

No. 01/2015/TT-BKHDT

Hanoi, 14 February 2015

CIRCULAR

**Detailing the preparation of Requests for expression of interest, Bidding documents,
Dossiers of requirements for consultancy service**

Pursuant to the Bidding Law No. 43/2013/QH13 dated November 26, 2013;

Pursuant to Clause 2, Article 127 of the Decree No. 63/2014/ND-CP dated June 26, 2014 by the Government detailing the implementation of a number of articles of the Bidding Law regarding the selection of bidders;

Pursuant to the Decree No. 116/2008/ND-CP dated November 14, 2008 by the Government defining functions, duties, powers and organizational structure of the Ministry of Planning and Investment;

The Minister of Planning and Investment hereby issues the Circular detailing the preparation of Requests for expression of interest, Bidding documents, Dossiers of requirements for consultancy service.

Article 1. Governing scope and applicable entities

1. Governing scope

This Circular details the preparation of Requests for expression of interest, Bidding documents, Dossiers of requirements for consultancy service bidding packages governed by the Bidding Law No. 43/2013/QH13. For consultancy service bidding packages included in projects using Official Development Assistance (ODA) capital, soft loan arising from international treaties, international agreements between Vietnam and sponsors, Sample request for expression of interest, Sample bidding documents, Sample dossier of requirements promulgated with this Circular are applied with prior consent of sponsors or it is possible to amend and/or supplement several contents according to bidding regulations of international treaties, international agreements between Vietnam and such sponsors.

2. Applicable entities

Organizations and individuals that are involved in or related to bidder selection activities for consultancy service bidding packages prescribed in Clause 1 of this Article.

Article 2. Application of sample request for expression of interest, bidding document, dossier of requirements for provision of consultancy services

1. In case of open bidding with short listing, sample request for expression of interest and sample bidding document promulgated with this Circular are applied.

2. In case of open bidding without short listing or limited bidding, Sample bidding document promulgated with this Circular are applied.

3. In case of no-bid contract awarding, Sample dossier of requirements promulgated with this Circular are applied.

4. When applying Sample request for expression of interest and Sample bidding document, organizations and individuals shall set out requirements based on the size and nature of bidding package and market conditions on the basis of ensuring principles of competitiveness, equitableness, transparency and economic efficiency and effectiveness; not set forth conditions with the intent of limiting the involvement of bidders or creating advantages for one or several bidders, leading to unfair competition.

In Sample request for expression of interest, Sample bidding document, Sample dossier of requirements, *italics* represents instructions and illustrations and shall be concretized by users based on the size and nature of bidding packages. In case any amendment, supplement is made to the *non-italicized* text of such sample documents, organization and individuals composing requests for expression of interest, bidding documents, dossiers of requirements must ensure that such amendment, supplement are not in contravention of legal regulations on bidding; project owners must take legal responsibility for such amended, supplemented contents.

5. In applying Sample bidding document, dossier of requirements, in specific circumstances where it is necessary to apply fixed unit price contracts, variable unit price contracts, project owners and procuring entities shall base on the provisions of the Bidding Law No. 43/2013/QH13, the Decree No. 63/2014/ND-CP for appropriate application.

6. For consultancy service bidding packages using state capital aimed at maintaining regular operations of state agencies, political organizations, socio-political organizations, socio-political and professional organizations, socio-professional organizations, social organizations, units under people's armed forces, public non-productive units as prescribed in Point d Clause 1 Article 1 of the Bidding Law No. 43/2013/QH13, in applying Sample request for expression of interest, Sample bidding document, Sample dossier of requirements, it is necessary to replace the term “project owner” with the term “procuring entity”, as appropriate.

Article 3. Contracts

Contracts signed among project owners and bidders must be compliant with Sample contracts prescribed in Bidding documents, Dossiers of requirements. Project owners may, based on the size and nature of bidding packages, supplement related terms and conditions in such contracts according to specialized legal regulations but shall ensure logicity, consistency and

uniformity of the entire contracts, avoiding restricting rights of project owners and reducing obligations of consultancy contractors.

Article 4. Implementation guidelines

1. This Circular shall take effect from April 15, 2015. This Circular replaces the Circular No. 06/2010/TT-BKH dated March 09, 2010 by the Ministry of Planning and Investment detailing the preparation of bidding documents for provision of consultancy services and the Circular No. 09/2011/TT-BKHDT dated September 07, 2011 by the Ministry of Planning and Investment detailing the preparation of dossiers of requirements for consultancy contractor appointments.

2. Ministries, ministerial-level agencies, Governmental bodies, other central bodies, People's Committees at all levels and related organizations and individuals shall be responsible for implementing this Circular. In the implementation process, Ministries, ministerial-level agencies, Governmental bodies, other central bodies, People's Committees at all levels and related organizations and individuals are requested to report any difficulty, if any, to the Ministry of Planning and Investment for timely consideration and modification./.

Minister Bui Quang Vinh

(signed)