificate;

b) Class II: The organization is entitled to supervise Works less than or equal to class II that conform to its certificate;

c) Class III: The organization is entitled to supervise Works less than or equal to class III that conform to its certificate”.

21. Article 66a shall be added to Article 66 as follows:

“Article 66a. Certificate of eligibility for construction inspection

1. Class I:

a) There are at least 10 people obtaining licenses for construction inspection practice class I that conform to their certificates;

b) There are at least 15 (five) employees in the quality control system of the construction inspection organization who have professional competence that conform to the certificate;

c) Carried out construction inspection of at least 1 Work class I or 2 Works class II of the same type.

2. Class II:

a) There are at least 10 people obtaining licenses for construction inspection practice class II that conform to their certificates;

b) There are at least 10 (five) employees in the quality control system of the construction inspection organization who have professional competence that conform to the certificate;

c) Carried out construction inspection of at least 1 Work class II or 2 Works class III of the same type.

3. Class III:

a) There are at least 5 people obtaining licenses for construction inspection practice class III that conform to their certificates;

b) There are at least 5 employees in the quality control system of the construction inspection organization who have professional competence that conform to the certificate.

4. Operation scope:

a) Class I: The person is entitled to inspect quality, identify causes of defect, breakdowns, inspect used-by dates of Parts, Works of all levels that conform to its certificate; is entitled to inspect quality of building materials, construction products, building components;

b) Class II: The person is entitled to inspect quality, identify causes of defect, breakdowns, inspect used-by dates of Parts, Works of less than or equal to class II that conform to its certificate; is entitled to inspect quality of building materials, construction products, building components;

c) Class III: The person is entitled to inspect quality, identify causes of defect, breakdowns, inspect used-by dates of Parts, Works of class III, class IV that conform to its certificate; is entitled to inspect quality of building materials, construction products, building components”.

22. Article 74 shall be amended as follows:

“1. The foreign contractor has rights to:

a) Request the competent agency to give instructions in formulation of application for issuance of construction operating license and issues related to the contractor as prescribed in this Decree;

b) Make denunciation or complaints against violations of organizations or individuals prescribed in this Decree;

c) Request for protection of their lawful business interests in Vietnam according to the contract permit issued;

d) Directly go through procedures for import/export, temporary import, temporary export, liquidation of goods in respect of the contract agreement according to the customs authority as prescribed by law on management of import and export.

2. The foreign contractor has obligations to:

a) Register address, phone number, fax, email of executive office and the representative exercising the contract at agencies involved in about regulations as prescribed by the People's Committee of the province where the project is located. If the contractor executes bidding packages of construction planning formulation, construction project formulation, construction survey or construction design, it may register above packages at another local government other than the local government where the project is located.

After registering above packages, the contractor shall send notification directly or by post to the Ministry of Construction, the Ministry of Public Security, the Ministry of Finance, the State bank of Vietnam, the People's Committee of the central-affiliated city or province where the Work is located, according to the instructions of the Ministry of Construction;

b) Register the seal of the executive office at the Service of Public security where the Work is located. The foreign contractor may only use this seal for exercising contract in Vietnam as prescribed in its contract permit. When the contract expires, the foreign contractor must return the seal to the issuing agency;

c) Register and pay taxes as prescribed in Vietnamese law, follow accounting policies, open accounts and make payments in accordance with instructions of the Ministry of Finance and the State bank of Vietnam to serve its business;

d) Recruit employees, employment of Vietnamese and foreign labors as prescribed in Vietnamese law on labors.

The foreign contractor may only send economic management specialists, technical management specialists and skilled labors to Vietnam that Vietnam is unable to satisfy.

Each foreigner working for the foreign contractor in individual is required to comply with Vietnamese law on exit and entry, temporary or permanent residence registration and application for work permit issuance as prescribed in Vietnamese law on labors;

dd) Execute joint-venture contract concluded with the Vietnamese contractor or employ Vietnamese sub-contractors mentioned in the application for issuance of construction operating license;

e) Buy insurance as prescribed in Vietnam's law in respect of operation of the Contractor, including: professional liability insurance for construction consultancy contractors; cargo

insurance for procurement contractors; insurance for construction execution contractors and other insurance policies as prescribed in Vietnamese law;

g) Register and inspect quality of imported materials or equipment provided by the contract agreement;

h) Register and inspect construction equipment safety and means of transport related to business activities of the foreign contractor as prescribed in Vietnamese law;

i) Conform to regulations on standards, criteria, construction quality control, occupational safety and environment protection as well as other regulations of Vietnamese law;

k) Follow reporting policies prescribed in the construction operating license;

l) When the Work is completed, the foreign contractor must formulate the as-built documents; take responsibility for warranty; make statement of exported materials; handle remaining materials in the construction contract as prescribed in regulations of law on import and export; re-export materials registered temporary import – re-export; and complete the contract; concurrently, notify relevant regulatory agencies of the contract completion, shutdown of the administration office”.

23. Clause 1 Article 75 shall be amended as follows:

“1. Conclude the contract agreement with the foreign contractor only when the foreign contractor has been issued the construction operating license; instruct the foreign contractor to comply with this Decree and relevant law provisions; support the foreign contractor in preparation of documents related to the Work that the foreign contractor declares in the application for contract permit issuance and relevant procedures as prescribed in Vietnamese law.”

24. Clause 8 Article 76 shall be amended as follows:

“8. Ministries in charge of field-based PMBs, the People’s Committees of central-affiliated cities and provinces, economic groups, state-owned general companies shall send periodical or annual reports on project management to the Ministry of Construction for monitoring. The Ministry of Construction shall provide guidelines for contents, forms and deadlines for reports.”

Article 2. The following regulations shall be annulled:

1. Clauses 6 and 7 Article 34, Clause 3 Article 69 and Appendix I issued together with the Government's Decree No. 59/2015/ND-CP dated June 18, 2015 on management of construction projects.

2. Clause 3 Article 38 of the Government's Decree No. 117/2007/ND-CP dated July 11, 2007 on production, supply and consumption of clean water.

Article 3. Transitional regulations

1. Any construction project and design, construction estimate of Works or Sections of a project that has been presented to competent authority for appraisal before the effective date of this Decree shall comply with the Government's Decree No. 59/2015/ND-CP dated June 18, 2015 on management of construction projects; if the adjustments to the project, design and construction estimate of the project are made after the effective date of this Decree, this Decree shall prevail.

2. Any certificate of eligibility or license for construction practice that has been issued by the competent authority before the effective of this Decree shall remain valid until its expiry date. Any applicant for a certificate of eligibility or license for construction practice which has not obtained such a certificate/license shall keep updating and completing the application (if any) as prescribed in this Decree.

Article 4. Entry in force and implementation

1. This Decree comes into force from June 1, 2017.

2. Ministers, Heads of ministerial-level agencies, Heads of Governmental agencies, the President of People's Committee of provinces and central-affiliated cities shall implement this Decree./.

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Xuan Phuc