

CIRCULAR No. 05/2004/TT-BXD OF SEPTEMBER 15, 2004: Providing guidance on procedures for, and management of, the grant of contracting licenses to foreign contractors operating in the construction domain in Vietnam

In furtherance of Article 10 of the Regulation on management of operations of foreign contractors in the domain of construction in Vietnam, issued together with the Prime Minister's Decision No. 87/2004/QĐ-TTg of May 19, 2004; in order to perform its function of State management over construction prescribed in the Government's Decree No. 36/2003/NĐ-CP of April 4, 2003, the Ministry of Construction hereby guides the procedures for, and management of, the grant of contracting licenses to foreign contractors operating in the domain of construction in Vietnam as follows:

1. Dossiers of application for contracting licenses, applicable to organizations:

Contractors shall submit 01 set of originals and 02 sets of copies to agencies granting the contracting licenses, each dossier set includes:

- a/ An application for contracting license made according to set form;
- b/ A copy of the document on the bidding result or the decision on selection of contractor or lawful contract.
- c/ Copies of the establishment license and the company's charter (or the business registration certificate of organizations) and the professional practice certificate granted by the country of which the foreign contractor bears the nationality.
- d/ The report on experiences in construction activities related to the contracted job, made according to a set form and the audited financial report for the latest 3 years (for cases where the contractors undertaking bidding packages not subject to the compulsory application of the provisions of Vietnamese bidding legislation).
- e/ The partnership contract with a Vietnamese contractor or the written commitments to employ Vietnamese sub-contractors to perform the contracted work (already included in the bids or bidding dossiers).
- f/ The lawful authorization letter, for persons other than the contractor's representative at law.

Applications for contracting licenses must be made in Vietnamese. For cases of applying for contracting licenses for the first time, other foreign papers and documents must be consularly legalized (except otherwise provided for by Vietnamese laws or international treaties which Vietnam has signed or acceded to). Papers and documents in foreign languages must be translated into Vietnamese and the translations must be notarized or authenticated according to Vietnamese laws.

For dossiers of application for contracting licenses arising in 3 consecutive years, such dossiers shall include only documents prescribed in Items a, b and e, Point 1 of this Circular.

2. Dossiers of application for contracting licenses, applicable to individuals engaged in construction and investment consultancy

Contractors shall submit 01 set of originals and 02 sets of copies to the agency granting the contracting licenses, such a dossier set includes:

- a/ An application for contracting license, made according set form.

b/ A copy of the document on bidding results or the decision on selection of contractor or lawful contract.

c/ A copy of the operation license or consultancy practice certificate granted by the country of which the contractor bears the nationality and a copy of his/her passport.

d/ Personal professional records (self-declared), enclosed with copies of the contracts on related jobs they have performed during the latest 3 years.

Applications for contracting licenses must be made in Vietnamese. For cases of applying for contracting licenses for the first time, other foreign papers and documents must be consularly legalized (except otherwise provided for by Vietnamese laws or international treaties which Vietnam has signed or acceded to). Papers and documents in foreign languages must be translated into Vietnamese and the translations must be notarized or authenticated according to Vietnamese law.

For dossiers of application for contracting licenses arising in 3 consecutive years, such dossiers shall include only documents prescribed in Items a and b, Point 2 of this Circular.

3. Competence to grant and withdraw contracting licenses:

a/ The Ministry of Construction shall grant and withdraw contracting licenses of foreign contractors being organizations undertaking bidding packages of Group A-projects and other bidding packages involving two or more provinces.

b/ The provincial/municipal Construction Services shall grant and withdraw contracting licenses of foreign contractors being organizations undertaking bidding packages of Group B- or C-projects in their localities and foreign contractors being individuals providing construction and investment consultancy in localities where the projects are carried out or where projects' investors register their head-offices.

c/ Contracting licenses to be granted to contractors being organizations and individuals shall be made according to set forms.

4. Provisions on reporting:

a/ Biannually, foreign contractors shall send to agencies granting the contracting licenses reports on the implementation of contracts, made according to a set form.

b/ Biannually, the provincial/municipal Construction Services shall send to the Ministry of Construction reports on the grant of contracting licenses and operation of foreign contractors in their respective localities, made according to a set form.

5. Implementation organization

1. This Circular replaces the provisions of Section III of the Construction Ministry's Circular No. 16/2000/TT-BXD of December 11, 2000 on the management of foreign contractors, and takes effect 15 days after its publication in the Official Gazette.

2. The concerned agencies, organizations and individuals shall have to guide and implement this Circular. Any problems arising in the course of implementation should be reported to the Ministry of Construction for settlement.