

THE GOVERNMENT

No. 112/2009/ND-CP

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom - Happiness

Hanoi, December 14, 2009

DECREE

ON MANAGEMENT OF WORK CONSTRUCTION INVESTMENT EXPENSES

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the November 26, 2003 Law on Construction;

At the proposal of the Minister of Construction,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1. Subjects of application

This Decree applies to organizations and individuals involved in the management of investment expenses on the construction of works in projects funded with at least 30% of state capital.

Organizations and individuals involved in the management of investment expenses on the construction of works funded with less than 30% of state capital are encouraged to apply this Decree.

Article 2. Scope of regulation

This Decree provides for the management of work construction investment expenses, including total investment; construction cost estimates of works; construction norms and prices; capability conditions; rights and responsibilities of investment deciders, investors and contractors in the management of construction investment expenses; payment and settlement of investment capital for construction of works funded with state capital, including state budget capital, official development assistance, development investment credit of the State, credit guaranteed by the State and other investment capital of the State.

For works funded with official development assistance (ODA) sources, if treaties to which Vietnam is a contracting party contain provisions on management of work construction investment expenses different from the provisions of this Decree, those treaties will prevail.

Article 3. Principles for management of work construction investment expenses

1. The management of work construction investment expenses (below referred to as expense management) must ensure the objectives and effectiveness of work construction investment projects and conform to the market economy mechanism.
2. Expense management shall be performed for each work in accordance with stages of work construction investment, designing steps, types of capital sources and state regulations.
3. Total investment and construction cost estimates of works must be projected by correct methods, covering all expense items according to regulations and suit the length of the work

construction duration. Total investment is the maximum expense which an investor is allowed to use for investment in the construction of a work.

4. The State shall perform the management of work construction investment expenses through promulgating, and guiding and inspecting the implementation of, regulations on expense management.

5. Work construction investors shall bear full responsibility for the management of expenses from investment preparation to completion of construction and putting of works into operation or use.

6. The provisions of this Decree and work construction investment expenses already approved by investment deciders or investors under this Decree serve as a basis for functional organizations to inspect, examine and audit work construction investment expenses.

Chapter II

TOTAL WORK CONSTRUCTION INVESTMENT

Article 4. Contents of total work construction investment

1. Total work construction investment (below referred to as total investment) means a project's estimated expense determined under Clause 1, Article 5 of this Decree. Total investment serves as a basis for investors to plan and manage capital when making investment in the construction of works.

2. Total investment covers construction expenses; equipment expenses; expenses for compensation, support and resettlement; project management expenses; construction investment consultancy expenses; other expenses and contingency expenses.

3. Expenses of total investment are specified as follows:

a/ Construction expenses include expenses for construction of works and work items; expenses for demolition and dismantlement of construction works; expenses for construction ground leveling and fill-up; expenses for construction of temporary and support facilities in service of construction activities, and of makeshift houses at construction sites for lodging and construction administration;

b/ Equipment expenses include expenses for procurement of technological equipment; expenses for training and technology transfer (if any); expenses for installation, pilot operation and adjustment; expenses for transportation and insurance; and taxes and related charges;

c/ Expenses for compensation, support and resettlement include expenses for compensation for houses and structures built on land and assets attached to land eligible for compensation as regulated and other compensation expenses: supports upon land recovery by the State; expenses for resettlement; expenses for organization of compensation, support and resettlement; expenses for land use during construction(if any); and expenses for investment in the construction of technical infrastructure (if any);

d/ Project management expenses include expenses for project management from the time of project formulation to the time of completion of construction, pre-acceptance test, handover and putting of works into operation and use, and expenses for supervision and evaluation of investment projects;

e/ Construction investment consultancy expenses include expenses for consultancy on survey, designing, construction supervision and other construction investment consultancy expenses;

f/ Other expenses include working capital in the course of trial production for investment projects on construction of works for commercial purposes; loan interests in the construction duration and other necessary expenses;

g/ Contingency expenses include those for arising work volumes and those for inflation factors in the project implementation duration.

Article 5. Elaboration of total investment

1. Total investment shall be determined by one of the following methods:

a/ Calculating according to basic design, in which construction expenses shall be calculated according to the workload mainly based on the basic design, other workloads as estimated and construction costs suitable to the market; equipment expenses shall be calculated according to quantity and categories of equipment suitable to technological design, market prices of equipment and other elements (if any); expenses for compensation, support and resettlement shall be calculated according to the compensation, support and resettlement workload of the project and relevant state regulations; project management and construction investment consultancy and other expenses shall be determined by making cost estimates or provisional calculation as a percentage (%) of total construction and equipment expenses; contingency expenses shall be determined under Clause 3 of this Article;

For a work for which only an econo-technical report is required, its total investment will concurrently serve as its cost estimate plus compensation, ground clearance and resettlement expenses (if any). The work's cost estimate shall be calculated according to the workload determined in the construction engineering design and Article 9 of this Decree.

b/ Calculating according to the work's area or use capacity and the construction price summed up by structural parts, area and utility (below referred to as general construction prices), the corresponding investment capital ratio for work construction at the time of project formulation, which may be adjusted and added with expenses not yet included in the general construction price and the investment capital ratio for determining the total investment;

c/ Calculating on the basis of figures of implemented projects with similar econo-technical specifications. When using this method, the figures of similar projects must be converted into those at the time of formulating the project and adjusting expense items not yet determined in the total investment;

d/ Combining the methods specified at Points a. b and c. Clause 1 of this Article.

2. The preliminary total investment of works for which investment reports are required and works to which the form of turn-key contract is applied shall be estimated on the basis of the investment capital ratio or expenses for implemented similar works and expense factors affecting the total investment according to the length of the work construction duration.

3. The contingency expense for arising workloads shall be calculated as a percentage (%) of the total of expenses specified at Points a, b, c, d, e and f, Clause 3, Article 4 of this Decree. The contingency expense for inflation factors shall be calculated on the basis of the length of the work construction duration and annual construction price indexes relevant to types of construction work, taking into account possible domestic and world market price fluctuations.

Article 6. Appraisal and approval of total investment

1. Appraisal of total investment is part of the appraisal of a work construction investment project, covering the following:

a/ The compatibility of the method of determining the total investment with technical characteristics and technological requirements of the project;

b/ The completeness, reasonability and compliance with practical market requirements of expense items in the total investment;

c/ Determination of the total investment value that ensures the effectiveness of construction investment.

2. Investment deciders shall organize the appraisal of the total investment or may hire expense management consultancy organizations or individuals (below referred to as expense management consultancy organizations or individuals) that are qualified under the provisions of Chapter V of this Decree to verify. Appraisal fees or verification expenses shall be included in the total investment. Organizations and individuals appraising or verifying the total investment shall take responsibility before law for the reasonability and accuracy of appraisal or verification results.

3. The total investment shall be indicated in an investment decision and approved by the investment decider.

Article 7. Adjustment of total investment

1. The approved total investment may be adjusted only in the cases of project adjustment specified in Clause 2, Article 1 of the Law Amending and Supplementing a Number of Articles of the Laws Concerning Capital Construction Investment in which the total investment is changed (increased or decreased):

2. Investment deciders shall decide whether to approve adjusted total investments. In case the adjusted total investment does not exceed the approved total investment and results in no change in the site, scope and objectives of a project, the investor may decide to approve the adjusted total investment and take responsibility for such approval.

3. The difference between the adjusted and approved total investments shall be appraised or verified before approval.

4. If the adjustment of the total investment under Clause 1 of this Article results in an increase in a project's size (group), the management of such project shall still be performed according to the size (group) of the project already approved before adjustment.

Chapter III

WORK CONSTRUCTION COST ESTIMATES

Article 8. Contents of work construction cost estimates

1. Work construction cost estimates (below referred to as work cost estimates) shall be determined for specific construction works and serve as a basis for investors to manage work construction investment expenses.

2. A work cost estimate shall be elaborated on the basis of the workloads of jobs determined according to the work's technical design or construction engineering design, tasks to be performed and construction unit prices, and expenses calculated as a percentage (%) (below

referred to as expense percentage norm) necessary for the performance of such workloads and tasks.

3. A work cost estimate includes construction expenses; equipment expenses; project management expenses; construction investment consultancy expenses; other expenses and reserve expenses.

Article 9. Elaboration of work cost estimates

1. A work cost estimate shall be elaborated as follows:

a/ Construction expenses shall be calculated for the work, principal work items and specific jobs of the work and determined by estimation (estimation of construction expenses). For auxiliary and temporary works to serve construction activities, construction expenses shall be determined by estimation; for makeshift houses at construction sites for lodging and construction administration, construction expenses shall be determined as percentage norms;

A construction cost estimate covers direct expenses, overhead expenses, pre-calculated taxable income, value-added tax, and expenses for construction of makeshift houses at construction sites for lodging and construction administration. A construction cost estimate may be determined for each expense item or all expenses.

A construction cost estimate may be elaborated by one of the following methods:

- The method of workload and exhaustive work construction unit prices;
- The method of total wastage volumes of materials, labor and construction machines and corresponding price tables;
- The method of construction expense ratio of works with similar econo-technical specifications already constructed;
- Other methods suitable to the nature and characteristics of work construction.

b/ Equipment expenses in a work cost estimate cover expenses for equipment procurement, including expenses for training and technology transfer (if any); expenses for equipment installation, expenses for trial operation and adjustment, and other related expenses (if any);

Equipment procurement expenses shall be determined on the basis of volumes, quantities and categories of equipment to be purchased or processed and equipment purchase or processing prices. Expenses for training and technology transfer, expenses for equipment installation, expenses for trial operation and adjustment and other related expenses (if any) shall be determined by elaborating estimates;

c/ Project management expenses cover expenses necessary for investors to organize project management. Project management expenses shall be determined as expense percentage norms or by elaborating estimates;

d/ Construction investment consultancy expenses cover expenses for consultancy on construction investment project formulation, designing, verification and construction supervision, expense management and other related consultancy expenses. Construction investment consultancy expenses shall be determined by referring to expense percentage norms announced by the State or by elaborating estimates.

The monthly salary of a consultant shall be determined on the basis of the basic salary level, social expenses, management expenses, profit and other allowances at the average market level or prescribed by the State. In case a consultancy organization has been identified, it shall be calculated and determined on the basis of the actual salary level, social expenses, management expenses, profit and other allowances indicated in the financial statements already audited or certified by a tax of finance agency or in similar contracts already signed or currently performed in the previous fiscal year of such consultancy organization, and the annual salary inflation rate;

e/ Other expenses include expenses not yet specified at Points a, b, c and d. Clause 1 of this Article and shall be determined by elaborating an estimate or as an expense percentage norm;

f/ Contingency expenses for arising workloads shall be calculated as a percentage of the total of all expenses specified at Points a, b, c, d and e. Clause 1 of this Article. The contingency expenses for price inflation elements shall be calculated on the basis of the length of the work construction duration and annual construction price indexes relevant to types of construction works.

2. For a work for which only an econo-technical report is required, the total investment is concurrently the work cost estimate. In this case the work cost estimate also includes expenses for compensation for ground clearance and resettlement (if any).

3. For a project with multiple construction works, the investor may determine the total cost estimate of the project to serve expense management work. The total cost estimate of this project shall be determined by summing up all cost estimates of the works and related expenses under the project.

Article 10. Verification and approval of work cost estimates

1. Investors shall organize the verification of work cost estimates before approval. The verification covers:

a/ Examination of the consistency of the key estimated workload with the designed workload;

b/ Examination of the propeness and reasona-bility of the application of work construction unit prices, expense percentage norms, consultancy expense estimates and estimates of other expense items in the work cost estimate;

c/ Determination of the value of the work cost estimate.

2. If investors have insufficient conditions or capability to conduct the verification, they may hire organizations or individuals that satisfy the capability and experience conditions to verify the work cost estimates. Consultancy organizations and individuals verifying work cost estimates shall take responsibility before law and investors for verification results.

3. Investors shall approve work cost estimates (excluding works for which only an econo-technical report is required, which shall be approved by investment deciders) after conducting appraisal or verification and shall take responsibility before law for such approval. Approved work cost estimates serve as a basis for determining prices of bidding packages and construction prices of works and as a basis for negotiation and conclusion of contracts with, and payment to, contractors in case of contractor appointment.

Article 11. Adjustment of work cost estimates

1. A work cost estimate may be adjusted in the following cases:

- a/ The cases specified in Clause 1, Article 7 of this Decree;
- b/ Cases in which the design is allowed to be changed or supplemented but does not contravene the base design or the structure of expenses in the cost estimate is allowed to be changed without resulting in an excess of the approved total investment of the work, including contingency expenses.
2. A work cost estimate may be adjusted by the direct offsetting method, the adjustment coefficient method, the method of adjustment using construction price indexes and other methods. The value of the adjusted part (if any) in the cases mentioned in Clause 1 of this Article shall be separately determined upon addition to the adjusted cost estimate.
3. Investors shall organize the appraisal and approval of adjusted work cost estimates. For a work for which only an econo-technical report is required, if the value of the adjusted work cost estimate does not exceed the value of the cost estimate already approved by the investment decider, the investor may organize the appraisal and approval thereof on its own. If the value of the adjusted cost estimate exceeds the value of the cost estimate already approved by the investment decider, the investor shall report this to the investment decider before organizing the appraisal of the adjusted cost estimate and submit it to the investment decider for approval.

Chapter IV

CONSTRUCTION NORMS AND WORK CONSTRUCTION PRICES

Article 12. Construction norms

1. Construction norms include econo-technical norms and expense percentage norms.
2. Econo-technical norms establish wastage levels of materials, labor and construction machines necessary for completing a workload unit of a construction job.
3. Expense percentage norms are used for determining costs of some types of job and expenses in construction investment, including project management, construction investment consultancy, site preparation, overhead expenses, other direct expenses, makeshift houses for lodging and construction administration at construction sites, pre-calculated taxable incomes and a number of other jobs and expenses.

Article 13. Formulation and management of construction norms

1. The Construction Ministry shall guide the methods of formulating construction norms and shall announce construction norms.
2. Based on the methods of formulating construction norms under Clause 1 of this Article, ministries and provincial-level People's Committees shall organize the formulation and announcement of construction norms for particular works and jobs of their respective sectors or localities.
3. For construction jobs already included in the system of the announced construction norm system which are, however, not suitable to construction methods and conditions or technical requirements of works, investors, contractors and consultancy organizations shall adjust such norms properly for application to the works.
4. For new construction jobs not yet included in the announced construction norm system, investors, contractors and consultancy organizations shall base themselves on the technical

requirements, construction conditions and methods of formulating norms guided by the Ministry of Construction to formulate norms for these jobs or apply similar construction norms applied to other works.

5. Investors may hire consultancy organizations meeting all capability and experience conditions to formulate, adjust and verify the construction norms defined in Clauses 3 and 4 of this Article. The consultancy organizations shall bear responsibility before law and investors for the reasonability and accuracy of applied construction norms.

6. The application of construction norms formulated under Clauses 3 and 4 of this Article to the formulation of unit prices in bidding packages funded with state budget capital and implemented by designated contractors shall be reported by investors to investment deciders for consideration and decision (particularly for construction works under investment projects decided by the Prime Minister, ministers of line ministries and chairmen of provincial-level People's Committees shall make such decision).

Article 14. System of work construction prices

1. The system of work construction prices includes work construction unit prices and general construction prices. Work construction unit prices shall be formulated for specific works. General construction prices shall be summed up from work construction unit prices.

2. The system of work construction prices shall be used for determining construction expenses in total investment and work cost estimates.

Article 15. Formulation of work construction unit prices

1. Work construction unit prices shall be formulated on the basis of market prices or necessary wastage levels of materials, labor and construction machines for completing a unit workload of construction jobs and specific expense factors related to a work as follows:

a/ The prices of construction materials shall be determined to conform to the standards, categories and quality of materials used for a specific construction work. The prices of construction materials shall be determined on the basis of market prices notified by functional organizations, price quotations of producers, price information provided by suppliers or the prices applicable to other works of similar standards and quality. The prices of materials carried to construction sites shall be calculated by the method of formulating work construction unit prices;

b/ The prices of construction labor shall be determined to accurately and fully cover laborers' salaries and comply with the prevailing labor market prices in each region or province and in each occupation to be employed;

c/ The prices of construction machine and equipment shifts shall be determined for each specific work and by the method guided by the Ministry of Construction or to comply with the prevailing market prices.

2. For construction works (including those funded with ODA capital) requiring employment of foreign laborers and use of imported supplies, materials and construction equipment and subject to other particular requirements, their construction unit prices may include additional expenses as required by the practical conditions and particularities of the works.

Article 16. Management of work construction prices

1. Investors shall base themselves on the method of formulating work construction unit prices and specific technical requirements and construction measures of works to organize the formulation of work construction unit prices and general construction prices for use as the basis for determining the total investment and construction cost estimates of these works for expense management purposes.

2. Work construction investors may hire consultancy organizations or individuals fully meeting capability and experience conditions to perform several or all of jobs related to the formulation of work construction prices. The consultancy organizations and individuals shall bear responsibility before law and investors for the reasonability and accuracy of work construction prices they have formulated.

3. Provincial-level People's Committees shall announce prevailing labor and construction machine and equipment shift prices determined according to the method guided by the Ministry of Construction and announce construction labor prices in their respective provinces for use as a reference basis for the formulation of work construction unit prices.

Article 17. Construction price indexes

1. Construction price indexes are indicators of fluctuation of work construction prices in a given period and serve as a basis for the determination and adjustment of total investment and construction cost estimates of works, construction contract prices and the management of work construction investment expenses.

2. Construction price indexes shall be determined according to types of works, expense factors and structure, types of main construction materials and regions and announced from time to time. The Construction Ministry shall announce construction price indexes and methods of formulating construction price indexes.

3. For particular construction works not yet taken into account in construction price indexes announced by the Ministry of Construction, investors may hire qualified consultancy organizations to determine construction price indexes for these works according to the method of price index formulation announced by the Ministry of Construction for use as a basis for the formulation and adjustment of total investment and construction cost estimates of these works, construction contract prices and the management of expenses. The consultancy organizations shall take responsibility for the accuracy and reasonability of construction price indexes they have provided.

Chapter V

CAPABILITY CONDITIONS OF ORGANIZATIONS AND INDIVIDUALS PROVIDING EXPENSE MANAGEMENT CONSULTANCY

Article 18. General provisions on capability conditions of expense management organization and individuals

1. Organizations and individuals must fully meet the prescribed capability conditions when providing consultancy on the following expense management jobs:

a/ Elaborating and verifying total investment;

b/ Assessing the effectiveness of work construction investment projects;

- c/ Determining investment capital ratio norms, construction norms, work construction unit prices and construction price indexes;
 - d/ Measuring construction workloads;
 - e/ Elaborating and verifying work construction cost estimates;
 - f/ Determining bidding package prices and contract prices in construction activities;
 - g/ Controlling work construction expenses;
 - h/ Compiling contract payment and settlement dossiers;
 - i/ Compiling work construction investment capital payment and settlement dossiers.
2. The capability of expense management consultancy organizations shall be ranked at two grades and determined on the basis of number of holders of construction pricing engineer certificates in each organization.
 3. The capability of expense management consultancy individuals shall be manifested in the form of construction pricing engineer certificate.
 4. Individuals who are civil servants working in state administrative agencies involved in expense management and meet the conditions prescribed in this Decree may be granted a construction pricing engineer certificate; their consultancy practice must comply with the law on civil servants.
 5. Expense management consultancy organizations defined by this Decree include consultancy organizations that only perform specific jobs in expense management and other practicing consultancy organizations performing jobs related to expense management and meet the prescribed capability conditions.

Article 19. Construction pricing engineer certificates

1. Construction pricing engineer certificates shall be granted to individuals fully meeting the conditions specified in Article 20 of this Decree.
2. Construction pricing engineer certificates are divided into grade 1 and grade 2, have uniform forms and are valid nationwide.
3. Construction pricing engineer certificates shall be granted by directors of provincial-level Construction Departments under this Decree and announced on the local websites.

Article 20. Conditions for the grant of construction pricing engineer certificates

1. Conditions for an individual to be granted a grade-2 construction pricing engineer certificate:
 - a/ Having full capacity for civil acts, facing no ban on professional practice under decision of competent authorities, not being subject to penal liability examination nor serving an imprisonment sentence;
 - b/ Possessing a collegial or higher diploma in an economic, econo-technical or technical discipline or a university degree in economics, granted by a lawful organization in Vietnam or abroad, and currently performing expense management work;
 - c/ Possessing a certificate of training or retraining in construction pricing operations according to regulations of the Ministry of Construction;

d/ Having engaged in construction activities for at least 5 years since the date of being granted a diploma. Particularly for those possessing a diploma in construction economics, this period is at least 3 years;

e/ Having performed at least 5 jobs specified in Clause 1, Article 18 of this Decree.

2. Conditions for an individual to be granted a grade-1 construction pricing engineer certificate:

a/ Possessing a grade-2 construction pricing engineer certificate;

b/ Having engaged in expense management activities for at least 5 consecutive years since the date of being granted a grade-2 construction pricing engineer certificate;

c/ Having attended a course of advanced training or retraining in expense management operations and construction investment mechanism and policies;

d/ Having been in charge of at least 5 jobs specified in Clause 1, Article 18 of this Decree.

3. If having no grade-2 construction pricing engineer certificate, an applicant for a grade-1 certificate must have engaged in expense management activities for at least 10 consecutive years and have been in charge of at least 5 jobs specified in Clause 1, Article 18 of this Decree.

4. Vietnamese and foreigners possessing a construction pricing engineer certificate or papers of equivalent validity granted by lawful foreign institutions which remain valid, shall be accredited for providing expense management consultancy in Vietnam. Before providing expense management consultancy, foreign organizations and individuals shall obtain operation licenses and work permits from competent state management agencies in accordance with Vietnamese law.

Article 21. Capability conditions of expense management consultancy organizations and individuals

1. Expense management consultancy organizations must fully meet the following conditions:

a/ Grade-1 organizations: Employing at least 5 individuals possessing a grade-1 construction pricing engineer certificate;

b/ Grade-2 organizations: Employing at least 3 individuals possessing a grade-2 construction pricing engineer certificate or at least 1 individual possessing a grade-1 construction pricing engineer certificate.

2. Individuals providing independent expense management consultancy must fully meet the following conditions:

a/ Possessing a construction pricing engineer certificate;

b/ Having a consultancy business registration under law.

Article 22. Scope of operation of expense management consultancy organizations and individuals

1. Scope of operation of expense management consultancy organizations:

a/ Grade-1 expense management consultancy organizations may provide consultancy on expense management jobs of important national projects, group-A, -B and -C projects and works for which only econo-technical reports are required;

b/ Grade-2 expense management consultancy organizations may provide consultancy on expense management jobs like grade-1 organizations, excluding jobs specified at Points a, b and g, Clause 1, Article 18 of this Decree for important national projects;

c/ Organizations unqualified for grading may provide consultancy on expense management jobs of works for which only economic-technical reports are required.

2. Scope of operation of individuals providing independent expense management consultancy:

a/ Individuals possessing a grade-1 construction pricing engineer certificate may:

- provide consultancy on one or several of expense management jobs of important national projects (excluding jobs specified at Points a, b and g, Clause 1, Article 18 of this Decree): group-A projects;

- provide consultancy on all expense management jobs of group-B and -C projects and works for which only economic-technical reports are required.

b/ Individuals possessing a grade-2 construction pricing engineer certificate may:

- provide consultancy on expense management jobs like those possessing a grade-1 construction pricing engineer certificate, excluding jobs specified at Points a, b and g, Clause 1, Article 18 of this Decree for group-A and -B projects;

- provide consultancy on all expense management jobs of group-C projects and works for which only economic-technical reports are required.

3. For construction investment projects in areas with difficult socio-economic conditions, individuals possessing a diploma of intermediate or higher level in technical, economic or economic-technical disciplines and a certificate of training or retraining in construction pricing operations granted by a training institution specified in Clause 1, Article 23 of this Decree may provide expense management consultancy for group-C projects and works for which only an economic-technical report is required.

4. Individuals possessing a construction pricing engineer certificate but making no business registration for expense management consultancy under law may provide expense management jobs but may not sign reports on and results of verification of expense management jobs specified in Clause 1, Article 18 of this Decree.

Article 23. Management of construction pricing engineer training and grant of construction pricing engineer certificates

1. Construction pricing operation training and retraining establishments must fully meet the following conditions:

a/ Possessing a business registration certificate or founding decision, for those having no business registration certificate under law; having the function and tasks of training and retraining in professional areas related to expense management;

b/ Having training programs and materials relevant to the framework program promulgated by the Ministry of Construction;

c/ Having at least 3 trainers with professional qualifications and training experience meeting the requirements of the framework program promulgated by the Ministry of Construction and at least 7 years' experience in expense management.

2. The Ministry of Construction shall perform the unified state management of training and retraining in construction pricing operations; grant construction pricing engineer certificates; guide the contents related to the framework programs of construction pricing operation training and retraining and the order and procedures for granting construction pricing engineer certificates.

3. Provincial-level Construction Departments shall consider and approve dossiers of registration for the grant of construction pricing engineer certificates in localities; organize the grant, renewal and re-grant of construction pricing engineer certificates, settle complaints and denunciations related to the management of construction pricing engineer training and grant of construction pricing engineer certificates according to their competence; organize the inspection of training establishments, reject or revoke construction pricing operation training or retraining certificates granted by unqualified training establishments.

Chapter VI

RIGHTS AND RESPONSIBILITIES OF INVESTMENT DECIDERS, INVESTORS AND CONTRACTORS IN THE MANAGEMENT OF CONSTRUCTION INVESTMENT EXPENSES

Article 24. Rights and responsibilities of investment deciders

1. Investment deciders have the following rights and responsibilities:

a/ To ensure sufficient investment capital for payment to projects and works according to approved schedule;

b/ To organize the appraisal of or decide to hire a qualified consultancy organization or individual to appraise total investment of construction works;

c/ To approve total investment together with approving projects and adjusted total investment according to regulations;

d/ To decide to apply new norms not yet included in the announced norm system or norms already included in the announced construction norm system which are not suitable to construction measures and conditions or technical requirements of works, for formulating unit prices in bidding packages funded with state budget capital and implemented by appointed contractors;

e/ To decide on forms of contract prices and prices of bidding packages in construction activities;

f/ To approve investment capital settlement statements of projects;

g/ Other rights and responsibilities related to expense management under current law.

2. Depending on the scope and characteristics of projects, investment deciders may authorize or decentralize subordinate agencies to perform one or several jobs under their responsibility.

Article 25. Rights and responsibilities of investors

1. Investors shall take full responsibility for the management of work construction investment expenses.

2. Investors have the following rights and responsibilities:

- a/ To organize the formulation of work construction investment projects and provide instructions, requirements and limits of investment capital as the basis for project formulation. To select design plans, technologies, equipment and main construction materials for submission to investment deciders for consideration and approval;
- b/ To be permitted to adjust total investments and approve adjusted total investment in cases of restructuring expense items in total investment or cases of adjusting total investment under Clause 1, Article 7 of this Decree which do not increase the total investment higher than the approved level;
- c/ To organize the formulation, appraisal and approval of work construction cost estimates;
- d/ To organize the formulation and decide on the application of new norms not yet included in the announced norm system or apply or use adjusted construction norms and similar construction norms applied to other works, excluding norms specified in Clause 6. Article 13 of this Decree;
- e/ To decide on the application and use of prices of work construction materials, labor and construction machines and equipment as a basis for formulating construction unit prices and construction cost estimates of works; to refer to prices announced by functional organizations, price quotations of manufactures, price information provided by suppliers or prices already applied to other works with similar standards and quality and prevailing market prices for application to works;
- f/ To propose the selection of forms of contract prices and prices of bidding packages in construction activities to investment deciders;
- g/ To ensure sufficient capital and timely payment and settlement of contracts under the terms of contracts signed with contractors;
- h/ To organize the control of work construction investment expenses according to regulations;
- i/ To decide on and take responsibility for the accuracy and reasonability of values which they propose investment capital-paying agencies to pay to contractors;
- j/ To be permitted to hire expense management consultancy organizations and individuals to perform expense management jobs and take responsibility before lav/ for the selection of such organizations and individuals;
- k/ To claim compensations or initiate lawsuits before administrative or economic tribunals to claim compensations for damage caused by the late payment by investment capital-paying agencies;
- l/ To accept or reject contractors' proposals on change of construction measures and technical requirements. To control changes in the process of building works related to changes in construction investment expenses or speed up the construction of works;
- m/ Other rights and responsibilities related to expense management under current law.

Article 26. Rights and responsibilities of expense management consultancy contractors

1. To provide consultancy on expense management jobs according to their capability and within the prescribed scope of operation.

2. To request investors to pay expenses under signed contracts; to enjoy interests on overdue loans, claim compensations or initiate lawsuits before administrative or economic tribunals to claim compensations for damage caused by the late payment by investors;
3. To take responsibility before law and investors for expense management results and pay compensations under the signed contracts for damage (if any) caused to investors.
4. To purchase professional liability insurance.
5. To refrain from disclosing information and documents related to expense management activities they carry out unless it is so permitted by investors or competent authorities.
6. Other rights and responsibilities related to expense management under current law.

Article 27. Rights and responsibilities of construction contractors

1. To decide on norms, unit prices and other expenses related to their bids in bidding.
2. In the process of construction, to change construction measures when so approved by investors or their representatives in order to speed up construction, ensure quality and labor safety on the basis of the value of signed contracts.
3. To propose and reach agreement with investors on norms and unit prices for jobs arising in the course of construction.
4. To use on their own decision expenses for the construction of makeshift houses for lodging and construction administration at construction sites and other direct expenses for construction service jobs.
5. To request payment of interests on late payments; to claim compensations for damage caused by the late handover of ground areas and other damage caused by others' fault.
6. To pay compensations to investors and related parties for damage caused by their faults (if any) in the late construction.
7. Other rights and responsibilities related to expense management under current law.

Chapter VII

PAYMENT AND SETTLEMENT OF WORK CONSTRUCTION INVESTMENT CAPITAL

Article 28. Payment for construction contracts

The advance and payment of capital as well as dossiers of payment for construction contracts comply with the Government's decree on contracts in construction activities.

Article 29. Payment of work construction investment capital

1. Within 7 working days after the receipt of valid payment dossiers, investment capital-paying agencies shall pay investment capital according to payment proposals of investors or their lawful representatives on the basis of the assigned capital plans.
2. Investors shall bear responsibility before law for unit prices, workloads and values proposed for payment in payment proposal dossiers; investment capital-paying agencies shall take no responsibility for unit prices, workloads and values in the payment proposals in the payment proposal dossiers of investors or their lawful representatives. In the course of making payments,

if detecting errors in the payment proposal dossiers, investment capital-paying agencies shall notify the investors or their lawful representatives thereof for supplementation and completion of the dossiers.

3. Investment capital-paying agencies and investors are strictly forbidden from issuing illegal regulations on payment of construction investment capital.

Article 30. Settlement of work construction investment capital

1. Completed state budget capital-funded construction works must have their construction investment capital settled.

2. Settled investment capital is the total lawful expenses realized in the process of investment in order to put a work into operation or use. Lawful expenses are expenses realized within the scope of the approved project, design and cost estimate, including expenses adjusted or added in accordance with signed contracts and law. For state budget-funded works, the settled investment capital must be within the limits of approved total investments.

3. Investors shall compile dossiers on settlement of work construction investment capital within 12 months for important national projects and group-A projects, 9 months for group-B projects and 6 months for group-C projects from the time the works are completed and put into operation or use, and submit them to investment deciders for approval. Six months after the issuance of decisions approving the investment capital settlement of completed projects, investors shall settle all debts and close the projects' accounts at the investment capital-paying agencies.

For works or independent work items completed and put into use under construction investment projects, their settlement must comply with requirements of investment deciders.

4. Competence to approve investment capital settlement:

a/ For important national projects and other important projects in which investment is decided by the Prime Minister:

- The Minister of Finance may approve the settlement of component projects funded with state budget capital; and may authorize or decentralize the approval of the settlement of projects under its competence;

- Investors may approve the settlement of component projects not funded with state budget capital.

b/ For others projects, investment deciders are competent to approve their investment capital settlement. Particularly for projects in which investment decision has been authorized, investment deciders shall prescribe the approval of their capital investment settlement.

Chapter VIII

STATE MANAGEMENT OF WORK CONSTRUCTION INVESTMENT EXPENSES

Article 31. The Ministry of Construction

The Ministry of Construction is the body responsible for performing the unified state management of work construction investment expenses and has the responsibilities:

1. To guide the formulation and management of work construction investment expenses; to guide methods of measuring workloads, determining prices of construction machine and equipment working shifts, adjusting construction cost estimates, construction price indexes and length of

construction duration and controlling expenses in construction investment; to guide the training and retraining in construction pricing operations and manage the grant of construction pricing engineer certificates.

2. To announce work construction norms and norms of expenses for project management and work construction investment consultancy, construction investment capital ratio levels, construction price indexes and other limits.

3. To inspect and examine the implementation of regulations on management of work construction investment expenses.

Article 32. The Ministry of Finance

1. To guide the payment and settlement of work construction investment capital.

2. To set rates and guide the use management of the fees for the appraisal of investment projects and for the grant of construction pricing engineer certificates.

3. To inspect and examine the payment and settlement of state budget-funded projects.

Article 33. Ministries and provincial-level People's Committees

1. Ministries and provincial-level People's Committees shall base themselves on the methods of formulating construction norms guided by the Ministry of Construction to organize the formulation of and promulgate construction norms for particular jobs of their respective ministries or localities. They shall annually send construction norms they have announced in the year to the Ministry of Construction for monitoring and management.

2. Provincial-level People's Committees shall guide the formulation and management of construction expenses and inspect the implementation of regulations on management of construction investment expenses in their localities.

Chapter IX

IMPLEMENTATION PROVISIONS

Article 34. Transitional handling

1. For construction investment projects which have been approved before the effective date of this Decree but have not yet been implemented or are being implemented, their expense management jobs comply with the Government's Decree No. 99/2007/ND-CP of June 13, 2007, on management of work 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.

In case of wishing to manage expenses under this Decree, investors shall report this to investment deciders for consideration and decision.

2. For construction investment projects which have been formulated and appraised but not yet approved before the effective date of this Decree, their construction investment expenses already appraised are not required to be re-appraised; after the projects are approved, their expense management jobs must comply with the provisions of this Decree.

Article 35. Organization of implementation

1. This Decree takes effect on February 1, 2010. The provisions on management of work construction investment expenses in the Government's Decree No. 99/2007/ND-CP of June 13, 2007, on management of work 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, are annulled.

2. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees, heads of political organizations, socio-political organizations and socio-politico-professional organizations, chairmen of Boards of Directors of state economic groups and corporations, and concerned organizations and individuals shall implement this Decree.

3. The Ministry of Construction shall assume the prime responsibility for, and coordinate with relevant ministries and branches in, guiding the implementation of this Decree.-

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Tan Dung