

GOVERNMENT

No. 131/2006/ND-CP

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Hanoi, 09 November, 2006

DECREE ON
Issuance of Regulation on Management and Utilization
of Official Development Assistance

GOVERNMENT

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

Pursuant to the Law on State Budget dated 16 December, 2002;

Pursuant to the Law on the Signing, Joining and Implementation of International Treaty dated 24 May, 2005;

At the proposal of Minister of the Ministry of Planning and Investment;

DECREE:

Article 1: This Decree is issued attached with the Regulation on the Management and Utilization of Official Development Assistance

Article 2: This Decree comes into effect 15 days as from the date of its announcement on Official Gazette and replaces Decree 17/2001/ND-CP dated 04 May, 2001 of the Government enforcing the Regulation on the Management and Utilization of Official Development Assistance.

Article 3: The Ministers of Ministry of Planning and Investment, Ministry of Finance, Ministry of Foreign Affairs, Ministry of Justice and the Governor of State Bank of Vietnam are responsible for guiding and monitoring the implementation of this Decree.

Article 4: The Ministers, Heads of ministerial-level agencies, Heads of agencies under the Government, Chairmen of People's Committees of provinces and cities under central management are responsible for the enforcement of this Decree./.

ON BEHALF OF THE GOVERNMENT
PRIME MINISTER

(Signed and Sealed)

Nguyen Tan Dung

THE REGULATION ON
Management and Utilization of Official Development Assistance

*(issued attached with Decree No. 131/2006/ND-CP
dated 09 November, 2006 of the Government)*

Chapter I

GENERAL PROVISIONS

Article 1. *Scope of Regulation*

1. This Regulation regulates the management and utilization of Official Development Assistance.

Official Development Assistance (hereinafter referred to as “ODA”) in this Regulation is construed as the development cooperation activities between the State or the Government of the Socialist Republic of Vietnam and the donors, which are foreign governments; bilateral donors and multilateral or inter-state organizations.

2. Forms of ODA provision include:
 - a) ODA in the form of a grant is assistance that is not refundable to the donor.
 - b) ODA in the form of a concessional loan (also referred to as concessional credit) is assistance through a loan with concessional conditions in interest rate, grace period and debt-payment term. The grant element should be at least 35% for tied loans and 25% for untied loans.
 - c) Mixed ODA loan is assistance that includes a grant or a concessional loan provided simultaneously with other commercial loans, but as a whole, its “grant element” should reach at least 35% for tied loans, and 25% for untied loan.
3. Key modalities of ODA delivery include:
 - a) Project support;
 - b) Sector support;
 - c) Program support;
 - d) Budget support.
4. Domestic financial mechanism for ODA utilization:

- a) Allocation from the State budget;
- b) On-lending from the State budget;
- c) Part-allocation, part-on-lending from the State budget.

Article 2. *Basic principles of ODA management and utilization*

1. ODA constitutes an important source of capital for the State budget and is used to support implementation of the socio-economic development programs and projects given priority by the Government.
2. The Government takes its unified ODA State management role on the basis of centralized democracy, publicity, transparency, decentralization, attachment of power and responsibility, ensuring close coordination in management, checking, supervision, and encouraging pro-active responsibility at all levels and in sector management agencies, local authorities and implementing units.
3. ODA attraction shall go together with enhancing effectiveness in ODA utilization; ensuring capacity of foreign debt services, taking into account the appropriate capacity of ODA acceptance and absorption in line ministries, local authorities and implementing units.
4. Ensuring the synchronous and consistent characteristics in all ODA regulations on ODA management and utilization; ensuring broad participation of all stakeholders; harmonizing procedures between the Government of Vietnam and the donors.
5. Compliance with the Vietnamese Law and international treaties on ODA, to which the Socialist Republic of Vietnam is a signatory. If there is a discrepancy between any provision in an international treaty on ODA to which the Socialist Republic of Vietnam is a signatory, and the Vietnamese Law, the provision in the international treaty on ODA shall take precedence.

Article 3. *Priority areas for ODA utilization*

ODA resources shall be prioritized for programs and projects in the following areas:

1. Agricultural and rural development (including agriculture, irrigation, forestry and aquaculture) in combination with hunger eradication and poverty reduction.
2. Construction of synchronous and modernized economic infrastructure.
3. Construction of social infrastructure (health, education and training, population and development and some other areas).
4. Protection of the environment and natural resources management.

5. Institutional capacity strengthening and human resources development; technology transfer; enhancing the research and development capability.
6. Other areas as decided by the Prime Minister.

Article 4. *Definition of terms*

The following terms used in this Regulation are construed as follows:

1. "ODA Management and Utilization Procedure" is the activities that comprise the following specific steps:
 - a) Setting up the list of ODA programs and projects (hereinafter referred to as "program, project") which seek ODA funding from respective donors.
 - b) Formulation of programs, projects including the signing of agreements relating to the programs, projects;
 - c) Implementation of programs, projects;
 - d) Monitoring and evaluation of programs, projects (including *ex-post* evaluation); acceptance, financial finalization and handing over the outcomes of the programs, projects;
2. "ODA Requesting List" is the list of programs, projects, which the Ministry of Planning and Investment consolidates from ODA requesting lists of line agencies and submits for the approval of the Prime Minister in accordance with Article 8 of this Regulation, as a basis for mobilizing ODA resources with regards to respective donors.
3. "Official ODA Funding List" is the portfolio of programs and projects included in the ODA Requesting List for which respective donors have in principle accepted to provide funding.
4. "Project" is a collation of inter-related activities with the aim to achieve one or more defined objectives and implemented in specific locations under a given time frame by using defined resources. Projects include investment projects and technical assistance projects.
5. "Investment project" is a project for new development, expansion or rehabilitation of physical infrastructure to achieve quantitative growth or to maintain, renovate and improve the quality of products or services, implemented in specific locations under a given time frame. Investment projects consist of two types below:
 - a) "Investment construction project" is an investment project which relates to the new construction, expansion or rehabilitation of construction works with the

aim to develop, maintain and improve the quality of the construction works, products and services.

- b) “Other investment project” is an investment project which does not belong to investment construction project type.
6. “Technical assistance project” is a project with the aim of building capacity, strengthening institutions or providing technical inputs for preparation and implementation of programs and projects by provision of specialists and consultants, training, equipment, materials and documentations, study tours and seminars, workshops.
 7. “National important project” is a project that the National Assembly approves and makes an investment decision about as regulated in the existing laws.
 8. “Program, project associated with policy framework” is a program or a project that has macro, sectoral economic reform policies and measures which the Government of the Socialist Republic of Vietnam commits to implement in accordance with a road map with financial and/or technical support from donors.
 9. “Program” is a collation of activities and/or projects that relate to each other and may relate to one or more sectors, fields, geographical areas, various stakeholders to achieve one or more defined goals and objectives for an extended implementation period or through many stages, and resources for such implementation can be mobilized from various funding sources of different duration and modalities.
 10. “Sector or program-based approach” is a method of ODA delivery where donors provide their assistance in a synchronized manner based on the Government development plan for a specific sector or field with the aim to ensure the sustainable and effective development of such sector or field.
 11. “Budget support” is a method of ODA delivery where the ODA assistance is not linked to one or more specific projects but transferred directly to the State budget of the Socialist Republic of Vietnam, and managed and utilized in accordance with the Vietnamese budget regulations and procedures.
 12. “Untied loan or grant aid” is the ODA in the form of loan or grant aid which is provided without tied conditions related to supply and procurement of goods and services.
 13. “Tied loan or grant aid” is ODA in the form of loan or grant aid which is provided with conditions relating to the supply and procurement of goods and services from certain suppliers or countries as decided by the donor(s).

14. “International treaty on ODA” is a written agreement on ODA related issues in the name of the State or the Government of Socialist Republic of Vietnam with one or more donors. International treaties on ODA include:
- a) “Framework international treaty on ODA” means an international agreement on ODA which makes commitments to common principles and conditions on development cooperation, containing items pertaining to the: strategies, policies, development cooperation framework, priority orientations in ODA delivery and utilization; areas, programs or projects agreed to be financed by ODA; ODA framework conditions and commitments for programs and projects for one or many years; principles regarding the procedures and plans for the management and implementation of programs and projects.
 - b) “Specific international treaty on ODA” means an international agreement on ODA which demonstrates the financial commitments to specific programs and projects or to budget support, having the main contents: objectives, activities, outcomes to be achieved, implementation plans, financing conditions, capital, capital structure, obligations, authorities and responsibilities of each party, principles and standards to be complied with in the management and implementation of programs, projects and disbursement conditions as well as conditions on repayment of loans for programs and projects.
15. “Line Agencies of ODA programs, projects” (Person who makes investment decision with regards to investment projects or Person who gives approval to technical assistance projects) are line ministries, ministerial-level agencies, agencies directly under the Government, central agencies of social and political organizations, professional organizations, agencies directly under National Assembly, the People’s Supreme Court, the People’s Supreme Procuracy and People’s Committees of the provinces and centrally-run cities (hereinafter called “Provincial People’s Committees”) that have programs and projects.
16. “Owner of ODA programs, projects” (Investment Owner with regard to investment programs, projects, Project Owner with regard to technical assistance programs, projects - hereafter referred as Project Owner) is the institution that is assigned by the Prime Minister or Line Agencies stated in Clause No.15 of this Article to take responsibility for direct management and utilization of ODA and counterpart funds used to implement programs, projects in accordance with the contents approved by relevant competent authorities and to manage and use the resulting outputs or works after completion of programs, projects.
17. “Counterpart fund” is the contribution in kind and/or in value from Vietnamese resources for the preparation for implementation and for the implementation of ODA programs, projects as specifically prescribed in Article 26 of this Regulation.

Chapter II
**ODA MOBILIZATION, SIGNING OF
FRAMEWORK INTERNATIONAL TREATIES ON ODA**

Article 5. Basis of ODA mobilization

ODA mobilization shall be carried out on the basis of:

1. Socio-economic development strategy.
2. Five-year and annual socio-economic development master plans and plans (SEDP) at national, sectoral, regional and local levels.
3. Comprehensive Poverty Reduction and Growth Strategy (CPRGS).
4. National strategies for borrowing and repayment of foreign debts and programs on national medium-term debt management.
5. Orientations for ODA mobilization and utilization.
6. Public investment programs; National target programs and target programs of sectors and localities.
7. Strategies and programs for development cooperation between Vietnam and donors.

Article 6. Coordination in ODA mobilization

1. The Ministry of Planning and Investment shall be the focal point agency that assists the Government in making preparation for the Consultative Group meetings (CG meetings) and international forums on ODA for Vietnam. The line ministries and the ministerial-level agencies shall coordinate with the Ministry of Planning and Investment and take a leading role in preparing and organizing ODA coordination conferences by sector or field. The Provincial People's Committees shall take a leading role in organizing ODA mobilization conferences for their provinces under the guidance of the Ministry of Planning and Investment. Cross-sector, regional and inter-regional ODA mobilization conferences shall be presided by the Ministry of Planning and Investment or by another agency as assigned by the Prime Minister.
2. The representative agencies or missions of the Socialist Republic of Vietnam in overseas shall coordinate with the Ministry of Planning and Investment, the Ministry of Foreign Affairs to carry out ODA mobilization with the countries, international organizations that receive these representative agencies or missions on the basis of principles specified in Article 5 of this Regulation.

Article 7. ODA Requesting List

1. ODA Requesting List consists of programs, projects that are selected and arranged in priority order for mobilization by respective donors.
2. Procedures to set up ODA Requesting List consist of the following steps:
 - a) The Line Agency takes a pro-active role in preparation of its ODA Requesting List based on stipulations in Article 5 of this Regulation, taking into account the:
 - Needs for assistance in the sector or field under the administration authority of the Line Agency; ODA absorption and management capacities of the Line Agency and Project Owner who is expected to be assigned to implement the ODA programs, projects; the priority-setting criteria for ODA allocation and utilization by sector and locality issued by the Ministry of Planning and Investment;
 - ODA policies, commitments and assistance conditionality; lists of programs and projects in the report on annual negotiation results with related donors; medium term assistance programs of some donors; the schedule for considering ODA funding by respective donors publicized by the Ministry of Planning and Investment;
 - b) The Line Agencies submit to the Ministry of Planning and Investment their ODA Requesting List attached with detailed outlines of all enlisted programs and projects with the following major contents:
 - Background and necessity of the program, project in the master plan, development plan of the sector, locality and beneficiary agencies;
 - Reports on other similar completed, on-going and would-be implemented programs, projects in the areas under the administration authority of the Line Agencies including evidence from evaluations of past programs and projects;
 - Goal, objective, size and location of the programs, projects;
 - Analysis of rationale of selection of donors and their advantages;
 - Contents of major components, items, activities of programs, projects
 - Preliminary analysis and selection of technical assistance, construction and technology alternatives, if any;
 - Preliminary analysis of feasibility of programs, projects (in economic, financial, technological and implementation capacity aspects);

- Recommendations for domestic financial mechanisms to be applied to the programs, projects; recommendations of appropriate modality of ODA delivery;
 - Preliminary analysis of direct effectiveness to the implementing agencies, and economic, environmental and social impacts of programs, projects on the given sector, field and locality;
 - Capacity of Project Owner who is expected to be assigned to implement the program, project, including financial capacity (for on-lending programs, projects, the ability and alternative for repayment of the loans shall be clarified);
 - Total estimated cost of programs, projects, including ODA fund, sources and methods of providing counterpart fund;
 - Expected commencement and completion timing for the programs, projects
 - Sustainability of programs, projects after their completion.
- c) The Ministry of Planning and Investment shall take the leading role in coordination with the other ODA State management agencies, relevant agencies and related donors to select ODA programs and projects for the ODA Requesting List based on the priority-setting criteria for ODA allocation and utilization by sector and locality issued by the Ministry of Planning and Investment.
- d) The Ministry of Planning and Investment submits this ODA Requesting List to the Prime Minister for approval in accordance with the contents specified in Article 8 of this Regulation.
- After obtaining the approval decision from the Prime Minister, the Ministry of Planning and Investment shall inform the approved ODA Request List to respective donors.
- đ) The Ministry of Planning and Investment informs Line Agencies of the Official ODA Funding List so that they can proceed with the next preparation steps in conformity with Chapter III of this Regulation.
3. For program, projects with a funding proposal that Line Agencies and donors have agreed but that are not enlisted in the ODA Requesting List that was approved by the Prime Minister, the Ministry of Planning and Investment shall take the leading role in coordination with relevant agencies to examine and submit to the Prime Minister for approval the supplementation of these programs, projects to the Official ODA Funding List.

Article 8. Decision of the Prime Minister on approval of the ODA Requesting List

Following are the main contents in the approval decision of the Prime Minister on the ODA Requesting List

1. Name of program, project and donor.
2. Line Agency of program, project.
3. Major goals, objectives and outcomes of program, project.
4. Expected commencement and completion time of program, project.
5. Expected budget limit, types of ODA (grant aid, loan) of program, project.
6. Domestic financial source and financial mechanism of program, project.

Article 9. Responsibilities for proposals, processes, procedures relating to the signing of framework international treaties on ODA

1. Based on ODA needs and mobilization results, the Ministry of Planning and Investment shall take the leading role in coordination with relevant agencies to submit to the Government the proposal on signing of framework international treaties on ODA;
2. Sequences, procedures and decisions relating to signing framework international agreements on ODA are conducted in accordance with legal regulations on signing, joining and implementation of international treaties.
3. After obtaining the official written approval from the Government, the Ministry of Planning and Investment will conduct the negotiations and then sign framework international treaties on ODA.

Chapter III PREPARATION, APPRAISAL AND APPROVAL OF THE CONTENTS OF ODA PROGRAMS AND PROJECTS

Article 10. Tasks of Line Agencies with regard to programs, projects in the Official ODA Funding List which are under their authority of making approval decision (or investment decision) of the Line Agencies

After having been informed by the Ministry of Planning and Investment about the Official ODA Funding List, the Line Agencies shall take responsibility for the following:

1. Making decision on appointment of Project Owner in accordance with the following regulations:
 - a) With regards to investment programs and projects, the Project Owner shall meet the conditions as specified in the regulations of existing law on investment and construction management;
 - b) With regards to technical assistance programs and projects, Project Owner must ensure that:
 - The functions, duties and operations of the Project Owner are in line with the goals, objectives and contents of the technical assistance programs, projects.
 - Project Owner meets other conditions as required in accordance with legal regulations.
2. Providing assistance and guidance to the Project Owner in undertaking the following tasks:
 - a) To formulate program or project documents based on the Official ODA Funding List; to ensure the progress of formulation, the quality of program or project documents;
 - b) To make arrangements for mobilizing appropriate resources for program or project preparation;
 - c) To make plans for preparing program or project with following major contents:
 - Objectives and outcomes to be achieved in preparation process, enclosed with a detailed outline and content requirements for the program or project document.
 - The sequence in preparation steps, key outcomes of each step, major activities to produce respective outcomes.
 - Division of work in organization for implementation and identification of interested stakeholders encouraged to participate in preparation process.
 - Clear identification of differences in regulations and procedures between Vietnam and the donors, working out necessary measures for implementation of procedures and regulations of both sides.
 - The timetable for completion of activities, outcomes of the preparation process, the schedule for mobilization of relevant inputs, the identification of requirements on human resources, training, expenditures, working facilities, including training requirements for preparation and implementation process of project.

3. Conducting appraisal and making investment decisions (or approving program/project documents with regards to technical assistance programs and projects) in accordance with the existing regulations on investment and construction management and on ODA management and utilization.

Article 11: Responsibilities of Project Owners in the preparation of contents of the programs and projects in the Official ODA Funding List

1. Preparation of investment projects:
 - a) For projects of national importance: Project Owners shall carry out in accordance with existing legal regulations applicable to projects of national importance;
 - b) For all other projects: Project Owners shall select consultants for formulation of investment projects; review, assess and bear full responsibility for project documents to be submitted; get comments from relevant line ministries and related localities for finalization of project document; submit to competent authority for appraisal and approval.

In the case where a donor assists the Vietnamese side to prepare an investment project through a technical assistance project, in addition to compliance with the above mentioned stipulations, the Project Owner shall also observe all agreements specified in the technical assistance project document in accordance with Clause 5, Article 2 of this Regulation.

2. Preparation of programs:
 - The Project Owner shall prepare the program for using ODA resources; review, assess and take full responsibility for program content; get comments from relevant line ministries, related localities and other stakeholders that are related to or will participate in the implementation and will be the beneficiaries of the program.
 - The Project Owner shall negotiate with donors on the contents of program documents; proceed with appraisal and approval procedures in compliance with Article 19 of this Regulation.
3. Preparation of technical assistance projects
 - The Project Owner shall take a pro-active role with assistance from donors to prepare program or project documents; get comments of related agencies, especially sectoral managing agencies, on the contents of the technical assistance program, project.

- The Project Owner shall negotiate with the donors on contents of technical assistance programs or project documents and submit them to the competent authority for appraisal and approval.

Article 12: Fund for preparation of programs, projects

1. Programs and projects in the Official ODA Funding List are regarded as the basis for making plans for the allocation of funds needed to prepare programs, projects. The fund for preparation of programs, projects may include the following expenditure items:
 - a) Expenditure for carrying out research, fieldwork, surveys, collation, analysis and consolidation of preliminary data.
 - b) Expenditure for formulating program or project document.
 - c) Expenditure for appraising, supplementing and finalizing program or project documents leading to approval from the competent authority.
 - d) Expenditure necessary for training and building capacity of the core team of the Program or Project Management Unit.
2. With regards to the programs and projects financed by fund allocation from the State Budget, the Project Owner shall plan for the funds required to prepare the program or the project. This fund shall be integrated into the annual budget plan of the Line Agency. Processes of approval and allocation of the funds required to prepare programs and projects financed by State Budget allocation must comply with the existing legal regulations on State Budget.

In the case where the timing of making the plan for funds to prepare a program or project is not concurrent with the timing of making annual budget plans, the Line Agency shall re-allocate resources within its total budget allocated to the funds for preparation of programs and projects. If the re-allocation is impossible, the Line Agency shall send a written request to the Ministry of Planning and Investment and the Ministry of Finance for consideration and decision on a budget advance, which shall be then deducted from the total budget allocated to the funds for preparation of programs and projects in the next financial year.

3. With regard to the on-lending or part allocation and part on-lending programs and projects, the Project Owner shall make its own arrangement and allocation of the funds for preparation of programs, projects.
4. In the event that the donor provides financial support through a technical assistance project for preparation of program, project, the Project Owner shall be responsible for reporting so that this financial support can be reflected in the annual budget plan of the funds for preparation of programs, projects.

Article 13: ODA Investment Project Document

ODA investment project documents must be developed in accordance with the existing legal regulations on investment and construction management, taking into account the following contents based on the specific characteristics and requirements of ODA resources:

1. Position and role of project in the development master plan of the sector or locality.
2. Reason of using ODA fund, donor's advantages in technology, management experiences, policy advice in financed fields.
3. Domestic financial mechanism for ODA funded project, analysis of financial and socio-economic effects of ODA program, project in consideration of obligations of donor, plan of debt repayment in case of ODA on-lending.
4. Availability and sources of counterpart funds
5. Expected general plan and annual plan for project implementation in the first year, including plans of procurement, training, capacity enhancement and site clearance (if any).
6. Risk evaluation and proposed mitigation measures
7. Plans for project monitoring and evaluation.
8. The sustainability of project after completion.
9. Project organization and implementation management capacity (including the financial capacity) of project owner.

Where the investment project document is formulated in accordance with a format set by the donor, the above-mentioned contents should be taken into account during the process of cooperation with the donor to ensure harmonization between the process and procedures of Vietnam and the donor.

Article 14. ODA Technical Assistance Project Document

An ODA technical assistance project document shall contain the following major contents:

1. The background and necessity of the project under framework of the master plan and long-term development plan of the ODA beneficiary unit (agency, sector, field, and locality).
2. Short-term and long-term objectives of the technical assistance.

3. Major outcomes of the technical assistance and assessment of possibility in application to reality.
4. Main activities of the technical assistance.
5. The obligations that the Vietnamese side commits to do.
6. Total ODA fund, plans for ODA utilization, fund allocation for specific activities based on defined criteria, domestic financial mechanism, regulations on disbursement, payment, accounting and responsibility for fund management.
7. Counterpart fund and its secured source.
8. Mode of project management organization
9. Tentative overall project plan and project implementation plan for the first year.
10. Risk evaluation and proposed mitigation measures
11. Project monitoring and evaluation plan.
12. The sustainability of project after its completion.
13. Project organization and implementation management capacity (including the financial capacity) of Project Owner.

Where the technical assistance project document is formulated in accordance with a format set by the donor, the above-mentioned contents should be taken into account during the process of cooperation with the donor to ensure harmonization between the process and procedures of Vietnam and the donor.

Article 15. ODA Program Document

An ODA program document should contain the following major contents:

1. The background and necessity of program within the framework of the master plan and long-term development plan of the ODA beneficiary unit (agency, sector, field, and locality).
2. Overall objectives, component objectives, contents of sub-projects (if any) or contents of components and main activities.
3. Detailed outline of each sub-project or component.

4. Total funding and sources of funding for the program, plan for ODA utilization; domestic financial mechanism for the program.
5. Organizational structure of program implementation.
6. Mode of management of resources.
7. Tentative overall project plan and project implementation plan for the first year.
8. Risk evaluation and proposed mitigation measures
9. Program monitoring and evaluation plan.
10. The sustainability of program after its completion.
11. Program organization and implementation management capacity (including the financial capacity) of Program Owner; capacity for organization and implementation management of Sub-Project Owners.

Where the program document is formulated in accordance with a format set by the donor, the above-mentioned contents should be taken into account during the process of cooperation with the donor to ensure harmonization between the process and procedures of Vietnam and the donor.

Article 16. Appraisal of programs, projects

1. Program or project documents submitted to competent authorities for appraisal must be consistent with the contents of the program or project in the Official ODA Funding List.
2. Program or project documents as specified in Articles 13, 14 and 15 of this Regulation and other enclosed materials (including written amendments and supplements) must be appraised and approved by competent authorities to serve as the basis for negotiation, signing and implementation of the specific international agreement on ODA with the donor.
3. With regards to the program or project which is subject to the approval of the Prime Minister as specified in Clause 1, Article 19 of this Regulation:
 - For point a): The appraisal shall be in accordance with existing regulations of the National Assembly of the Socialist Republic of Vietnam and current laws on nationally important programs and projects which the National Assembly issues on investment policy.

- For point b): Line Agency, upon its appraisal, shall submit to the Prime Minister for approval on the program or project document and for permission to implement the program or project.
- 4. With regards to the program or project which is subject to approval by the Head of Line Agency as prescribed in Clause 2, Article 19 of this Regulation: processes, procedures and contents of appraisal shall comply with the regulations of current laws.
- 5. The agency that takes a leading role in appraisal can request the central and/or local specialized agencies, independent consulting organizations and individual consultants to support appraisal of the program or project.
- 6. Program or project documents that are subject to the approval by the Prime Minister shall be made in eight sets, of which there is at least one original set. Documents in foreign languages must be attached with a Vietnamese translation.
- 7. During the appraisal process, the agency that takes a leading role in the appraisal shall consider the order, procedures and progress of appraisal of the donor to ensure necessary coordination and harmonization; review the contents that have been agreed upon with the donor and the appraisal comments received from the donor or representative of the donor. The consensus and dissenting views of the parties shall be reflected in the appraisal report.
- 8. The agency that takes a leading role in the appraisal shall obtain comments from concerned agencies and prepare the appraisal report to submit to the competent authorities for approval. The appraisal report should be accompanied by a draft approval decision on the contents of the program or project.
- 9. The concerned agencies that participate in appraisal shall be responsible for the contents of the program or project with regards to their functions and duties in accordance with the legal regulation.

Article 17. Program or project appraisal dossier

The appraisal dossier consists of:

1. The written request for appraisal submitted by the Line Agency (with regards to the program or project which is subject to approval of the Prime Minister) or by Project Owner (with regards to the program or project which is subject to approval of the Line Agency);
2. Notification of the Ministry of Planning and Investment on Official ODA Funding List.
3. Program or project document (in both Vietnamese and foreign language, if any);

4. All the documents, responses and comments made by concerned agencies during the process of preparing the program or project, agreements and memorandum of understanding with the donor or representative of the donor, reports prepared by the appraisal team at the request of the donor (if any);
5. Financial reports of the Project Owner during the most recent three years with certification of the Line Agency (with regards to the program or project under domestic on-lending financial mechanism).

Article 18. *Contents, procedures and time frame for appraisal*

1. The contents, procedures and time frame deadline for appraisal of investment program or project shall comply with existing regulations on management of investment and construction.
2. The Ministry of Planning and Investment shall issue guidance on contents, procedures and time frame for appraisal with regards to technical assistance programs and projects.
3. The time frame for appraisal is 45 working days for investment programs and projects and 15 working days for technical assistance projects from the date of receipt of all required documents as stipulated in Article 17 of this Regulation.

Within 10 days from the date on which the program or project is approved by the competent authorities as specified in Article 19 of this Regulation, the Line Agency shall forward to the Ministry of Planning and Investment and the Ministry of Finance the appraisal report and the approval decision of the program or project (copies certified by Public Notary), enclosed by the program or project document which has been approved and affixed with stamps between its pages.

Article 19. *Approval authorities of ODA programs and projects*

1. The Prime Minister:
 - a) Decides the investment of nationally important programs and projects;
 - b) Approves programs and projects associated with the policy framework and technical assistance programs and projects in security and national defense sectors.
2. The Head of the Line Agency of the program or project makes investment decisions with regard to investment programs and projects and makes approval with regard to technical assistance programs and projects that are not referred to in Clause 1 of this Article.

Within 10 days from the date of receipt of the appraisal report from the agency that takes the leading role in appraisal, the Head of the Line Agency shall issue an

approval decision with regard to the programs and projects specified in Clause 2 of this Article.

Chapter IV

Conclusion of specific international agreements on ODA

Article 20. Basis for proposal to conclude specific international agreements on ODA

The basis for proposals to conclude specific international agreements on ODA is the program or project document which has been approved by the competent authorities as stipulated in Articles 13, 14, 15 and 19 of this Regulation.

Article 21. Responsibilities for proposals to the Government on the conclusion of specific international agreements on ODA

1. The People's Supreme Court, The People's Supreme Procuracy, Ministries, Ministerial-level Agencies, Agencies directly under the Government shall make proposal to the Government on the conclusion of specific international agreements on ODA for the programs and projects under their agencies, based on the proposal of the Project Owners.

Upon the request by the Line Agency, the State Bank of Vietnam shall take the leading role in coordination with concerned agencies to make proposal to the Government the conclusion of specific international agreements on ODA to be signed with those international financial institutions referred to in Clause 1 of Article 42 of this Regulation; the Ministry of Finance shall take the leading role in coordination with concerned agencies to propose to the Government the conclusion of specific international agreement on other ODA loans.

2. The responsibilities for making proposals to the Government on conclusion of specific international agreements on ODA for the programs and projects under those line agencies which are not specified under Clause 1 of this Article shall be undertaken by the Ministry of Planning and Investment, based on the proposal of the Line Agency of the ODA program or project.

Article 22. Processes, procedures for conclusion of specific international agreements on ODA

1. The processes and procedures for conclusion of specific international agreements on ODA shall be in accordance with existing legal regulations on the conclusion of, accession to and implementation of international agreements.
2. The agency that makes the proposal to the Government on conclusion of international agreements as prescribed under Clause 1 of Article 21 of this Regulation shall take the leading role in coordination with concerned agencies to

negotiate and execute specific international agreements on ODA after obtaining the written decision from the Government attorney.

3. After having obtained the written decision of the Government attorney on the negotiation and execution of a specific international agreement on ODA, the Ministry of Planning and Investment shall take the leading role in coordination with those line agencies that are not referred to under Clause 1 of Article 21 and other concerned agencies to negotiate and sign the specific international agreements on ODA for programs or projects in the sector relevant to that Line Agency.

Chapter V

Management of implementation of ODA programs and projects

Article 23. Tasks, Responsibilities and Authorities of Line Agencies

1. To ensure the program or project investment decision consistent with objectives, in conformity with master plan and plans, lawfulness and efficiency; to ensure the capability of cost recovery and repayment (with regards to on-lending ODA programs and projects); to ensure provision of sufficient counterpart funds in the schedule as agreed with the donor. To ensure that the technical assistance programs and projects reach the objectives of institutional and capacity building in their administration field.
2. To approve contents in the process of selecting contractors in accordance with the existing public procurement regulations;
3. To monitor and supervise the performance of the Project Owner during implementation of the program or project;
4. To set up and carry out measures in accordance with prevailing laws on prevention and fighting against corruption, wastefulness and improper use of funds which cause negative effects to the program or project objectives and the prestige of the country.
5. To be responsible in accordance with the legal regulations for violations of regulations on competence in the process of selection of Project Owner, appraisal, issuance of investment decisions, approval of technical assistance project documents as well as monitoring the implementation of the programs and projects;
6. To be responsible in accordance with the legal regulations for delays in implementation or for not conforming with the investment decision and approval decision on the document of the technical assistance program or project; for misdeeds in implementation process that cause loss, wastefulness and corruption.

7. Other authorities and responsibilities as regulated by the laws and regulations.

Article 24. Tasks, Responsibilities and Authorities of Project Owners

1. General tasks, responsibilities and authorities:

- a) To organize the management and implementation of programs and projects; to sign contracts in accordance with legal regulations; in the case of undertaking the direct management of the program or project, the Project Owner must ensure adequate and capable management resources and must receive permission from competent authorities and this should be included in the investment decision or approval decision of the program or project.
- b) To conduct appraisal and approval of technical design, total cost estimates and cost estimate of work items;
- c) To negotiate, sign, supervise the implementation of contracts and settle contract violation issues;
- d) To recommend to the Line Agency mechanisms and policies to ensure that the implementation of the program or project conforms with international commitments;
- đ) Other authorities and responsibilities as regulated by the laws and regulations.

2. Specific tasks, responsibilities and authorities:

- a) To organize bidding in accordance with existing public procurement regulations.
- b) To provide related information and documents to other contract parties and to consultants that formulate and implement the program or project; to be responsible for the legal basis and reliability of the information and documents provided ; to store program or project dossiers, documents and materials in conformity with legal regulations.
- c) To take full and continuous responsibility for management of utilization of investment funds through all stages of the investment cycle from preparing and implementing investment to bringing the program or project into operation, recovering the costs and repaying the ODA loan (if domestic on-lending mechanism applicable).
- d) To monitor and evaluate as well as to manage and operate the program or project.

- d) To take full responsibility for misdeeds in program or project management processes that cause negative impacts to the economy, society, environment and to the prestige of the country.

To be responsible by law, to make appropriate compensation for economic damages or to be subject to replacement of Project Owner in case of delays in implementation or for not conforming with the investment decision and approval decision on the document of the technical assistance program or project which cause loss, wastefulness and corruption, adverse effects to the overall objectives and efficiency of programs, projects.

- e) Other authorities and responsibilities as regulated by the law and regulations.
3. In the case of changing Project Owner, the new Project Owner will acquire all responsibilities, authorities and tasks of the preceding project owner, except the misdeeds caused by the preceding Project Owner.

Article 25: Establishment of Program or Project Management Unit (PMU)

1. Based on Clause 4 of this Article, the Project Owner shall issue a decision on the establishment of a PMU immediately after the program or project document is approved by the competent authority.
2. Based on Clause 4 of this Article, the Line Agency shall issue a decision on the establishment of the PMU for technical assistance programs or projects immediately after the document of technical assistance programs or projects is approved by the competent authority.
3. A Project Owner can employ consultants for project management in accordance with legal regulations.
4. The Ministry of Planning and Investment shall issue the Circular on Organizational Structure, Functions and Tasks of the PMUs.

Article 26: Counterpart fund for preparation of implementation and for implementation of programs and projects

1. Counterpart funds must be secured for preparation of implementation and for implementation of the programs and projects. The source, amount and mechanism of counterpart funding shall be conform with the approval decision of the Prime Minister to the ODA Request List as stipulated in Article 8 of this Regulation.
2. Counterpart funds for preparation of implementation and for implementation of the programs and projects may include the following expenditure items:

- a) Expenditure for program or project management unit (salary, bonus, allowance, office, working facilities, overhead cost, monitoring and evaluation, quality control, work-acceptance, hand-over, and finalization of payment);
 - b) Expenditure for design appraisal, approval of total cost estimate, finalization of investment and construction procedures as well as other necessary administrative procedures;
 - c) Expenditure related to selection of contractors;
 - d) Expenditure for meetings, seminars, training, professional training workshops on program or project management and implementation;
 - đ) Expenditure for acceptance and dissemination of international technologies, experiences and skills;
 - e) Expenditure for promotion and advertisement of program or projects and for community participatory activities;
 - g) Expenditure for domestic services and facilities provided to foreign contractors working under their contracts in Vietnam;
 - h) Expenditure for contracting organizations and individual consultants to conduct appraisal, monitoring and evaluation of the program or project.
 - i) Payment of indirect taxes, customs and insurance fees in accordance with existing regulations;
 - k) Payment for borrowing fees, deposits, commitment fees and other related fees made to the foreign side during the construction period;
 - l) Expenditure for acceptance of equipment and local transportation;
 - m) Expenditure for auditing;
 - n) Expenditure for implementation of some basic program or project activities (surveys, technical design, construction; compensation, site clearance and resettlement, construction of some work items, procurement of some equipment);
 - o) Expenditure for contingency and other reasonable expenditures.
3. With regard to programs and projects that have funds allocated from the State budget, the Line Agency is responsible for securing sufficient counterpart funds in the annual budget plan in accordance with existing legal regulations; for ensuring to provide sufficiently, timely counterpart funds on schedule as specified in the program or project document that was approved by competent authority, and in

accordance with the laws and regulations on State budget and international treaty on ODA in which the Socialist Republic of Vietnam is a signatory member.

4. With regard to program and project funds that are subject to domestic on-lending or partly on-lending financial mechanisms and partly allocated from the State budget, Project Owners shall be responsible for counterpart fund arrangements and shall fully justify the possibility and plan to secure the counterpart funds on their own before signing on-lending contracts. In this case, Project Owners can enjoy priority to borrow from various sources of State credit for their counterpart funds.

If encountering any unexpected difficulty in arranging the counterpart fund, the project owner shall report to the line agency to find a solution.

5. With regard to program and project funds that are subject to domestic financial mechanism of budget allocation, if their counterpart funds can not be allocated in a timely manner from the annual budget plan or if they have unexpected demand for counterpart funds, upon the written request from the Line Agency, the Ministry of Planning and Investment shall take the leading role in coordination with the Ministry of Finance to tackle this issue in accordance with their competency or submission to competent authorities for decision on advanced counterpart funds from the annual budget plan in the following year. The Line Agency is responsible for coordinating with concerned agencies for allocation of the estimated budget plan in the following year after refunding the advancement to the State budget.
6. The Line Agency is allowed to make adjustment of counterpart funds from the programs and projects that can not fully use their allocated counterpart funds to the programs and projects that have demands for counterpart funds that exceed the amount allocated from current annual budget plan.

Article 27: Advanced funding for program, project implementation

In the case where there is a need for advanced funding to implement some categories of the program or project, which is subject to domestic financial mechanism of State budget allocation and has been already committed by ODA funding and included in the annual financial plan but the ODA fund has not been withdrawn, the Ministry of Planning and Investment shall take the leading role in coordination with the Ministry of Finance to consider and make a decision on advancing the funds from the central State budget based on the written justification from the Line Agency and the written agreement of the donor. This fund will be collected by the State Treasury at different levels afterward when the ODA disbursement for these categories is made.

Article 28: Taxation to the programs, projects

Taxes applied to ODA programs and projects conform to existing taxation laws and regulations and land clearance and resettlement.

Article 29: Compensation, land clearance and resettlement:

1. Compensation, land clearance and resettlement for programs, projects are implemented in conformity with the existing laws and regulations and international ODA treaty to which the Socialist Republic of Vietnam is a signatory.
2. The application dossiers for compensation, land clearance and resettlement of the programs and projects shall include an official written commitment of the competent land clearance and resettlement authorities on progress and deadline for completion of compensation, land clearance and resettlement corresponding to the implementation schedule of respective bidding packages in the programs and projects.

Article 30: Tendering

The tendering for inputs required to implement programs and projects shall conform with existing laws and regulations on procurement and the international ODA treaties to which the Socialist Republic of Vietnam is a signatory.

Article 31: Adjustments, amendments and supplements of contents of the programs and projects during their implementation.

1. In the case where there are adjustments, amendments and supplements to contents of programs and projects during their implementation that lead to:
 - a) Modification in the signed specific international treaties on ODA: The Line Agency shall comply with the existing legal laws and regulations on the signing of, accession to and implementation of international treaties;
 - b) Changes in domestic financial mechanisms or in on-lending conditions applicable to the program or project: The Line Agency shall report to the Ministry of Finance and Ministry of Planning and Investment or submit to the Prime Minister for approval.
2. In the case where the donor has agreed on the use of budget savings after tendering with regards to ODA loan programs and projects (the budget savings are the balance between the total funding amount as specified in a signed international treaty on ODA and the total value of the bids from contractors that have been approved for selection):

- a) If such budget saving is used for implementation of the new program or project in prioritized direction to increase the effectiveness of the on-going program or project: The Line Agency shall submit the Ministry of Planning and Investment a justification report on its intention of using such budget saving with attachment of the program or project document. The Ministry of Planning and Investment shall then coordinate with the relevant agencies to consider and submit to the Prime Minister for making approval decision on using such budget saving;
- b) If such budget saving is used for supplementary work volume within the scope of the on-going program or project: The Line Agency shall make its own decision on the use of such budget saving.

Article 32: Management of Construction, Taking-receipt, Hand-over and finalization of payment

1. With regard to investment projects, the appraisal and approval of technical designs and total cost estimates, issuance of construction permits, control of construction quality, taking-receipt, hand-over, warranty and insurance of construction works shall comply with the existing laws and regulations on management of investment and construction.
2. With regard to technical assistance programs and projects, upon their completion, the Line Agency shall take receipt and take necessary measures to continue exploiting and making full use of achieved outcomes as well as to implement existing laws and regulations on financial and asset management of the project or program.
3. The finalization of payment of ODA programs and projects shall comply with the existing laws and regulations as well as the international treaties on ODA which are in effect in Vietnam.

CHAPTER VI

MONITORING AND EVALUATION OF ODA PROGRAMS AND PROJECTS

Article 33: Monitoring of Programs and Projects

Monitoring of ODA programs and projects is a regular and periodic activity to update all information relating to the performance the programs and projects; to classify and analyze the information; to initiate timely appropriate options to serve the need of decision-making of all management levels to ensure the programs and project to be implemented in line with program or project objectives, on schedule with good quality within their defined resources.

Article 34: Evaluation of Programs and Projects

1. Evaluation is a periodic activity with the aim to review the programs and projects in a comprehensive, systematic and objective manner in terms of their relevance, effectiveness, efficiency, impact and sustainability for making necessary adjustments and drawing lessons learnt which may apply to subsequent implementation stages and to other programs and projects.
2. Evaluation activities can be carried out on a periodic or ad-hoc basis (when necessary). The periodic evaluation shall be conducted in the four key stages as follows:
 - a) Initial evaluation: Being carried out immediately after the commencement of the programs and projects with the aim to review the actual “base-line” situation against the situation described in the approved program or project documents so that possible measures can be taken from the stage of preparing technical designs and detailed implementation plans;
 - b) Mid-term evaluation: Being carried out in the middle of the program or project implementation period with the aim to review the performance of the programs and projects from their commencement and to initiate necessary adjustments;
 - c) Terminal evaluation: Being carried out upon the completion of the programs and projects with the aim to review the results achieved, to have an overall assessment of the whole implementation process and to draw necessary lessons learnt as basis for preparation of the program or project completion reports;
 - d) Impact evaluation: Being carried out at a convenient time but not later than three years from the date when the programs and projects were put into operation with the aim to assess their efficiency, sustainability and socio-economic impacts compared to their initial objectives.
3. The plans, the organization for implementation and the funds allocated from ODA, counterpart fund resources or other sources to conduct evaluations of the programs and projects must be regulated and identified in the program or project documents and must be relevant to the nature of respective program or project types.

Article 35: Responsibilities for the Monitoring and Evaluation of Programs and Projects

1. Project Management Units are responsible for regular monitoring and evaluation of their program consistent with the following regulations:
 - a) The overall and detailed annual implementation plan with clear identification of resources available, progress of implementation, completion date, quality targets and criteria for accepting the outputs with regards to respective activities of the program or project forms the basis for monitoring and evaluation. The overall implementation plan shall be prepared by the Project

Management Unit within 3 months prior to the starting date of the program or project and must be approved by the Project Owner. The detailed annual plan shall be formulated upon the agreement with the donor and must be submitted to the Project Owner for approval in accordance with the schedule of making annual plans of the competent Line Agency.

- b) Establishing an internal information system; collecting and filing all information, data, records, documents, account books and vouchers of the program or project, reports of contractors, changes in relevant laws and policies of the State as well as the regulations of the donor related to the management of program or project implementation.
 - c) Preparing program or project progress reports as stipulated; providing and sharing information through the monitoring and evaluation systems at national, sectoral and local levels.
 - d) Hiring consultants to conduct initial, mid-term and terminal evaluations in line with the contents of the approved feasibility study or program or project document; acting as the focal point for coordinating with the donor or competent management authorities to evaluate the program or project.
2. The Project Owner is responsible for guiding, urging and supporting the Project Management Unit to monitor and evaluate the program or project. In the case where the Project Owner can not solve the problems and difficulties, it should report to competent authorities in a timely manner to seek a solution.
 3. The Project Owner is responsible for publicizing the objectives, contents of activities, scale of ODA and counterpart funds of the program or project, the organizational structures and operation regulations of the Project Management Unit to the political and social organizations, local government agencies and local councils where the program or project is implemented with the aim to engage the supervision of the community during the course of program or project implementation.
 4. The Line Agency is responsible for monitoring the implementation of programs and projects under its administration authority; providing adequate and timely feedback based on the reports of the Project Owner; making analysis at portfolio level for benchmarking performance.
 5. The Line Agency is responsible for reviewing the evaluation results of programs and projects carried out by the Project Owners under its administration authority. When necessary, the Line Agency shall coordinate with donor and related agencies to organize ad-hoc evaluations of the programs and projects.
 6. The Ministry of Planning and Investment shall take the leading role in coordination with other ODA State management agencies, based on its roles and responsibilities as specified in Chapter VII of this Regulation, to make assessment on the capacity of management for implementation of programs and projects in the Line Agencies and to monitor and evaluate the programs and projects at the national level.

The Ministry of Planning and Investment is responsible for giving feedback to the evaluation reports of the line agencies in order to make continuous improvement in management and implementation of ODA resources.

If necessary, the Ministry of Planning and Investment shall take the leading role in coordination with the Ministry of Finance, relevant ministries and local authorities to set up inter-ministerial missions to work directly with the Project Owners and Project Management Units to review, evaluate and respond in its authority to the recommendations relating to the specific program or project. Where recommendations are beyond its authority, the Ministry of Planning and Investment shall collect all comments and opinions from the relevant agencies and report to the Prime Minister for consideration and decision.

7. The Ministry of Planning and Investment shall take the leading role in coordination with the relevant authorities and the donors to develop a national database on ODA to support monitoring and evaluation of ODA programs and projects as well as to meet the demand for information about ODA.
8. The General Statistics Office shall take the leading role in coordination with the Ministry of Planning and Investment to develop and aggregate periodic statistical indicators on receipt and utilization of ODA and reflect them to the national statistics system on status of socio-economic development.

Article 36: Report on the Implementation of Programs and Projects

1. During the implementation of a program or project, the Project Management Unit shall prepare and submit the following reports to the Project Owner for reporting to the Line Agency, the Ministry of Planning and Investment, the Ministry of Finance and Provincial Peoples' Committee where the program or project is implemented:
 - a) Monthly reports shall be submitted no later than ten (10) days after the end of each month (applicable only to ODA-funded investment programs and projects approved by the Prime Minister);
 - b) Quarterly reports shall be submitted no later than fifteen (15) days after the end of each quarter;
 - c) Annual reports shall be submitted no later than the 31st day of January of the subsequent year;
 - d) Completion reports shall be submitted no later than six (6) months after the completion of the program or project;
 - e) Reports on changes (if any) against the contents of the signed specific international treaties on ODA.

Reports to the donors shall make in accordance with the agreements in the related international treaties on ODA.

2. No later than twenty (20) days after the end of the quarter, the Line Agency shall submit to the Ministry of Planning and Investment and the Ministry of Finance a

- consolidated report on ODA mobilization results and assessment of the implementation status of the programs and projects under its administration authority.
3. The Ministry of Planning and Investment shall submit to the Prime Minister 6-month and annual comprehensive reports on the national ODA attraction and utilization.
 4. The Ministry of Planning and Investment shall take the presiding role in coordination with the relevant agencies to provide guidelines on reporting regime as well as unified reporting formats for ODA; to gradually harmonize the reporting formats with donors; to supervise the enforcement of reporting regime at all levels and to periodically report to the Prime Minister on the status of reporting enforcement.

Article 37: Examination, Inspection and Supervision of Receipt, Management and Utilization of ODA resources

The examination, inspection and supervision of receipt, utilization and management of ODA resources shall be implemented in conformity with the existing laws and regulations.

CHAPTER VII STATE MANAGEMENT OF ODA

Article 38: *State management of ODA*

The Government performs the unified State management of ODA in the following areas:

1. Making decisions on the strategies, policies, master plans, orientations for the ODA attraction and utilization in given periods; empowerment to the Prime Minister to approve the ODA Requesting Lists and amendments, supplements of the List (if any).
2. Promulgation of legal documents on ODA management and utilization in accordance with its authorities.
3. Macro-level management and utilization of ODA execution.

Article 39. Responsibilities of the Ministry of Planning and Investment

The Ministry of Planning and Investment assists the Government to perform the unified State management of ODA and has the following responsibilities and authorities:

1. Acting as the focal point agency in ODA attraction, coordination and management; taking the leading role in formulating strategies, policies, master

- plans on ODA attraction and utilization; providing guidance to the Line Agencies on setting up their ODA Requesting Lists and consolidating these lists to the ODA Requesting List to submit to the Prime Minister for approval.
2. Taking the leading role in drafting, submitting for promulgation, or promulgating legal documents on ODA management and utilization in accordance with its authorities.
 3. Taking the leading role in preparing contents, organizing the mobilization and coordination of ODA sources in accordance with its authorities.
 4. Taking the leading role in coordination with concerned agencies to submit to the Government on the signing and negotiation of specific international treaties on ODA for programs and projects as stipulated in Article 21 of this Regulation.
 5. Providing guidance to concerned agencies and organizations in formulation of programs and projects; taking the leading role in coordination with the Ministry of Finance to define the domestic financial mechanism for ODA resources.
 6. Providing assistance to concerned agencies in preparation of contents and in monitoring the negotiation process of specific international treaties on ODA with donors.
 7. Taking the leading role in coordination with the Ministry of Finance in synthesizing and making ODA disbursement plans, allocating timely and sufficiently the funds for preparation of programs and projects as well as the counterpart funds for preparation of implementation and implementation of programs and projects which are subject to the domestic financial mechanism of State budget allocation in the annual budget plans.

Taking the leading role in coordination with the Ministry of Finance to deal with ad-hoc requirements for counterpart funds and advanced funds of the programs and projects as stipulated in Clause 5 of Article 26 and in Article 27 of this Regulation.

8. Monitoring and inspecting the management and organization for implementation of the programs and projects, urging and assisting the implementation of ODA programs and projects.

Establishing, operating and overseeing quality of the national monitoring and evaluation system for ODA programs and projects, sharing information with relevant agencies and donors, and effectively using the system.

9. Conducting overall evaluation on the effectiveness of ODA utilization; preparing periodical (biannual, annual) and ad-hoc reports as well as reports at special requests from the Party and the State on management and implementation of

ODA programs and projects, and on the efficiency of ODA attraction and utilization.

10. Acting as the focal point agency in solving issues that relate commonly to line ministries; making proposals to the Prime Minister for measures of settlement of ODA related issues in accordance with the authorities of the Prime Minister.
11. Compiling and disseminating technical guidelines on the mobilization, preparation, appraisal, management of implementation, monitoring and evaluation of ODA programs and projects in consideration with harmonization requirements with donors; providing assistance in training on management of programs and projects in professional and sustainable directions.
12. Taking the leading role in implementing synchronized measures to improve the effectiveness of ODA management and utilization.

Article 40. Responsibilities of the Ministry of Finance

The Ministry of Finance has the following responsibilities and authorities:

1. Coordinating with concerned agencies to formulate strategies and master plans for ODA mobilization and utilization, and to coordinate ODA resources; providing guidance on preparation of ODA programs and projects with respect of conditions on using funds, financial management, analysis and assessment of effectiveness of ODA utilization;
2. Preparing contents of negotiation on ODA loan programs and projects with the donors; proceeding negotiation on specific international treaties on ODA loans under the authorization of the Prime Minister as stipulated in Clause 1 of Article 21 of this Regulation;
3. Officially representing the State or the Government of the Socialist Republic of Vietnam as the “Borrower” in specific international treaties on ODA loans, even in the cases where the Prime Minister authorizes another agency to chair negotiations for those specific international treaties;
4. Exercising the financial management of ODA programs and projects:
 - a) Taking the leading role in coordination with concerned agencies to provide guidance on regulations of financial management of ODA programs and projects;
 - b) Taking the leading role in coordination with the Ministry of Planning and Investment and concerned agencies to submit to the Prime Minister for approval of domestic on-lending conditions applicable to ODA programs and projects;

- c) Issuance of specific regulations on procedures for withdrawal and management of the funds applicable to ODA programs and projects based on the existing laws and regulations and other regulations in the international treaties on ODA which have been signed with the donors;
- d) Taking the leading role in providing guidance on the application of tax policies applicable to ODA programs and projects; solving the problems relating to taxes;
- đ) Allocating State budget and other funding sources (if any) for repayment of borrowed funds due on ODA loans;
- e) Monitoring and supervising the financial management in ODA utilization, organizing State budget accounting of ODA resources, consolidating the data on withdrawal of the funds, financial settlement and repayment for ODA loan programs and projects; reporting such data to the Prime Minister and keeping relevant agencies well informed of such data;
- g) Coordinating with the Ministry of Planning and Investment in synthesizing and preparing ODA disbursement plans; allocating sufficient funds in a timely manner for program or project preparation, counterpart funds for preparation of implementation and for implementation of the programs and projects that are subject to domestic financial mechanism of State budget allocation in annual budget plans; coordinating with the Ministry of Planning and Investment in dealing with ad-hoc requirements for counterpart funds and advanced funds of the programs and projects as stipulated in Clause 5 of Article 26 and in Article 27 of this Regulation;
- h) Making arrangements for on-lending and recovering on-lent funds from the programs and projects that are subject to the domestic financial mechanism of on-lending form.

Article 41. Responsibilities of the Ministry of Justice

The Ministry of Justice has the following responsibilities and authorities:

1. Appraising international treaties on ODA in accordance with the law on the signing, joining and implementation of international treaties;
2. Providing legal opinions on international treaties on ODA or on other legal matters at the request of agencies proposing the signing of international treaties;
3. Appraising the contents of cooperation projects in the legal sector in accordance with existing laws and regulations.

Article 42. Responsibilities of the State Bank of Vietnam

The State Bank of Vietnam has the following responsibilities and authorities:

1. Coordinating with relevant agencies in preparing contents of the negotiation; conducting the negotiation on specific international treaties on ODA with international financial institutions: The World Bank (WB), the International Monetary Fund (IMF), the Asian Development Bank (ADB) upon the authorization of the Prime Minister; transferring funds and all relevant information relating to ODA programs and projects to the Ministry of Finance after such specific international treaties on ODA come into effect, except the loan agreements with the IMF;
2. Coordinating with the Ministry of Finance in defining and announcing the list of commercial banks qualified to be authorized to undertake external transactions for ODA funds, and conduct on-lending and recovery of loan repayments for the State budget if necessary;
3. Consolidating periodically (on biannual and annual basis) and reporting to the Ministry of Finance, the Ministry of Planning and Investment and concerned agencies on the situation of the fund withdrawal and payments through bank accounts opened for ODA programs and projects.

Article 43: Responsibilities of Ministry of Foreign Affairs

The Ministry of Foreign Affairs has the following responsibilities and authorities:

1. Coordinating with relevant agencies in formulating and implementing policies and orientation in ODA mobilization as well as the partnership policies based on the common foreign policies; participation in ODA mobilization.
2. Taking part in negotiation, providing comments on the draft international treaties on ODA; checking the proposals on negotiation and signing of the international treaties on ODA; carrying out external procedures on the signing and implementation of international treaties on ODA.
3. Taking the leading role in coordination with the Ministry of Planning and Investment to give instruction to Vietnamese diplomatic representative offices overseas to carry out ODA mobilization in accordance with the master plans and plans of ODA mobilization and utilization in given periods.

Article 44: Responsibilities of the Office of Government

The Office of Government has the following responsibilities and authorities:

1. Assisting the Government and the Prime Minister in leading, directing and executing the unified State management on ODA.
2. Providing comments on the content of programs and projects during their preparation process at the request of the Line Agencies or the Project Owners;

- appraising and making recommendations on policies, mechanisms and organization for implementation of programs and projects before submitting to the Government, the Prime Minister for consideration and approval.
3. Assisting the Government and the Prime Minister in oversee and urge implementation of this Regulation.

Article 45: Responsibilities of Line Ministries and Provincial People's Committees

1. The line ministries, the ministerial-level agencies, agencies directly under the Government have the following responsibilities and authorities:
 - a) Coordinating with the Ministry of Planning and Investment and concerned agencies in formulating strategies and orientation in ODA mobilization and utilization; formulating policies, measures to coordinate and improve the effectiveness of ODA utilization in the areas in their charge;
 - b) Taking the leading role in coordination with relevant agencies to submit to the Government on the signing of specific international treaties on ODA for programs and projects in the areas in charge in accordance with regulations specified in this Regulation;
 - c) Securing the quality and effectiveness of ODA utilization in the areas in their charge;
 - d) Exercising the functions of the State management on programs and projects in conformity with existing laws and regulations. On request, being responsible for reviewing and having written comments on issues relating to programs and projects in the specified time frame.
2. The Provincial People's Committees have the following responsibilities:
 - a) Coordinating with the Ministry of Planning and Investment, related line ministries and agencies in formulating strategies and orientation in ODA mobilization and utilization; formulating policies, measures to coordinate and improve the effectiveness of ODA utilization in the location of the cities and provinces.
 - b) Coordinating with the Ministry of Planning and Investment to submit to the Government the signing of specific international treaties on ODA for programs and projects in the areas in charge in accordance with regulations specified in this Regulation;
 - c) Securing the quality and effectiveness of the ODA utilization under the direct management and implementation of the local authorities;

- d) Being responsible for land acquisition, site clearance, implementation of compensation and resettlement policies for programs and projects located in the location in accordance with the existing laws and regulations.

Article 46: Reward and Violation Treatment

1. Organizations and individuals having effective performance of this Regulation shall be rewarded according to the Law on Emulation and Reward.
2. Organizations, individuals acting against this Regulation shall be treated in accordance with the prevailing legal regulations depending on the nature and level of violations.

On behalf of the Government

Prime Minister

Nguyen Tan Dung