

## DECREE

### On management and use of official development assistance (ODA) and concessional loans granted by foreign donors

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

*Pursuant to the Law on State Budget dated June 25, 2015;*

*Pursuant to the Law on Bidding dated November 26, 2013;*

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

*Pursuant to the Law on Investment dated November 26, 2014;*

*Pursuant to the Law on Environmental Protection dated June 23, 2014;*

*Pursuant to the Law on International Treaties dated April 09, 2016;*

*Pursuant to the Law on Public Debt Management dated November 23, 2017;*

*Pursuant to the Law on Public Investment dated June 13, 2019;*

*In considering the proposal of the Minister of Planning and Investment;*

*The Government hereby promulgates a Decree on management and use of official development assistance (ODA) and concessional loans granted by foreign donors.*

## Chapter I. GENERAL PROVISIONS

### Article 1. Governing scope

This Decree provides for management and use of official development assistance (ODA) and concessional loans granted by foreign governments, international organizations, inter-government or international organizations, governmental organizations authorized by foreign governments (hereinafter referred to collectively as foreign donors) to the State or Government of the Socialist Republic of Vietnam.

### Article 2. Regulated entities

This Decree applies to agencies, organizations, and individuals that participate in or are related to the management and use of ODA and concessional loans granted by foreign donors and counterpart funds of Vietnam.

### Article 3. Interpretation of terms

For the purpose of this Decree, the following terms are construed as follows:

1. "Steering Committee" means an organization established by the managing agency of the program/project funded by ODA or concessional loans (hereinafter referred to as "program/project", composed of authorized representatives from concerned agencies and responsible for directing, cooperating, and supervising the execution of the program/project. Where necessary, under an agreement with the foreign donor, the Steering Committee may include representatives of the foreign donor.

2. "Management Unit of foreign aid program/project funded by ODA and concessional loans" (hereinafter referred to as "Project Management Unit") means an organization established to help the managing agency, project owner to perform one or a number of programs/projects.
3. "Program" means a series of activities and projects funded by ODA and concessional loans that are interrelated and might be related to one or some fields, disciplines, territories, or subjects with an aim of achieving one or some predetermined objectives and is executed in one or several phases.
4. "Program associated with a policy framework" means a program that has conditions for disbursement of ODA and concessional loans of the foreign donor associated with the commitment of Vietnam's government to building and implementing policies, regulations, solutions for socio-economic development in accordance with a given scale and schedule agreed among the parties.
5. Regional and global programs and projects (hereinafter collectively referred to as "regional program/project") are programs and projects funded on a global scale or for a group of countries belonging to one or multiple regions to implement collaborative activities aimed at achieving the objectives identified for the benefit of the parties as well as the common interests regionally or globally. Vietnam's participation in such program/project might be in either of the following forms:
  - a) Participation in one or some activities designed by the foreign donor in the regional program/project;
  - b) Executing operations for which aids are provided for Vietnam in order to develop and execute the program/project within the framework of the regional program/project.
6. "Sectoral approach program" means a program funded by ODA or concessional loans in which the foreign donor provides assistances according to the development program of an industry or sector in order to ensure concerted, sustainable and effective development of such industry or sector.
7. "Managing agency" of a program/project funded by ODA and concessional loans means the central agency of a political organization, the Supreme People's Procuracy, the Supreme People's Court, an agency of the National Assembly, State Audit of Vietnam, Office of the President, a Ministry, ministerial agency, Governmental agency, provincial/municipal People's Committee of a province/centrally-administered city (hereinafter referred to collectively as "provincial people's committee"), central agency of the Vietnamese Fatherland Front and of a socio-political organization, socio-political-professional organization, social organization or socio-professional organization authorized by a competent state agency or other organizations entrusted with a public investment plan containing a program/project funded by ODA and concessional loans.
8. The owner of a program/project funded by ODA or concessional loan is an entity assigned by the managing agency to directly manage or co-implement the program or project.
9. "Domestic financial mechanism" means regulations on the use of ODA and concessional loans from the state budget for the program/project, including:
  - a) Full grant of 100% of the loan proceeds;
  - b) Partial on-lending at a predetermined rate;
  - c) Full on-lending;
  - d) On-lending method: Bear credit risk or not bear credit risk.
10. Technical assistance project means a project targeting at supporting policy research, institutions, professional activities and capacity building through supplying domestic and international experts, providing training, supplies, materials and documents, domestic and international study tours and workshops, procuring certain equipment and building some showcase models. Technical assistance projects include independent technical assistance projects and technical assistance projects to prepare investment projects.
11. Program/project proposal means a document describing the context, necessity, objectives, extent, main results, projected time of implementation, projected total fund and fund structure, general assessment of socio-economic effectiveness, environmental impacts (if any), proposed domestic financial mechanism, debt repayment options, and impacts on medium-term public investment plan of the managing agency, serving as a basis for the competent authorities to decide on the permission for the elaboration of the Report on investment policy proposal or the Pre-feasibility Study Report.
12. "International treaty on ODA and concessional loans" means an international treaty stipulated under the Law on International Treaties on the receipt, management, and use of ODA and concessional loans, which is either:

- a) “Framework international treaty on ODA and concessional loan” means an international treaty related to the cooperation strategy, policy and framework, priority fields; principles and conditions to be complied with in the ODA and concessional loan provision and use; ODA and concessional loan commitments for one year or multiple years, and other contents as agreed upon by the signatories;
- b) “A specific international treaty on ODA and concessional loan” means the one specifically related to the objectives, activities, duration, targeted outcomes, conditions for assistance, capital, fund structure, financing terms and repayment schedule; mechanism for management, duties and entitlements of the parties to management and implementation of the program/project funded by ODA and concessional loans, and other contents agreed by its signatories.
13. “Agreement on ODA and concessional loan” means a written agreement on ODA and concessional loan signed in the name of the Government of the Socialist Republic of Vietnam, which is not an international treaty, including:
- a) “Framework agreement” means an agreement related to the cooperation strategy, policy and framework, priority fields; principles and conditions to be complied with in the ODA and concessional loan provision and use; ODA and concessional loan commitments for one year or multiple years, and other contents as agreed upon by the signatories;
- b) “A specific agreement” means an agreement on ODA and concessional loan related to the objectives, activities, duration, targeted outcomes; conditions for assistance, capital, fund structure, financial requirements and repayment schedule; mechanism for management, duties and entitlements of the parties to management and implementation of the program/project funded by ODA and concessional loans, and other contents as agreed upon by the signatories.
14. “Budget support” means a method of ODA and concessional loan provision that transfers the ODA and concessional loan directly to state budget, which will be managed and used in accordance with state budget regulations and procedures in order to achieve set objectives under the agreement with the foreign donor, including general budget support and targeted budget support.
15. Service bank means a bank selected by the user (Project owner) for projects funded by ODA and concessional loans, based on the State Bank of Vietnam’s opinions on banks eligible to become the service bank.
16. Non-project assistance means individual ODA grants and does not constitute a specific project, which are provided in cash or in kind, goods, or experts to organize conferences, seminars, training, research, and surveys.
17. Decision on implementation policy for a technical assistance project or a non-project assistance funded by ODA grants (hereinafter referred to as “Decision on Implementation Policy”) is a written decision by the Prime Minister on the implementation policy on a technical assistance project or non-project assistance, including these key details: names of the project or non-project assistance and foreign donors or co-donors; name of the managing agency; objectives; total fund serving as a basis for the managing agency to coordinate with foreign donors in approving the Documents of the technical assistance projects or non-project assistances.
18. “Document of a technical assistance project or a non-project assistance funded by ODA grants” (hereinafter referred to as “Project Document”) means a document presenting the context, necessity, objectives, contents, principal activities, results, duration, economic, social and environmental effectiveness, total fund, funding sources and structure, other resources, funding methods, conditions of foreign donors (if any), arrangements for management and implementation approved by the managing agency, serving as a basis for the implementation of technical assistance projects and non-project assistance.
19. “ODA and concessional loan” means capital provided by a foreign donor for the State or Government of the Socialist Republic of Vietnam to assist in development, assurance of welfare and social security, which is either:
- a) ODA grants which are ODA with no obligation for repayment to the foreign donor;
- b) “ODA loan” is a foreign loan with the grant elements accounting for at least 35% of the value of a binding loan involving the procurement of goods and services in accordance with the donors’ regulations, or for at least 25% of the value of a non-binding loan. The method of calculating the grant elements is provided in Appendix I of this Decree;
- c) “Concessional loan” is a foreign loan under more concessional conditions comparing to commercial loans, but the grant elements have yet reached the standard of ODA loans prescribed at Point b of this Clause.
20. “Counterpart fund” means capital provided by Vietnam (in cash or in kind) in the program/project funded by ODA and concessional loan in order to prepare and execute the program/project. Counterpart fund is provided by central government budget, local government budget, project owner, or contributed by the beneficiaries, or from other lawful funding sources.

21. Mixed capital is capital combined from various sources of ODA and concessional loans with different levels of concession to increase the grant element of loans for the programs and projects.

#### **Article 4. Methods for provision of ODA and concessional loans**

Methods for provision of ODA and concessional loans include:

1. Program.
2. Project.
3. Non-project.
4. Budget support.

#### **Article 5. Priority uses of ODA and concessional loans**

1. ODA grants shall be prioritized for use to implement socio-economic infrastructure and capacity building programs/projects; formulate policies, institutions and reforms; prevent, combat, and mitigate the risk of natural disasters, and adapt to climate change, ensure social security, prepare investment projects or co-finance projects using concessional loans to increase the grant elements of the loan.
2. ODA loans shall be prioritized for programs and projects in the fields of health, education, vocational education, climate change adaptation, environment protection, essential economic infrastructures with no direct cost recovery possibility.
3. Concessional loans are prioritized for on-lending programs and projects in accordance with the Government's regulatory provisions on on-lending of foreign ODA and concessional loans; programs and projects funded by the state budget in the field of socio-economic infrastructure development.
4. Other priority cases shall comply with the Prime Minister's decision on the orientations to attract, manage and use foreign donors' ODA and concessional loans from time to time.

#### **Article 6. Contents and basic rules for state management of ODA and concessional loans**

1. Scope of state management for ODA and concessional loans:

- a) Formulate, promulgate and organize the implementation of legislative documents on management and use of ODA and concessional loans;
- b) Formulate and implement Proposals for attracting, managing, and using ODA and concessional loans in each stage to facilitate the implementation of 5-year socio-economic development plans; as well as policies to effectively manage and use such funding sources;
- c) Supervise and provide information about management and use of ODA and concessional loans;
- d) Monitor, evaluate, and inspect the management and use of ODA and concessional loans according to the regulatory provisions.

2. Basic rules for state management of ODA and concessional loans:

- a) ODA and concessional loans shall be used to finance capital expenditures only, and are not available for recurrent expenditures. Foreign loans must not be used to pay taxes, fees, and interest expenses on loans or purchase cars (except for specialized cars decided by competent authorities), reserve supplies and equipment for operation phase after the project is completed; site clearance expenses, or operating expenses of the Project Management Unit;
- b) The Government shall unify state management of ODA and concessional loans to ensure effective use of capital and repayment capacity, decentralization associated with accountability, power, managerial capability of Ministries, central and local agencies; ensuring coordinated management, supervision and evaluation of concerned agencies in accordance with applicable laws;
- c) Ensure information disclosure and transparency; promote accountability in terms of policies, procedures for raising, managing, and using ODA and concessional loans among industries, sectors, and localities; and the effectiveness of using ODA and concessional loans;
- d) Disclose information about cooperation policies, priority fields of foreign donors on the Government's web portals ([chinhphu.vn](http://chinhphu.vn); [mpi.gov.vn](http://mpi.gov.vn); [mof.gov.vn](http://mof.gov.vn) ; [mofa.gov.vn](http://mofa.gov.vn));

- đ) Prevent and combat corruption, losses, and wastefulness in management and use of ODA and concessional loans in accordance with law;
- e) Methods of determining capital expenditures funded by the state budget: Capital expenditures are determined in compliance comply with the provisions of the Law on Public Investment, Law on State Budget, Law on Construction and other relevant legal documents.

#### **Article 7. Principles of applying domestic financial mechanism for ODA and concessional loans**

1. For programs/projects funded by central government budget: full grant of foreign ODA loans and concessional loans from the central budget.
2. For investment programs/projects funded by local government budget: Apply full or partial on-lending of ODA and concessional loans from the central budget as prescribed by the law on on-lending of the Government's foreign ODA and concessional loans.

For investment programs/projects funded by local government budget and using ODA and concessional loans to finance the locality's contribution in PPP projects: Apply full on-lending of ODA and concessional loans from the central budget as prescribed by the law on on-lending of foreign ODA and concessional loans.

3. For programs, projects with full or partial cost recovery: Apply full or partial on-lending of ODA and concessional loans from the central budget as prescribed by the law on on-lending of the Government's foreign loans.

#### **Article 8. Order and procedures for management and use of ODA and concessional loans**

1. For programs, projects funded by ODA and concessional loans; programs, projects funded by ODA grants; and technical assistance projects funded by ODA grants to prepare investment projects:
  - a) Draft, select and approve the Program/Project Proposal;
  - b) Official notice to foreign donors on approval of the program/project proposal;
  - c) Draft, appraise, and decide on the investment policy for the program/project;
  - d) Officially notify the foreign donor of the investment policy decision of the program or project and request for support;
  - đ) Draft, appraise, and decide on the investment in the program/project;
  - e) Depending on donor regulations, one of the following procedures shall be performed: Sign international treaties, agreements on ODA and concessional loans, and sign aide memoire on investment projects funded by ODA grants;
  - g) Performance management and financial management;
  - h) Complete and transfer the results.

Investment programs and projects funded by ODA grants and technical assistance projects funded by ODA grants to prepare investment projects are not subject to the provisions of Points a and b of this Clause.

2. For technical assistance projects and non-project assistance funded by ODA grants:
  - a) Formulate project documents and non-project documents;
  - b) Decision on implementation policy for projects and non-project assistance specified at Clause 1, Article 23 of this Decree;
  - c) Appraise and approve project documents and non-project documents;
  - d) Officially notify the foreign donor of the approval of the project/non-project document and request for support;
  - đ) Depending on foreign donor's regulations, one of the following procedures shall be performed: Sign international treaties, agreements on ODA grants, and sign aide memoire on technical assistance projects and non-project assistance;
  - e) Performance management and financial management;
  - g) Complete and transfer the results.
3. For budget support:

- a) Formulate and decide on the policy to receive budget support;
  - d) Sign international treaties, agreements on ODA and concessional loans for budget support;
  - c) Performance management and financial management;
  - d) Complete and transfer the results.
4. For programs and projects funded by mixed capital: The managing agency shall follow the order and procedures for programs and projects funded by ODA or concessional loans specified in Clause 1 of this Article.

#### **Article 9. Policy to receive budget support**

1. Order and procedures of deciding the policy to receive general budget support are prescribed as follows:
- a) For general budget support where ministries, Government agencies and provincial People's Committees act as the managing agencies: The managing agency shall send an Official Letter to the Ministry of Planning and Investment enclosing the Document on budget support which specifies the context, necessity, contents, major activities, results, socio-economic effectiveness, total fund, funding sources and structure, other resources, conditions for receiving the budget support, benefits and obligations, funding methods and arrangements for management; loan use plan, repayment capacity of the local budget and repayment commitments (for general budget support fully on-lent to provincial People's Committees);
  - b) For general budget support where the Ministry of Finance acts as the managing agency: The Ministry of Finance shall send the documents on budget support to the Ministry of Planning and Investment, which clearly specifies the availability of the central budget, and plans to cover budget deficit;
  - c) On the basis of documents specified at Point a of this Clause, the Ministry of Finance shall evaluate the state budget availability; conditions for receiving state budget support; central budget and budget of the locality proposing loan, loan use plan, on-lending mechanism (for general budget support fully on-lent to provincial People's Committees) and send to the Ministry of Planning and Investment;
  - d) After incorporating opinions of the Ministry of Finance and concerned agencies as prescribed in Points b and c of this Clause, the Ministry of Planning and Investment shall take the lead and report to the Prime Minister on the necessity, objectives, contents, major activities, results, socio-economic efficiency, total capital, funding sources and structure, other resources, conditions for receiving budget support, benefits and obligations, funding methods and arrangements for management;
  - d) The Prime Minister shall consider and decide on the policy to receive the budget support, which will serve as a basis for negotiation, signing and receipt of general budget support as per regulations.
2. Order and procedures of deciding the policy to receive targeted budget support are prescribed as follows:
- a) The managing agency shall send an Official Letter to the Ministry of Planning and Investment and Ministry of Finance enclosing the Document on the budget support as prescribed in Point a, Clause 1 of this Article, clearly specifying the availability of state budget for the sector/area and proposed loan use plan for predetermined targets;
  - b) The Ministry of Finance shall review the availability of state budget for the sector/area; ability to receive budget support for predetermined targets; conditions for receiving budget support; the implementation of commitments and send to the Ministry of Planning and Investment;
  - c) After incorporating opinions of the Ministry of Finance and concerned agencies as prescribed in Point b of this Clause, the Ministry of Planning and Investment shall take the lead and report to the Prime Minister for approval of the policy to receive targeted budget support, clearly clarifying the list of programs and projects funded by the targeted budget support, and capital allocation plan for ministries and sectors;
  - d) The Prime Minister shall consider and approve the policy to receive targeted budget support together with the list of specific programs and projects. The order and procedures for preparing and appraising investment decisions for specific programs and projects funded by targeted budget support shall be applied in accordance with applicable regulatory provisions;
  - d) If the list of specific programs/projects funded by the targeted budget support cannot be determined, the Ministry of Planning and Investment shall take the lead and coordinate with the Ministry of Finance and concerned agencies in reporting to the Prime Minister on appropriate receiving plan.

#### **Article 10. Participation in regional programs and projects**

1. In cases where a managing agency of a regional program or project has not been identified: Based on foreign donors' proposal on the participation in regional programs and projects, the Ministry of Planning and Investment shall take the lead and coordinate with concerned agencies in seeking the Prime Minister's approval of Vietnam's participation in such regional programs/projects and designation of the managing agency in charge.
2. In cases where a managing agency of a regional program or project has been identified: The managing agency shall send the Ministry of Planning and Investment an official letter enclosed with the program/project document which specifies interests and duties of Vietnam as a participant. The Ministry of Planning and Investment shall take the lead and coordinate with concerned agencies in seeking the Prime Minister's approval of the participation in the regional program/project.
3. Where a foreign donor provides ODA or concessional loan to develop and implement a program/project within the framework of a regional program/project: Based on the Prime Minister's decision on Vietnam's participation in such regional programs/projects as prescribed in Clauses 1 and 2 of this Article and based on the type of program/project, the managing agency shall elaborate, appraise and make investment policy decision and investment decision or elaborate, appraise and make decision on implementation policy and seek approval of the project documents in accordance with Chapter II or Chapter III of this Decree.

#### **Article 11. Access of private sector to ODA and concessional loans**

1. The private sector may access ODA and concessional loans in accordance with policies on provision of ODA and concessional loans of foreign donors.
2. Methods for the private sector to access and use ODA and concessional loans:
  - a) Access to ODA and concessional loans that ministries, central agencies, and provincial People's Committees use to finance project preparation and bidding for investor selection or finance the state contribution in PPP projects in accordance with applicable provisions on PPP and specific international treaties, specific agreements on ODA and concessional loans;
  - b) Access and use ODA and concessional loans through participation in private sector support programs/projects of managing agencies.

## **Chapter II. DRAFT, APPRAISE, AND MAKE INVESTMENT POLICY DECISION AND INVESTMENT DECISION FOR PROGRAMS, PROJECTS FUNDED BY ODA AND CONCESSIONAL LOANS; INVESTMENT PROGRAMS, PROJECTS FUNDED BY ODA GRANTS; AND TECHNICAL ASSISTANCE PROJECTS FUNDED BY ODA GRANTS TO PREPARE INVESTMENT PROJECTS**

### **Section 1. DRAFT, APPRAISE, AND DECIDE ON INVESTMENT POLICY FOR THE PROGRAM/PROJECT**

#### **Article 12. Decision making authority on investment policy for the programs/projects funded by ODA and concessional loans**

1. The power to issue a investment policy decision for a national target program, project of national importance and public investment programs funded by ODA and concessional loan is specified in Clauses 1 & 2, Article 17 of the Law on Public Investment.
2. The Prime Minister has power to approve the investment policy for the following programs/projects:
  - a) Investment programs and projects funded by ODA loans and concessional loans, except for programs and projects specified in Clause 1 of this Article;
  - b) Investment programs and projects funded by ODA grant in the following cases: Category A and Category B investment programs and projects; programs and projects accompanied by policy frameworks; programs and projects in the fields of security, national defense and religion; sector-wide approach programs; procurement of goods subject to permission of the Prime Minister; and Vietnam's participation in regional programs and projects;
  - c) Technical assistance projects funded by foreign donors' ODA and concessional loans to prepare investment projects.

3. The head of the managing agency shall decide on investment policy for Category C investment programs and projects funded by ODA grants.

### **Article 13. PROPOSAL FOR PROGRAMS AND PROJECTS FUNDED BY ODA AND CONCESSIONAL LOANS**

#### 1. Order and procedures of approving the program/project Proposal

a) Ministries, central agencies and local authorities shall formulate proposals for programs and projects funded by foreign ODA and concessional loans to submit to the Ministry of Planning and Investment, the Ministry of Finance and concerned agencies in accordance with regulatory provisions;

b) The Ministry of Finance shall take the lead for determining the grant elements, evaluating the impact of new loans on the public debt safety thresholds, determining applicable domestic financial mechanism, and reporting to the Prime Minister in accordance with the Law on Public Debt Management and concurrently send to the Ministry of Planning and Investment;

c) The Ministry of Planning and Investment shall send a written request to consult concerned agencies on the program/project proposals. After incorporating the comments of the Ministry of Finance as prescribed at Point b of this Clause and the comments of concerned agencies, the Ministry of Planning and Investment shall evaluate the necessity of the programs, projects, make preliminary evaluation of the feasibility, socio-economic effectiveness, environmental impacts (if any), and the impacts of the programs, projects on medium-term public investment plans, thereby selecting the suitable program/project Proposals to submit to the Prime Minister for approval;

d) The Prime Minister shall consider and approve the program/project Proposal against the following aspects: Name of program or project; name of foreign donor and co-donor (if any); name of managing agency; expected objectives and scale; expected duration; total estimated investment and fund structure; expected domestic financial mechanism and other relevant contents.

#### 2. Dossier and time limit for reviewing the Program/Project Proposal:

a) Dossier: Program/Project Proposal in line with the format in Appendix II attached to this Decree; Official Letter of the managing agency requesting the competent authority to approve the Program/Project Proposal; other relevant documents (if any);

b) The number of dossiers to be submitted to the Ministry of Planning and Investment is 08 sets;

c) The number of dossiers to be submitted to the Ministry of Finance is 03 sets;

d) The time limit for consideration and submission to the Prime Minister of the Program/Project Proposal is from 45 days from the date the Ministry of Planning and Investment and the Ministry of Finance receive complete and valid dossiers.

Where the dossier is invalid or the content of the Program/Project Proposal does not conform to the provisions of Clause 3 of this Article, the Ministry of Planning and Investment and the Ministry of Finance shall send a written feedback requesting the managing agency to fine tune the Program/Project Proposal.

#### 3. Criteria for selecting the program/project Proposal:

a) Compatibility with the socio-economic development strategies, master plans, and plans; public debt safety thresholds and repayment capacity; orientation for ODA and concessional loan attraction; policies, orientations for priorities in ODA and concessional loan provision of foreign donors;

b) Assurance of socio-economic, environmental effectiveness and sustainability;

c) Compatibility with the availability of ODA, concessional loans, and counterpart fund;

d) No overlap with the contents of programs, projects whose proposals, investment policies or investment decisions have already been approved by competent authorities.

4. For many projects funded by the same ODA or foreign concessional loan: If the managing agencies of the projects agree and with a written authorization, the authorized agency shall follow the order of formulation, selection and approval of a single Program/Project Proposal for the ODA or concessional loan in accordance with the provisions of Clauses 1, 2 and 3 of this Article. Based on the Program/Project Proposal approved by the Prime Minister, the managing agencies of the projects shall follow the order and procedures for making investment policy decision of each project in accordance with Articles 14 and 15. , 16, 17, 18 and 19 of this Decree.

5. Investment programs and projects funded by ODA grants and technical assistance projects funded by ODA grants to prepare investment projects are not subject to the provisions of this Article.

**Article 14. Order and procedures for making investment policy decision for a Category A program/project funded by ODA and concessional loans**

1. Order and procedures for making investment policy decision for a national target program or project of national importance funded by ODA and concessional loans are specified in Article 19 through 21 and Clause 5, Article 25 of the Law on Public Investment.

2. Order and procedures for making investment policy decision for a public investment program funded by ODA and concessional loans and falling under the approving competence of the Government are specified in Article 22 and Clause 6, Article 25 of the Law on Public Investment.

3. Order and procedures for making investment policy decision for a Category A project funded by ODA and concessional loans are specified in Article 23 and Clause 7, Article 25 of the Law on Public Investment.

4. Order and procedures for making investment policy decision on ODA and concessional loan-funded programs falling within the competence of the Prime Minister, excluding Category A projects, are specified in Clause 8, Article 25 of the Law on Public Investment, specifically as follows:

a) The managing agency shall send the report on investment policy proposal to the Ministry of Planning and Investment;

b) The Ministry of Planning and Investment shall take the lead in appraising the report on investment policy proposal, funding sources, availability and submit them to the Prime Minister;

The Prime Minister shall consider issuing the investment policy decision.

5. Order and procedures for making investment policy decision of programs, projects falling under the approving competence of the head of managing agency are specified in Clause 9, Article 25 of the Law on Public Investment, specifically as follows:

a) The managing agency shall consult the Ministry of Planning and Investment, the Ministry of Finance, and concerned agencies on the report on investment policy proposal;

b) Based on the comments of the consulted agencies, the managing agency shall organize the appraisal and make decision on the investment policy.

6. The Ministry of Planning and Investment shall officially notify the foreign donor of the decision on investment policy of the program or project and request for support.

7. In case there are changes to the pre-feasibility study report and the report on investment policy proposal compared to the contents of the approved Program/Project Proposal: The managing agency shall supplement explanation on the changes compared to the approved Program/Project Proposal in the letter of transmittal for appraisal of feasibility study report and report on investment policy proposal for the program/project as prescribed in Point b, Clause 1, Article 15 of this Decree.

8. Preliminary assessment of environmental impacts is part of the pre-feasibility study report or report on investment policy proposal. The competent authority shall base themselves on the preliminary assessment of environmental impacts to decide on the investment policy in accordance with Article 99 of the Law on Public Investment. Preliminary environmental impact assessment shall comply with the Government's regulations detailing the implementation of a number of articles of the Law on Public Investment.

**Article 15. Dossiers, contents and time limit for appraisal of feasibility study report and report on investment policy proposal for the programs/projects funded by ODA and concessional loans**

1. Appraisal Dossiers of feasibility study report and report on investment policy proposal for the programs/projects funded by ODA and concessional loans include:

a) A letter of transmittal seeking the competent authority's approval of the investment policy for the program/project using the form in Appendix IVa enclosed with this Decree;

a) A letter of transmittal for appraisal of feasibility study report and report on investment policy proposal for the program/project using the form in Appendix IVb enclosed with this Decree;

c) The written approval of the program/project proposal from the competent authority;

d) Report on the internal appraisal results of the managing agency on the investment policy of the program/project funded by ODA or concessional loan;

d) The feasibility study report and report on investment policy proposal for the program/project using the form in Appendix III enclosed with this Decree;

e) Reports on performance review of the program/project implementation in the previous period (for follow-up programs and projects in the new phase).

g) Comments of the provincial People's Council on Category A projects funded by ODA and concessional loans whose pre-feasibility study report is prepared by the provincial People's Committee as prescribed at Point c, Clause 1 Article 23 of the Law on Public Investment;

h) Other relevant documents (if any);

2. The minimum number of appraisal dossiers sent to the Appraisal Council or the lead appraising agency is 10 sets.

3. Appraisal contents of the investment policy for public investment programs funded by ODA and concessional loans include:

a) Alignment with criteria for determination of public investment program;

b) Regulatory compliance of the dossier submitted for appraisal;

c) Alignment with strategic objectives; regional and territorial socio-economic development plans; sectoral development master plan; and relevant master plans in accordance with the laws on planning;

d) The contents specified in Article 29 of the Law on Public Investment, including basic details of the program as follows: objectives, scope, scale, beneficiaries, duration, time lines and fund allocation plan; funding sources and availability; mobilization of other sources of capital and resources;

đ) Socio-economic, environmental effectiveness and sustainable development.

4. Appraisal contents of the investment policy for programs/projects funded by ODA and concessional loans include:

a) Necessity of the investment;

b) Regulatory compliance of the dossier submitted for appraisal;

c) Alignment with strategic objectives; relevant plans and master plans in accordance with the laws on planning;

d) Alignment with project classification criteria in accordance with the Law on Public Investment;

đ) The contents specified in Articles 30 and 31 of the Law on Public Investment, including appraisal of basic details of the project, such as objectives, scale, form of investment, scope, location, area of land to be used, duration, time lines, plan for selection of main technologies, environmental protection solution, funding sources and availability; cost recovery and debt repayment possibility for loans; and fund allocation plan;

e) Socio-economic, environmental effectiveness and sustainable development.

5. The lead appraising agency for the pre-feasibility study report and report on investment policy proposal for programs and projects shall consult agencies assigned to appraise funding sources and availability in accordance with Article 33 of the Law on Public Investment in the process of appraising pre-feasibility study report and report on investment policy proposal.

6. Time limits for appraising the report on investment policy proposal and pre-feasibility study report of the program or project from the date the Appraisal Council or the lead appraising agency receives complete and valid dossier are as follows:

a) National target programs: No more than 60 days;

b) Public investment programs (excluding national target programs): no more than 45 days;

c) Category A projects: No more than 45 days;

d) Other projects not specified at Points a, b and c of this Clause: No more than 30 days;

In case the dossier is invalid or the content of the pre-feasibility study report or report on investment policy proposal of the program or project does not conform with the provisions of Articles 29, 30 and 31 of the Law on Investment, within no later than 10 days from the day on which the dossier is received, the Appraisal Council or the lead appraising agency shall send written feedback requesting the proposing agency to fine tune the pre-feasibility study report or report on investment policy proposal.

7. Where it is necessary to extend time limit for appraisal of feasibility study report and report on investment policy proposal for the programs/projects, the Appraisal Council or the lead appraising agency shall:

a) Report to the Prime Minister on allowing the extension of time limit for appraisal of pre-feasibility study reports and reports on investment policy proposal of programs and projects falling under the approving competence of the National Assembly, Government, and Prime Minister;

b) Report to the head of the managing agency to allow the extension of time limit for appraisal of the reports on investment policy proposal for the programs or projects falling under the investment policy approving competence of the managing agency;

c) The extended period shall not exceed the corresponding appraisal time specified in Clause 6 of this Article.

8. The Appraisal Council or the lead appraising agency for pre-feasibility study report of Category A projects and the report on investment policy proposal for the program or project shall send the appraisal report as per the following regulations:

a) For public investment programs: Submit to the managing agency and competent authority in charge of making investment policy decision;

b) For Category A projects falling under the approving competence of the Prime Minister: Comply with the provisions of Clause 4, Article 23 of the Law on Public Investment to submit to the Prime Minister;

c) For other projects not specified at Points a and b of this Clause: Submitted to the appraising agency and competent authority in charge of making investment policy decision.

**Article 16. Dossiers submitted to the competent authority and time limit for making investment policy decision for program/project funded by ODA and concessional loans**

1. Dossiers submitted to the competent authority in charge of making investment policy decision for program/project funded by ODA and concessional loans include:

a) Documents specified in Clause 1, Article 15 of this Decree; including the letter of transmittal, the feasibility study report and report on investment policy proposal specified at Points a and b, Clause 1, Article 15 of this Decree have been fine tuned according to the appraisal report of the Appraisal Council or the lead appraising agency;

a) The appraisal report by the Appraisal Council or the lead appraising agency on investment policy for the program/project shall follow the format in Appendix IVb enclosed with this Decree;

2. The number of dossiers to be submitted to competent authorities for investment policy decision of programs and projects prescribed in Clause 1 of this Article is 05 sets.

3. The time limit for making investment policy decision of a program or project from the date the competent authority receives a complete and valid dossier as follows:

a) Public investment programs (excluding national target programs): No more than 20 days;

b) Category A projects: No more than 15 days;

c) Other projects not specified at Points a and b of this Clause: No more than 10 days.

4. Within 15 days from the date the competent authority makes investment policy decision of the program or project, the managing agency shall send such approved investment policy to the Ministry of Planning and Investment and the Ministry of Finance.

**Article 17. Prior activities**

The managing agency shall carry out prior activities during the preparation for the program/project, including:

1. After the decision on investment policy is issued by a competent authority, the managing agency shall:

a) Formulate a resettlement policy framework and submit it to a competent authority for approval in the process of appraising the program/project document and making investment decision;

b) Prepare a contractor selection plan; prepare dossiers of invitation for expression of interest, dossiers of invitation for pre-qualification, bidding documents, and requests for proposals.

2. Capital for carrying out prior activities shall be provided by the project owner from project preparation fund.

**Article 18. Major contents of the investment policy for the programs/projects funded by ODA and concessional loans**

1. Name of the program or project.
2. Name of the foreign donor(s) and co-donor(s).
3. Name of the managing agency.
4. Objective and scale.
5. Location and duration.
6. Total investment and fund structure:
  - a) ODA grants, ODA loans, concessional loans (calculated in the donor's original currency);
  - b) Counterpart fund.
7. Domestic financial mechanism and on-lending method applied to the program/project.

**Article 19. Amendment to the investment policy for the programs/projects funded by ODA and concessional loans**

1. The competence to make amendments to investment policy for the programs/projects shall comply with Clause 1, Article 34 of the Law on Public Investment.

2. In case changes to the program or project leads to amendment in the main contents of the investment policy decision prescribed in Article 18 of this Decree, the order and procedures for revising investment policy decision are implemented as follows:

a) For public investment programs, projects of national importance, and Category A projects: Comply with the provisions of Points a, b, and c, Article 34 of the Law on Public Investment;

b) For programs/projects falling under the approving competence of the Prime Minister other than Category A projects: Comply with the provisions of Clause 4, Article 14 of this Decree;

c) For programs/projects falling under the approving competence of the head of the managing agency: Comply with the provisions of Clause 5, Article 14 of this Decree;

d) Dossiers submitted to competent authorities and time limit for making revised investment policy decision for the programs and projects shall comply with Articles 15 and 16 of this Decree, clarifying rationale and changes compared to the original decision.

3. In case total investment of the program or project is adjusted due to changes in exchange rates or reduction in ODA and concessional loans without altering other contents of the investment policy decision as prescribed in Article 18 of this Decree, the managing agency is not required to revise the investment policy decision as prescribed in Clause 2 of this Article.

**Section 2. DRAFT, APPRAISE, AND MAKE DECISION ON INVESTMENT IN THE PROGRAMS/PROJECTS**

**Article 20. Decision making authority on investment in the programs/projects funded by ODA and concessional loans**

1. The Prime Minister shall make decision on investment in the following programs/projects funded by ODA and concessional loans:

a) National target programs, projects of national importance whose decisions on investment policy have been issued by the National Assembly;

b) Public investment programs whose decisions on investment policy have been issued by the Government;

c) Programs and projects funded by ODA and concessional loans of foreign donors in the fields of national defense, security and religion.

2. The head of managing agency shall make investment decision in programs and projects funded by ODA or concessional loans that are not prescribed in Clause 1 of this Article and take responsibility for the investment efficiency of programs and projects.

**Article 21. Procedures for drafting, appraising, and making decision on investment in the programs/projects funded by ODA and concessional loans**

1. Comply with the provisions of Article 41 of the Law on Public Investment.

2. The feasibility study reports of the programs, projects are prepared in accordance with Article 44 of the Law on Public Investment and related regulations, taking into account the contents in the format provided by foreign donors while ensuring the consistency with the investment policy decision and harmonizing the procedures between Vietnam and foreign donors.

3. Dossiers, contents, and time limit for appraisal and decision making on investment in programs and projects shall comply with Article 45 of the Law on Public Investment and the Government's regulations detailing a number of articles of the Law on Public Investment, in which:

a) If the program/project is eligible for full or partial on-lending from the state budget, the project owner shall enclose documents proving the financial capacity, repayment plan, and other documents as instructed by the legislation on public debt management;

b) Documents related to the program/project in foreign languages must be enclosed with Vietnamese translations;

c) Within 15 days from the day on which the decision on investment in the program/project is issued, the managing agency shall notify the foreign donor and project owner of the decision, send it to the Ministry of Planning and Investment, the Ministry of Finance, and concerned agencies (original copies or notarized copies) enclosed with the approved feasibility study report bearing the affixed seal of the managing agency for coordination in implementing.

#### **Article 22. Amendments to the programs and projects funded by ODA and concessional loans**

1. The competence to make amendments to the programs/projects shall comply with Clause 3, Article 43 of the Law on Public Investment.

2. Amendments to the programs and projects are made in the cases specified in Clauses 1 and 2, Article 43 of the Law on Public Investment.

3. Contents, order and procedures for making and appraising amendments to the programs and projects shall comply with Article 43 of the Law on Public Investment and the Government's regulations detailing a number of articles of the Law on Public Investment.

4. In case of adjusting the contents of programs or projects in the course of implementation, which leads to major changes in the contents of the investment policy decision: The managing agency shall revise investment policy decision in accordance with Article 19 of this Decree before proceeding with the order and procedures for adjusting the programs and projects.

5. Where amendments to the contents of programs or projects in the course of implementation result in the amendment, complement or renewal of specific international treaties, agreements on ODA and concessional loans: Based on the revised investment policy decision and investment decision in the program and project approved by the competent authority, the managing agency shall coordinate with the proposing agency to sign the amended specific international treaties and specific agreements on ODA and concessional loans.

### **Chapter III. FORMULATE, APPRAISE, AND MAKE DECISION ON THE IMPLEMENTATION POLICY, AND APPROVE THE DOCUMENTS OF THE TECHNICAL ASSISTANCE PROJECTS, NON-PROJECT ASSISTANCE FUNDED BY ODA GRANTS**

**Article 23. Competence to approve the implementation policy, and approve the documents of the technical assistance projects, non-project assistance**

1. The Prime Minister shall approve the implementation policies on the technical assistance projects, non-project assistance funded by ODA grants in the following cases: programs and projects associated with policy frameworks; programs and projects in the fields of security, national defense and religion; procurement of goods subject to permission of the Prime Minister; and Vietnam's participation in regional programs and projects;

2. The head of the managing agency shall:

a) Approve the documents of the technical assistance projects, non-project assistance based on the implementation policy decision of the Prime Minister for the cases specified at Clause 1 of this Article;

b) Approve the documents of the technical assistance projects, non-project assistance for cases that are not specified at Clause 1 of this Article and not required to follow the order and procedures of the implementation policy decision.

**Article 24. Formulate the documents of the technical assistance projects, non-project assistance**

The managing agency shall coordinate with foreign donors in formulating the documents of the technical assistance projects, non-project assistance in accordance with the format prescribed in Appendix V and Appendix VI of this Decree.

**Article 25. Order and procedures of the implementation policy decision on technical assistance projects, non-project assistance falling under the approving competence of the Prime Minister**

1. The managing agency shall send an official letter seeking approval of the implementation policy enclosed with the technical assistance project/non-project document to the Ministry of Planning and Investment.

2. Within 5 working days after receiving a valid dossier specified in Clause 1 of this Article, the Ministry of Planning and Investment shall send written consultation request to concerned agencies. Within 10 days after receiving the Ministry of Planning and Investment's request, the consulted agencies shall send their written comments thereon to the Ministry of Planning and Investment.

3. Within 5 working days after receiving the written comments from the concerned agencies, the Ministry of Planning and Investment shall synthesize and submit the draft to the Prime Minister for decision.

4. The Prime Minister shall consider and decide on the implementation policy for project and non-project assistance, covering the following aspects:

- a) Name of the project or non-project assistance;
- b) Foreign donor and co-donor (if any);
- c) Objectives;
- e) Total fund and funding structure (ODA grants and counterpart fund).

5. In case the project/non-project document needs fine tuning based on the comments of concerned agencies, the Ministry of Planning and Investment shall send a written request to the managing agency for finalizing the Document.

**Article 26. Order and procedures of appraisal and decision to approve the technical assistance project/non-project document**

1. For projects and non-project assistance specified at Clause 1, Article 23 of this Decree: The managing agency shall not organize the appraisal. The head of the managing agency, based on the implementation policy decision, shall decide to approve the technical assistance project/non-project document.

2. For projects and non-project assistance not specified at Clause 1, Article 23 of this Decree:

a) The managing agency shall take the lead in appraising and consulting the Ministry of Planning and Investment, the Ministry of Finance and concerned agencies enclosing the project/non-project document and other relevant documents (if any);

b) Within 10 days after receiving the valid documents, the consulted agencies shall send their written comments thereon, focusing on the following contents: necessity, key objectives and results; funding sources and availability, financial mechanisms; conditions of foreign donors (if any) and responding capacity of Vietnam;

c) The appraisal contents of projects and non-project assistance include: the compatibility of the projects and non-project assistance with the specific development goals of ministries, agencies, localities, implementing agencies and beneficiaries; the appropriateness of the implementation methods; fund and the availability of fund; the rationality of funding structure for major categories; commitments, prerequisites and other conditions of the foreign donors and the stakeholders (if any); effectiveness, the ability to apply the results in real practices and sustainability beyond the assistance's life cycle; points agreed or disagreed among the parties;

d) The appraisal dossiers include: The project owner's letter of transmittal for approval of project/non-project document; draft project/non-project document; written comments of concerned agencies; and other relevant documents (if any) such as: Donor's written endorsement for the project/non-project contents, notice or commitment to consider funding, memorandum of understanding with donors, reports of appraisal mission deployed at the request of the donor;

đ) Based on the appraisal results, the head of the managing agency shall decide to approve the technical assistance project/non-project document;

e) The appraisal time limit for the technical assistance project/non-project document is no later than 20 days from the date of receiving valid dossiers;

g) In case a project or non-project assistance is funded by an ODA grant worth USD 200,000 or less, the head of the managing agency may approve the project or non-project assistance document without having to consult concerned agencies.

3. After the technical assistance project/non-project document have been approved, the managing agency shall inform the Ministry of Planning and Investment, Ministry of Finance, and concerned agencies, enclosing the approved the documents of the technical assistance projects, non-project assistance bearing the affixed seal of the managing agency for supervision and coordination in implementing.

4. Major contents of the decision to approve the technical assistance project/non-project document:

- a) Name of the project or non-project assistance;
- b) Name of the foreign donor(s) and co-donor(s) (if any);
- c) Name of the managing agency and project owner;
- d) Implementation duration and location;
- đ) Objectives, activities and results;
- e) Arrangements for management;

g) Total fund and funding structure, including: ODA grants (in original currency and VND equivalent) and counterpart funds (in VND);

h) Others.

5. The Ministry of Planning and Investment shall officially notify the foreign donor and request for support.

**Article 27. Amendments to the implementation policy decision and decision to approve the documents of the technical assistance projects, non-project assistance**

1. For the decisions on implementation policy:

a) The managing agency shall deliver to the Ministry of Planning and Investment the documents informing the changes in the contents of the implementation policy decision prescribed in Clause 4, Article 25 of this Decree, enclosing the revised project/non-project document;

b) The Ministry of Planning and Investment shall take the lead and consult concerned agencies on the contents of relevant changes, and discuss with foreign donors on changes in ODA grants scale (if any), summarize and submit to the Prime Minister;

c) The Prime Minister shall consider and decide on amendments to the implementation policy of projects or non-project assistance.

2. For decisions approving the documents of the projects or non-project assistance:

a) The managing agency shall send an official letter to the Ministry of Planning and Investment, the Ministry of Finance and concerned agencies informing the changes in the contents of the decision approving the documents of the projects or non-project assistance, enclosing the revised documents;

b) Based on the comments of the Ministry of Planning and Investment, the Ministry of Finance and the concerned agencies, the head of the managing agency shall decide to approve the amendments to the documents of the projects or non-project assistance;

c) In case a project or non-project assistance is funded by an ODA grant worth USD 200,000 or less, the head of the managing agency may revise the Decision approving the project or non-project assistance document without having to consult concerned agencies.

d) In case a change in the project or non-project assistance document leads to disqualification of the approving competence specified in Article 23 of this Decree, the managing agency shall follow the order and procedures for decision making on implementation policy prescribed at Article 25 of this Decree;

đ) For projects and non-project assistance specified at Clause 1, Article 23 of this Decree: The head of the managing agency shall base on the revised implementation policy decision prescribed under Clause 1 of this Article to approve the revised project/non-project document without having to consult concerned agencies.

**Chapter IV. SIGNING OF INTERNATIONAL TREATIES AND AGREEMENTS ON ODA AND CONCESSIONAL LOANS**

## **Section 1. SIGNING OF INTERNATIONAL TREATIES ON ODA AND CONCESSIONAL LOANS**

### **Article 28. Basis for proposing to sign international treaties on ODA and concessional loans**

1. The basis for proposing to sign framework international treaties on ODA, concessional loans is the results of mobilization, development and cooperation strategies and policies, priority areas for the use of ODA and concessional loans agreed between Vietnam and foreign donors or decisions approving the investment policy of the programs/projects if specific programs/projects are involved.

2. Basis for proposing to sign specific international treaties on ODA and concessional loans:

a) For programs, projects funded by ODA and concessional loan and programs, projects funded by ODA grants: The approved feasibility study reports of the programs, projects and decision to invest in the programs, projects;

b) For technical assistance projects and non-project assistance funded by ODA grants: Decisions approving the technical assistance project/non-project document.

### **Article 29. Authorities proposing to sign international treaties on ODA and concessional loans**

1. The Supreme People's Court, the Supreme People's Procuracy, State Audit of Vietnam, Ministries, ministerial agencies, Governmental agencies may propose to the Government conclusion of specific international treaties on ODA grants for their programs and projects other than those specified in Clause 3 of this Article.

2. The Ministry of Finance is the agency proposing to submit to the Government the signing of framework and specific international treaties on ODA and concessional loans, ODA grants for programs and projects funded by ODA and concessional loan, excluding ODA grants specified in Clauses 3 and 4 of this Article.

3. The State Bank of Vietnam is the agency proposing the Government to sign specific international treaties on ODA grants that are not associated with loans from international financial institutions and banks represented by the State Bank of Vietnam.

4. The Ministry of Planning and Investment is the agency proposing the Government to sign framework and specific international treaties on ODA grants that are not associated with loans for programs and projects not specified in Clauses 1, 2 and 3 of this Article.

### **Article 30. Order and procedures for signing, amending, supplementing and renewing international treaties on ODA and concessional loans**

1. Order and procedures for signing, amending, supplementing and renewing international treaties on ODA and concessional loans shall comply with regulatory provisions on international treaties and public debt management.

2. For programs and projects funded by ODA or concessional loans, which are signed under many international treaties corresponding to the project's phases:

a) For international treaty signed for the first loan: Comply with the provisions of Clause 1 of this Article;

a) For international treaty signed for the subsequent loans: Based on the managing agency's proposal regarding necessity of the next loan; ODA loan and concessional loan limits approved by the competent authorities in the investment decision; project progress and disbursement results under the signed international treaties, the Ministry of Finance shall take the lead and coordinate with the managing agency and concerned agencies in determining the value of next loan, discuss and agree with the donors and proceed with the order and procedures specified in Clause 1 of this Article.

3. Where an international treaty requires the legal opinion of the Ministry of Justice, after receiving complete dossiers in accordance with existing regulatory provisions on granting legal opinions, the Ministry of Justice shall carry out procedures for granting legal opinions as per regulations.

## **Section 2. SIGNING OF AGREEMENTS ON ODA AND CONCESSIONAL LOANS**

### **Article 31. Basis for proposing to sign agreements on ODA and concessional loans**

1. For framework agreements on ODA and concessional loans: The basis for proposing the signing is the results of mobilization, development and cooperation strategies and policies, priority areas for the use of ODA and concessional loans agreed between Vietnam and foreign donors or decisions approving the investment policy of the programs/projects if specific programs/projects are involved.

2. For specific agreements on ODA and concessional loans: The basis for proposing the signing is framework international treaties or framework agreements on ODA and concessional loans (if any) and the decision on investment in the program/project.

3. For specific agreements on ODA grants: In case the donor requests to sign, the basis for signing an agreement on ODA grant is the framework international treaty on ODA grant (if any) and project/non-project document or Feasibility study report (for investment projects) approved by the competent authorities.

### **Article 32. Authorities proposing to sign agreements on ODA and concessional loans**

1. The Supreme People's Court, the Supreme People's Procuracy, State Audit of Vietnam, Ministries, ministerial agencies, Governmental agencies may propose the Prime Minister to sign specific agreements on ODA grant for their programs and projects, except for those specified in Clause 3 of this Article.

2. The Ministry of Finance is the agency proposing the Prime Minister to sign framework and specific agreements on ODA and concessional loans, ODA grants for programs and projects funded by ODA and concessional loans, except for ODA grants specified in Clause 3 of this Article.

3. The Ministry of Planning and Investment is the agency proposing the Prime Minister to sign framework and specific agreements on ODA grants that are not associated with loans for programs and projects not specified in Clauses 1 and 2 of this Article.

### **Article 33. Order and procedures for signing, amending, supplementing and renewing agreements on ODA and concessional loans**

1. Order and procedures for signing agreements on ODA and concessional loans shall be as follows:

a) Based on Article 31 of this Decree and request of the managing agency, the Ministry of Finance shall request the donor or foreign lender to send a draft agreement on ODA and concessional loans;

b) The Ministry of Finance shall submit proposal to the Prime Minister for decision on the negotiation of ODA and concessional loan agreements. Dossier submitted to the Prime Minister for negotiation includes: Proposal on negotiation and on-lending policy (in the event of on-lending ODA and concessional loans); draft agreement for ODA and concessional loans; project investment decision;

c) Based on the Prime Minister's approval of the negotiation, the Ministry of Finance shall consult the Ministry of Foreign Affairs, the Ministry of Justice and concerned agencies on the draft agreement on ODA and concessional loans. The agencies consulted shall have to respond the Ministry of Finance in writing within 15 days after receiving written requests for comments and relevant documents;

d) The Ministry of Finance shall take the lead and coordinate with concerned agencies in negotiating with foreign donors or lenders on the draft agreement on ODA and concessional loans;

đ) Based on the negotiation results, the Ministry of Finance shall submit proposal to the Prime Minister for decision on signing the agreement on ODA and concessional loans with foreign donors or lenders;

e) Based on the Prime Minister's decision, the Minister of Finance or another representative authorized by the Prime Minister shall sign the agreement on ODA and concessional loans with foreign donors or lenders;

g) Regarding agreements on mixed capital: The Ministry of Finance shall perform the order and procedures for signing prescribed under this Clause;

For programs and projects funded by ODA or concessional loans, which are signed under many agreements corresponding to the project's phases: Based on the loan value specified in the respective framework international treaty already signed, the Ministry of Finance shall take the lead and coordinate with the managing agency and concerned agencies in performing the order and procedures for signing prescribed under this Clause.

2. Order and procedures for signing, amending, supplementing and renewing the agreements on ODA and concessional loans shall be as follows:

a) The managing agency shall submit a request to the Ministry of Finance for amending, supplementing or renewing the agreement on ODA and concessional loans;

b) The Ministry of Finance shall consult the Ministry of Foreign Affairs, the Ministry of Justice and concerned agencies on the request for amending, supplementing or renewing the agreement on ODA and concessional loans. The agencies consulted shall have to respond the Ministry of Finance in writing within 15 days after receiving written requests for comments and relevant documents;

c) The Ministry of Finance shall synthesize comments and report to the Prime Minister for approval of the amendments, supplements and renewal of agreements on ODA and concessional loans;

d) Based on the Prime Minister's decision, the Ministry of Finance shall proceed with procedures to amend, supplement and renew the agreement on ODA and concessional loans with foreign donors or lenders;

d) In case amendments, supplements or renewal of agreements on ODA and concessional loans lead to changes to the contents of the competent authority's Decision approving investment policy for programs and projects: The managing agency shall adjust investment policy in accordance with Article 19 of this Decree before performing the order and procedures for amending, supplementing or renewing agreements on ODA and concessional loans as prescribed under Points a, b, c and d of this Clause.

3. Order and procedures for signing, amending, supplementing and renewing agreements on ODA grants shall be as follows:

a) The agency proposing the signing shall discuss and reach an agreement with the foreign donor on the draft agreement;

b) The agency proposing the signing shall consult the Ministry of Foreign Affairs, the Ministry of Justice and concerned agencies on the draft agreement. The agencies consulted shall have to respond in writing within 15 days after receiving written requests for comments and relevant documents;

c) The agency proposing the signing shall get back to the foreign donor to finalize the draft agreement and submit to the Prime Minister for signing;

d) After obtaining the Prime Minister's approval of the signing, the head of the agency authorized by the Prime Minister shall sign the agreements with the foreign donor;

d) For amendments and supplements to an agreement on ODA grant: On the basis of synthesizing the comments of the Ministry of Foreign Affairs, the Ministry of Justice and concerned agencies, the proposing agency shall submit the draft to the Prime Minister for decision.

4. Where an agreement on ODA and concessional loans requires the legal opinion of the Ministry of Justice, after receiving complete dossiers in accordance with existing regulatory provisions on granting legal opinions, the Ministry of Justice shall carry out procedures for granting legal opinions as per regulations.

5. In case the donor does not request to sign agreement on ODA grant: On the basis of the project/non-project document approved by the competent authority, the managing agency or the State Bank of Vietnam (when it involves international financial institutions and banks where the State Bank of Vietnam acts as the representative) and the donor exchanges aide memoire on commitment to provide and receive ODA grant for project and non-project assistance implementation in accordance with applicable regulatory provisions; and concurrently send an original copy to the Ministry of Planning and Investment, the Ministry of Finance and concerned agencies for supervision and coordination.

6. If the donor requests to sign an agreement on implementation of project or non-project assistance: The managing agency shall draft, negotiate and sign the agreement with the donor on the principle of no contradiction to international treaties, agreements on ODA and concessional loans and applicable regulatory provisions.

## **Chapter V. MANAGEMENT OF THE PROGRAM/PROJECT IMPLEMENTATION**

### **Article 34. Arrangements for management over programs/projects/non-project assistance**

Depending on the scale, nature, and conditions, capacity for program/project management, regulations on management of ODA and concessional loans of foreign donor, the investment decision maker shall decide on any of the following arrangements for program/project management:

1. For investment program/project: Comply with the law on public investment management and construction investment management.

2. For technical assistance projects and non-project assistance funded by ODA grants:

a) The managing agency shall directly manage the project or assign an affiliated unit to act as the project owner and administer the implementation of the program, project or non-project assistance. For technical assistance projects and non-project assistance funded by an ODA grant worth USD 200,000 or less, the managing agency and project owner is not required to establish a Project Management Unit but may use their own human resource to manage and administer project and non-project assistance implementation.

b) Foreign donors directly manage the entire program/project or non-project assistance: Where the program or project documents or specific international treaties/agreements on ODA and concessional loans stipulate that foreign donors directly manage the entire programs/projects or non-project assistance, the head of the managing agency or project owner shall assign their subordinate units to coordinate with foreign donors in monitoring the progress and quality, leveraging and using the outputs of the programs/projects or non-project assistance.

c) Foreign donors directly manage a part of the programs/projects or non-project assistance: Where the program or project documents or specific international treaties/agreements on ODA and concessional loans stipulate that foreign donors directly manage a part of the programs/projects or non-project assistance and the Vietnamese side manage the rest, the head of the managing agency or project owner shall decide to establish a Project Management Unit to manage the work undertaken by the Vietnamese side in accordance with Vietnam's applicable regulations and commitments with foreign donors.

3. For other programs and projects, the managing agency shall decide to apply one of these following forms:

a) Establishing a new Project Management Unit;

b) Using the existing Project Management Unit to manage new programs and projects: The managing agency and project owner must issue a decision on supplementing management task in relation to new programs and projects for the existing Project Management Unit;

c) The project owners manage the programs or projects themselves;

4. Establishing a Project Management Unit to manage and implement a large-scale program/project, involving high technology application or related to national defense and security, a program/project with special funding sources or management model that needs a Project Management Unit, a program/project that is required to establish a Project Management Unit under an international treaty or agreement on ODA and concessional loan.

5. Project owners shall employ capable personnel to manage and implement small-scale projects and projects participated by the community.

6. Hire consultants to manage a part of or the entire implementation of programs or projects.

#### **Article 35. Establishment of Project Management Unit**

1. Within 30 days after the issuance of the investment decision, the head of the managing agency shall issue a decision to establish a Project Management Unit. In cases where the project owners has full legal entity status, the head of the managing agency may authorize the project owners to issue a decision on the establishment of the Project Management Unit (except for specialized Project Management Units, regional Project Management Units established under the regulations on management of construction investment).

2. Where a new Project Management Unit is established under the provisions of Point a, Clause 3, Article 34 of this Decree: The decision to establish a project management unit shall be enclosed with documents specifying the organizational structure, functions, tasks, and entitlements of the project management unit and job description of some key positions thereof.

3. In case of using the existing Project Management Unit for the new programs and projects according to the provisions of Point b, Clause 3, Article 34 of this Decree: Pursuant to the decision on the establishment of the Project Management Unit, the head of the managing agency or the project owners shall complement and adjust the functions and tasks of the existing Project Management Unit, open new account and obtain new seal to manage new programs or projects.

4. Where the project owners manage the programs or projects themselves according to the provisions of Point c, Clause 3, Article 34 of this Decree: Based on the decision of the head of the managing agency to assign the project owner to manage the project implementation, within 30 days since the investment decision is issued, the project owner shall issue the decision to assign additional tasks to the subordinate unit, individual to perform the management activities in accordance with the existing regulatory provisions. Accordingly, there must be at least one focal point for management and one focal point for financial monitoring, who work on a part-time or full-time basis and must have professional skills and qualifications suitable for the position held.

5. Within 15 days after the decision to establish the Project Management Unit is issued, the head of the managing agency or the project owner having the legal entity status shall be authorized by the head of the managing agency to issue the regulations on the organization and operation of the Project Management Unit. Where an international treaty or agreement on ODA and concessional loan for the program/project provides for organizational structure, duties and entitlements of the Project Management Unit, such provisions must be fully elaborated and reflected in the regulations on organization and operation of the Project Management Unit.

**Article 36. Responsibilities and entitlements of the managing agency in program/project management and implementation**

1. The decision on organizational structure for the management and implementation of the program or project, including: Project owner; Steering Committee of the program and project (if necessary).

2. To formulate and approve the 05-year implementation plan for the program/project funded by ODA and concessional loan, which is part of the 05-year medium-term public investment plan.

3. To approve the overall plan for program/project implementation; compile and approve annual plans for program/project implementation.

4. To direct the procurement process in accordance with applicable regulatory provisions and regulations on procurement of the international treaty or agreement on ODA and concessional loan.

5. To organize the monitoring and inspection of the plan implementation; ensure progress, quality, and achievement of set objectives in accordance with regulatory provisions on public investment and regulations on monitoring and evaluation under this Decree.

6. To bear the additional costs incurred because of human errors, wastefulness, corruption, and misconducts in management and use of ODA and concessional loan under its mandate in accordance with regulatory provisions on public investment.

7. To perform other duties and entitlements in accordance with law and applicable specific international treaty or agreement on ODA and concessional loans.

**Article 37. Responsibilities and entitlements of project owner in program/project management and implementation**

1. To organize the structure for program/project management and implementation according to the decision of the managing agency.

2. To take responsibility for effective management and use of ODA, concessional loan, counterpart fund of the program/project from preparation, implementation through operation phase.

3. To formulate and submit 05-year plans, master plans, and annual plans for program/project implementation to the managing agency. If the program/project is eligible for full or partial on-lending from the state budget and counterpart fund is provided by the project owner, the project owner is responsible for preparing and approving the annual counterpart fund plan.

4. To formulate quarterly operation plans serving the management, monitoring and evaluation of the program/project.

5. To direct the procurement process in accordance with applicable regulatory provisions and specific international treaty on ODA and concessional loans.

6. To negotiate, conclude, and supervise the implementation of contracts, and resolve difficulties within their competence.

7. To coordinate with the local government in compensation for site clearance and resettlement in accordance with law and the specific international treaty/agreement on ODA and concessional loans (for construction projects).

8. To monitor and evaluate the program/project in accordance with regulatory provisions on monitoring and evaluation of public investment and this Decree to ensure progress, quality, and achievement of set objectives.

9. To direct the Project Management Unit to perform accounting, account finalization and audit of the program/project in accordance with regulatory provisions; audit and hand-over of assets and documents of the program/project, ensuring compliance with regulations on project closing of the specific international treaty or agreement on ODA and concessional loans.

10. To take full responsibility for every loss, wastefulness, corruption, and misconduct that occurs during the implementation of the program/project if they cause economic, social, environmental damage, or affect the overall effectiveness of the program/project.

11. Regarding a program/project eligible for full or partial on-lending from the state budget, the project owner shall repay the on-lent amount in full and on time in accordance with on-lending terms agreed with the competent financial authority or bank.

12. To perform other duties and entitlements in accordance with law and applicable specific international treaty or agreement on ODA and concessional loans.

13. To take responsibility before the law and the managing agency within their rights and obligations prescribed in this Decree and applicable regulatory provisions.

### **Article 38. Responsibilities and entitlements of Project Management Units in program/project management and implementation**

1. Responsibilities and entitlements of Project Management Units are mandated by the project owner in the decision to establish Project Management Unit.

The project owner may authorize the Project Management Unit to issue decisions or sign documents within the project owner's competence in the process of program/project management and implementation. The authorization must be specified in the decision to establish Project Management Unit or made into an authorization letter by the project owner.

2. The project management unit may be assigned to manage multiple programs/projects as long as it is accepted by the project owner and ensure that: Each program/project is not interrupted and is managed in accordance with applicable regulatory provisions. If the Project Management Unit is not capable of some management and supervision tasks, they may hire consultants to perform such tasks provided that it is accepted by the project owner.

3. The Project Management Unit shall perform the tasks assigned by the project owner, including:

a) To formulate and submit master plans and annual plans for program/project implementation;

b) To prepare and implement the program/project;

c) To carry out activities related to procurement, contract management, compensation for site clearance and resettlement;

d) To disburse capital; manage finance and asset of the program/project;

đ) To monitor and evaluate the implementation of the program/project;

e) To prepare the acceptance and transfer of the result of the program/project upon completion; finish payment, account finalization and audit work, transfer assets of the program/project; prepare the completion report and account finalization report of the program/project; follow regulations on project closing in the applicable international treaty or agreement on ODA and concessional loan;

g) To perform other tasks assigned by the project owner within the framework of the program/project.

4. To perform other duties and entitlements in accordance with law and applicable specific international treaty or agreement on ODA and concessional loans.

5. To take responsibility before the law and the managing agency within their rights and obligations prescribed in this Decree and applicable regulatory provisions.

### **Article 39. Hiring consultants for program/project management**

1. The program/project management consultants shall perform the tasks and commitments under the contract with the project owner while complying with relevant applicable regulatory provisions.

2. The project owner shall select program and project management consultants through bidding and signing consultancy contracts according to applicable regulations. When hiring a program/project management consultant, the project owner must designate an affiliated specialized unit or appoint a focal point to inspect and supervise the consultant's contract performance.

### **Article 40. Formulation, appraisal, approval and assignment of the medium-term public investment plans funded by ODA and concessional loans**

1. Formulation, appraisal, approval and assignment of the medium-term public investment plans funded by ODA and concessional loans shall comply with Chapter III of the Law on Public Investment and the Government's regulations detailing some articles of the Law on Public Investment.

2. ODA and concessional loans of foreign donors applying on-lending mechanism to public non-business units and enterprises shall comply with the provisions of the Law on Public Debt Management and other applicable regulatory provisions.

3. For programs and projects whose investment policies have been decided by the competent authorities and new projects, the implementation duration must not exceed 06 years for Category A projects, 04 years for Category B projects, and 03 years for Category C projects. In the event of failure to meet the above time limit, the Prime Minister shall decide the implementation duration of projects funded by the central budget capital.

The implementation duration of a program/project funded by ODA or concessional loan is determined from the time of allocating fund to the program or project by a competent authority.

**Article 41. Preparing and approving master plan for implementation of program/project funded by ODA, concessional loan, and counterpart fund**

1. The master plan for implementation of a program/project shall cover its entire duration, all components, items, activities, funding sources (ODA, concessional loan, counterpart fund), and schedule.

2. Within 30 working days from the day on which the specific international treaty or agreement on ODA and concessional loans is signed, based on the feasibility study report, program/project document approved by a competent authority, the decision on investment in the program/project, and the specific international treaty or agreement on ODA and concessional loan, the project owner shall coordinate with the foreign donor in preparing or reviewing, updating the master plan for program/project implementation before submitting it to the managing agency for approval.

3. Within 05 working days from the day on which the master plan for program/project implementation is approved, the managing agency shall send the decision on approval enclosed with the master plan to the Ministry of Planning and Investment, Ministry of Finance, concerned agencies, and the foreign donor to facilitate their monitoring, evaluation, and cooperation in implementing the program/project.

**Article 42. Preparing and approving annual plan for implementing program/project funded by ODA, concessional loan, counterpart fund**

1. Based on the master plan for the program/project implementation already approved by the managing agency; Based on the actual disbursement and disbursement plan specified in the applicable specific international treaties, agreements on ODA and concessional loans, the project owner shall review and submit annual implementation plan to the head of the managing agency for approval. The annual implementation plan for programs and projects funded by ODA and concessional loan is also part of the annual investment plan of the managing agency.

2. The content of the annual program/project implementation plan shall contain detailed information about its components (divided into technical assistance component and construction component), main activities, items, funding sources including counterpart fund, and tentative schedule.

3. The annual plan approved by the managing agency is the basis for the project owner to formulate quarterly plans serving the management, monitoring and evaluation of the program/project implementation.

4. Every year when formulating the socio-economic development plan and state budget estimate, the managing agency shall incorporate the annual program/project implementation plan in its annual public investment plan and annual budget plan. Based on the managing agency's annual budget plan, the Ministry of Planning and Investment shall formulate the capital plan and coordinate with the Ministry of Finance in submitting the annual socio-economic development plan and annual budget plan to the National Assembly for approval.

5. Procedures for assigning tasks in the annual program/project implementation plan shall comply with applicable regulatory provisions on assigning annual socio-economic development tasks.

6. Within 05 working days from the day on which the annual program/project implementation plan is approved, project owner shall send the approval decision enclosed with the annual implementation plan to the managing agency, who shall forward them to the Ministry of Planning and Investment, concerned agencies, and the foreign donor to facilitate their monitoring, evaluation, and cooperation in implementing the program/project.

7. Regarding a program/project eligible for full on-lending from the state budget: Every year when formulating the socio-economic development plan and state budget estimate, the project owner shall formulate the program/project implementation plan and submit it to the managing agency for approval of the ODA/concessional loan financing plan and submit it to the Ministry of Planning and Investment, the Ministry of Finance, and the authorized on-lending agency for supervision. The managing agency and the project owner shall provide sufficient counterpart fund according to the progress of the program/project.

8. Regarding a program/project eligible for partial on-lending from the state budget: Depending on the nature of each component (full grant or on-lending), the project owner shall apply the procedures for preparing and submitting the program/project plan for each component in accordance with Clauses 1, 2, and 7 of this Article.

**Article 43. Counterpart funds for preparing and implementing the program/project**

1. The counterpart fund must be sufficiently provided to prepare and implement the program/project (including prior activities, if any). The sources, level, and mechanism of counterpart fund must be suitable for the expenditures of the program/project agreed between the managing agency and the foreign donor, and specified in the feasibility study report and program/project document as appraised and approved by a competent authority.

2. Counterpart funds shall cover:

- a) Operating costs of the Project Management Unit (salaries, bonuses, allowances, offices, work equipment, administrative costs);
- b) Costs of design appraisal, examination of overall budget estimates, completion of procedures for investment, construction, and other necessary administrative procedures;
- c) Costs of contractor selection;
- d) Costs of workshops, conferences, training in management and implementation of the program/project;
- đ) Costs of receiving and imparting international technologies, experience, and skills;
- e) Costs of communication, advertising, and community activities;
- g) Taxes, customs fees, insurance premiums according to applicable regulations;
- h) Interest expenses, deposits, commitment fees, and other relevant fees payable to the foreign donor;
- i) Costs of receiving and transporting equipment domestically (if any);
- k) Costs of account finalization and verification of final accounts;
- l) Costs of compensation, site clearance, and resettlement;
- m) Costs of some basic activities of the program/project (survey, technical design, construction of certain items, procurement of certain equipment);
- n) Costs of monitoring and evaluation; quality assurance and control, acceptance, hand-over, and account finalization of the program/project;
- o) Contingencies and other reasonable expenses.

3. Regarding a program/project eligible for full grant from the state budget: the managing agency shall allocate counterpart fund in its annual budget estimate based on budget decentralization arrangement and other legitimate financial sources, which are clearly classified into capital expenditures and recurrent expenditures corresponding to spending items of the program/project; ensuring sufficient and timely counterpart fund as specified in the feasibility study report and program/project document approved by a competent authority, the decision on investment, regulatory provisions on state budget and applicable specific international treaty or agreement on ODA and concessional loans.

4. Regarding a program/project eligible for full on-lending from the state budget: the project owner shall provide counterpart fund themselves or request the managing agency to decide the amount of counterpart fund before signing the on-lending agreement.

5. For programs and projects with hybrid financial mechanisms (combination of grant and on-lending): The managing agency and project owner shall allocate sufficient counterpart fund in accordance with applicable regulatory provisions before signing the on-lending agreement.

6. Regarding the program/project eligible for grant from the state budget that is not approved or concluded at the same time as the annual budget estimates, and hence not provided with counterpart fund: The managing agency shall request the Ministry of Planning and Investment and the Ministry of Finance in writing to consider incorporating the program/project in the annual budget estimate.

If the counterpart fund plan is not made at the same time as the annual budget plan, the managing agency shall provide it from the allocated capital. If the managing agency is not able to provide counterpart fund, it shall request the Ministry of Planning and Investment and the Ministry of Finance in writing to seek approval of capital advance, which will be deducted from the next year's budget plan.

7. Sources of counterpart fund include: state budget and other funding sources of the State; capital of the project owner (for on-lending of ODA, concessional loan); ODA and concessional loan of foreign donor as decided by the Prime Minister.

8. Expenditure norms from counterpart fund shall comply with the state budget spending regulations and applicable regulatory provisions.

#### **Article 44. Taxes and fees imposed upon programs and projects**

Taxes and fees imposed upon programs and projects shall comply with applicable regulatory provisions on taxes and fees, and international treaties to which the Socialist Republic of Vietnam is a signatory. Where there are

discrepancies between Vietnam's law and a signed international treaty on the same issue, the international treaty shall prevail.

#### **Article 45. Compensation for site clearance and resettlement**

Compensation for site clearance and resettlement in program/project implementation shall comply with applicable regulatory provisions and international treaties on ODA and concessional loans to which the Socialist Republic of Vietnam is a signatory. Where there are discrepancies between Vietnam's law and a signed international treaty on the same issue, the international treaty shall prevail.

#### **Article 46. of Procurement**

1. The contractor selection shall be carried out in accordance with the international treaty between Vietnam and the foreign donor; where there are discrepancies on contractor selection between the international treaty to which Vietnam is a signatory and the Law on Bidding, such international treaty shall prevail. If the international treaty does not provide for contractor selection procedures, contractor selection shall be carried out in accordance with the Law on Bidding.

2. Delegation procedures for submission, appraisal and approval of bidding contents shall comply with Vietnam's regulations on bidding. The content of appraisal and approval shall comply with the international treaty under the rules prescribed in Clause 1 of this Article.

#### **Article 47. Surplus funds**

1. Surplus funds (from ODA and concessional loans) arising in the course of program/project implementation include surplus funds after bidding, excess fund due to exchange rate changes, and other surplus funds.

2. Surplus funds must not be used to finance site clearance costs, taxes and recurrent expenditures.

3. In cases where it is really necessary to use the surplus funds to promote efficiency without altering major objectives specified in the investment policy decision of the ongoing program or project: The managing agency shall coordinate with the Ministry of Planning and Investment, the Ministry of Finance and foreign donors in determining the efficiency and necessity to decide the use of the surplus funds and proceed with the procedures to adjust the investment policy and the ongoing program or project under Article 19 and Article 22 of this Decree or the procedures to adjust implementation policy and Decision approving the ongoing project document in accordance with Article 27 of this Decree.

4. For cases of using surplus funds to implement new programs or projects: the managing agencies shall send an official letter to the Ministry of Planning and Investment, enclosing the report on investment policy proposal for new programs and projects. The Ministry of Planning and Investment shall take the lead and coordinate with concerned agencies in working with foreign donors to agree on the use of surplus funds, applicable financial mechanism and decision making procedures for the investment policy prescribed at Articles 14 through 18 of this Decree.

5. Cancellation of surplus funds: The managing agency shall synthesize comments of the Ministry of Planning and Investment and request the Ministry of Finance to cancel the surplus funds of the program or project. Based on the proposal of canceling the surplus funds, the Ministry of Finance shall inform the donor of the cancellation of surplus funds.

In case the cancellation incurs fund cancellation fee or other fees, the managing agency shall synthesize comments of the Ministry of Planning and Investment and request the Ministry of Finance to cancel the surplus funds of the program or project. Based on the managing agency's proposal, the Ministry of Finance shall report to the Prime Minister for permission to cancel the surplus funds before informing the donor of the cancellation.

#### **Article 48. Construction management, acceptance, hand-over, audit, account finalization**

1. Regarding a construction project, the appraisal and approval of the construction design, total cost estimate, construction permit, construction quality management, acceptance, hand-over, warranty, and construction works insurance shall comply with applicable regulatory provisions on construction management and international treaties on ODA and concessional loan to which the Socialist Republic of Vietnam is a signatory. Where there are discrepancies between Vietnam's law and a signed international treaty on the same issue, the international treaty shall prevail.

2. Regarding a technical assistance program/project, upon completion, the managing agency shall carry out the acceptance procedures and take necessary measures to maximize the effects while complying with applicable regulatory provisions on financial and asset management of the program/project.

3. The audit and account finalization of the program/project shall be carried out in accordance with applicable regulatory provisions and international treaties on ODA and concessional loans to which the Socialist Republic of

Vietnam is a signatory, or at the request of the foreign donor. Where there are discrepancies between Vietnam's law and a signed international treaty on the same issue, the international treaty shall prevail.

**Article 49. Monitoring and evaluation of programs/projects funded by ODA and concessional loans**

1. Monitoring and evaluation of programs/projects funded by ODA and concessional loans:

a) Monitoring and evaluation of programs/projects funded by ODA and concessional loans shall comply with Articles 69 through 77 of the Law on Public Investment and applicable regulatory provisions. Where there are discrepancies between Vietnam's law and a signed international treaty on the same issue, the international treaty shall prevail.

b) The Ministry of Planning and Investment, ministries, central agencies and localities shall develop, manage, operate and apply the national information system and database on public investment in accordance with Clause 2, Article 97 of the Law on Public Investment and other regulatory provisions.

2. Monitoring, inspection, evaluation, and supervision of technical assistance programs/projects funded by stand-alone ODA grant independent of any loan and non-projects assistance:

a) Monitoring and inspection of the programs, projects and non-project assistance: The project owner shall monitor and inspect the implementation of programs, projects and non-project assistance on the basis of program, project or non-project assistance documents approved by the competent authorities to ensure achievement of the set objectives, and periodically report to the managing agency on the monitoring and inspection results;

b) Evaluation of programs, projects and non-project assistance: Within 3 months from the end of the program, project or non-project assistance, the project owner shall complete the evaluation report for the program, project or non-project assistance, covering the following contents: Implementation process; implementation results of objectives; resources mobilized; benefits from the programs, projects and non-project assistance to beneficiaries; impacts, sustainability; lessons learned and recommendations; responsibilities of concerned agencies, organizations and individuals;

c) Reporting requirements on the implementation of programs, projects and non-project assistance for managing agencies and project owners: Managing agencies and project owners shall send reports according to applicable regulatory provisions.

**Chapter VI. FINANCIAL MANAGEMENT OF ODA AND CONCESSIONAL LOANS**

**Section 1. OPEN AND MANAGE PAYMENT ACCOUNTS**

**Article 50. Open payment accounts for programs and projects funded by ODA and concessional loans at the State Treasury system and service banks**

1. Accounts for ODA and concessional loans:

a) ODA and concessional loans channeled to the state budget shall be managed, accounted, and monitored on the accounts of each budget level;

b) The project owner shall open the project's account at the State Treasury system or the service banks to receive ODA and concessional loans for activities of the programs or projects.

2. Accounts for counterpart funds: The project owner shall open accounts at the State Treasury where their transactions are conducted so as to effect the expenditure control and payment of counterpart fund (domestic fund) for the project.

**Article 51. Criteria for selection of service banks for programs, projects funded by ODA and concessional loans**

1. Having experience in managing ODA and concessional loan withdrawal, domestic credit rating, meeting banking professional standards and qualifications, complying with regulations on prudential ratios in banking operations.

2. Having a network of branches suitable to the requirements of the programs or projects.

3. Accepting the responsibilities of service banks as stipulated in Articles 50, 52, 53, 54, 63, 68 and 79 of this Decree.

**Article 52. Responsibilities of the service banks**

1. To carry out the procedures for the Ministry of Finance or project owners to open ODA and concessional loan accounts for the programs or projects in accordance with the international treaties/agreements on ODA and concessional loans signed by the competent authorities, and in accordance with Chapters VI and VII of this Decree.

2. To monitor and manage accounts, conduct banking transactions and collect fees according to regulations, and report information on accounts of the programs or projects funded by ODA and concessional loans in accordance with Chapters VI and VII of this Decree.

**Article 53. Principles for opening and managing designated accounts for advance payment of ODA and concessional loans**

1. The State Treasury where transactions are conducted or service banks carry out the procedures for opening designated accounts (transaction accounts) for project owners or the Ministry of Finance, in accordance with the project's payment requirements, shall ensure the direct transfer of funds to the projects, not through intermediary accounts. In cases where a project is supported by multiple financial sources, separate accounts must be opened to monitor individual disbursements.

2. Where the managing agency assigns several implementing units, the project owners shall open branch accounts at the State Treasury where transactions are conducted or branches of service banks.

3. The currency of the account is the borrowing foreign currency (except for cases where the Ministry of Finance approves the opening of accounts in Vietnam dong).

4. Management of interest earned on designated accounts:

a) Interests earned on designated accounts must be separately accounted and used for payment of service charges according to the regulations. Banking service charges are considered expenses of the project. Where the interests earned are not enough to cover service charges, the project owners shall include in the budget estimates and arrange counterpart fund for payment;

b) Upon completion of all spending activities on the designated account, for projects eligible for full grant from the state budget, the project owners shall remit the interests earned thereon into the state budget. For projects eligible for full on-lending, the interest earned shall be the project owners' revenue. For projects eligible for partial on-lending, the interest earned shall be distributed on a pro rata basis.

**Article 54. Responsibilities of the account opening institutions of programs and projects funded by ODA and concessional loans**

1. At the request of the project owners as the account owners for opening payment accounts of the project and carry out payment, fund withdrawal transactions, and other operations according to the applicable regulations.

2. The State Treasury or the service banks shall have to guide and provide the projects with sufficient information for the payment transaction via the State Treasury system or service banks.

3. On a monthly basis, as agreed upon between the account opening institutions and the account holders, and when the account holders request, the account opening institutions shall have to send the statements of the designated accounts to the account holders, including details of the amount in the original currency, the beneficiaries and transaction dates, applicable exchange rates and the equivalent value in VND, opening balance, outflows and the closing balance.

4. On a monthly basis, as agreed upon between the account opening institutions and the account holders, and when the account holders request, the account opening institutions shall notify the account holders of the interest earned on the designated accounts of the projects (if any); service charges collected by the bank; the difference between interest earned and paid service fees; opening balance and closing balance.

5. Within 02 working days after being informed of the disbursement by the foreign donors, the account opening institutions shall credit to the accounts of the project and notify the account holders.

6. Before the 10th of each month, the State Treasury and the service banks shall synthesize the reports to the Ministry of Finance on the activities in the previous month of the ODA, concessional loan accounts opened throughout the system. Detailed reports by project names, project owners, accounts, sub-accounts (each account, sub-account is used for a source of funding), the report must separate the ODA grants and the loans; detailed reports on the opening balance, total withdrawal from foreign donors in the period, total expenditures in the period, the closing balance, repayments to foreign donors (if any); reports on interest earned on ODA and concessional loan accounts in the period, the amount of interest used to cover banking service charges, and interest balance at the end of the period.

7. At the end of every fiscal year, account balances shall be reconciled with the project owner.

## **Section 2. FORMULATION OF FINANCIAL PLANS FOR ODA AND CONCESSIONAL LOANS**

### **Article 55. Formulation of annual financial plans for programs, projects funded by ODA and concessional loans**

1. Based on the medium-term plans approved by the competent authorities, the managing agencies shall formulate annual financial plans for programs, projects funded by ODA and concessional loans.

2. The annual financial plan must be detailed by each program, project, international treaty, and agreement on ODA and concessional loans, which shall be divided into capital expenditures, recurrent expenditures, on-lent fund, and counterpart fund. In cases where the projects apply partial on-lending, the financial plan must reflect exact ratio of grant and on-lent amounts in line with the financial mechanism approved by the competent authorities.

3. The allocation level of ODA, concessional loans and counterpart fund in the annual budget estimates must be in line with international treaties and signed agreements on ODA and foreign concessional loans, and with the actual disbursement capacity of programs and projects funded by ODA, concessional loans.

4. The formulation of annual financial plans for programs, projects funded by ODA and concessional loans shall comply with the process of elaborating annual state budget estimates under the provisions of the Law on State Budget and relevant legislation.

### **Article 56. Synthesis of financial plans for ODA and concessional loans in the annual State budget estimates**

1. For capital investment projects eligible for full grant from the State budget, the Ministry of Planning and Investment shall synthesize the plans for ODA and concessional loan withdrawal, and the counterpart fund plans for submission to the Ministry of Finance to incorporate into annual state budget estimates.

2. For recurrent expenditures, the Ministry of Finance shall synthesize the withdrawal plans of ODA, concessional loans, counterpart fund, and incorporate into the annual state budget estimates.

3. For on-lent loans to provincial People's Committees, the provincial People's Committees shall elaborate the withdrawal plans for on-lent fund, and report to competent authorities as required by the Government's Decree on the management of local governments' debts, and deliver the plans to the Ministry of Finance to incorporate into the State budget estimates and report to competent authorities for decision.

4. For on-lending projects of enterprises, public non-business units, the project owners shall deliver to the Ministry of Finance the registration of annual plans on disbursement of on-lent fund, and concurrently send these plans to the on-lending agencies. The Ministry of Finance shall synthesize and submit to the Government for decision on the limit of ODA and concessional loans for annual on-lending as per regulations.

5. The Ministry of Finance shall provide instructions on the contents of annual financial plans for programs and projects funded by ODA and concessional loans.

### **Article 57. Entry and approval of annual estimates on the Treasury And Budget Management Information System (TABMIS)**

1. As for the central budget, based on the budget estimates approved by the National Assembly and the Prime Minister, ministries and ministerial-level agencies shall allocate and enter for the Ministry of Finance's verification and approval of estimates from ODA loans and ODA grants associated with foreign donors' loans and concessional loans on TABMIS as per regulations on the system's operation and applicable guiding documents.

2. As for local budget, based on the budget estimates approved by the provincial People's Councils and People's Committees, provincial Department of Finance shall enter and verify capital investment plans and recurrent expenditure estimates from ODA loans and ODA grants associated with foreign donors' loans and concessional loans as targeted local budget support; the Government's ODA loans and ODA grants associated with foreign donors' loans for on-lending to local budget on TABMIS according to applicable regulatory provisions.

3. The entry of estimates into TABMIS must ensure the correct source of granted ODA and concessional loans, targeted local budget support via on-lent ODA and concessional loans to localities as well as assigned portfolio and norms assigned by the Prime Minister (for targeted local budget support).

## **Section 3. EXPENDITURE REVIEW OF ODA AND CONCESSIONAL LOANS**

### **Article 58. Principles of expenditure review**

The expenditure review and repayment of ODA and concessional loans (hereinafter referred to as expenditure review) shall comply with the applicable regulations on state budget fund.

1. Expenditure review applies to all expenditures of the project financed by ODA and concessional loans, including those in the form of L/C or direct payments authorized to foreign parties, ensuring that expenditures are based on estimates and in compliance with the signed international treaties on ODA and concessional loans and applicable domestic regulations on financial management.

2. Expenditure review for programs and projects funded by ODA loans and foreign concessional loans are conducted in compliance with applicable regulations on state budget within the approved estimates of foreign fund, counterpart fund, annual on-lending plan, or revisions thereof made in the year (if any) approved by the competent authorities.

3. The expenditure review dossier, the written request for certification of eligible recurrent expenditures and the written request for payment of capital expenditures of the project owners shall comply with the regulatory provisions on administrative procedures in the field of state treasury.

4. Time limit for expenditure review of advances and payments in the fiscal year:

a) Statutory advances: Expenditure review must be conducted not later than December 31 of the planning year, the project owner shall send dossier and supporting documents to the expenditure review agency by December 31 every year;

b) The payments for completed volumes are subject to expenditure review and disbursed until January 31 of the following year.

5. Capital investment projects or component projects eligible for full or partial grant from the state budget shall follow expenditure review procedures prescribed under regulatory provisions on management and payment of capital expenditures for programs and projects funded by the state budget.

6. For on-lending projects and component subject to credit limits applicable to loan agreements signed in 2017 and earlier: Expenditure review dossiers and procedures for on-lending projects and components subject to credit limits shall follow regulations of credit institutions using on-lent loans and the signed international treaties and agreements on ODA and concessional loans. Credit institutions using on-lent ODA or concessional loans shall be legally responsible for the eligibility and validity of extended credit and fees in their statements of expenditures sent to the Ministry of Finance when preparing and submitting foreign fund withdrawal dossier.

7. Expenditure review dossiers and procedures for projects or project components applying full on-lending mechanism: The on-lending agencies shall comply with Clause 3 of this Article and on-lending agreements.

8. Based on the project owner's payment request for all forms of withdrawal, the expenditure review agency shall base on the payment terms specified in the agreement (number of payments, payment period, time of payment and payment conditions) or the approved estimates for payments not based on agreement and the value of each payment, to effect expenditure review and payment to the project owner. Project owners are responsible for the methods of contractor selection, the accuracy and legality of the accepted volume eligible for payment, norms, unit prices, estimates for different types of work, works quality and compliance with applicable regulations. Project owners are responsible for managing and using funds for the right purposes and right subjects while ensuring efficiency. Project owners are responsible for strictly abiding by the regulatory provisions on financial management of ODA and concessional loans.

#### **Article 59. Expenditure reviewing agencies**

1. The State Treasuries at all levels shall control the payment dossiers of projects or project components eligible for full grant from the State budget; projects eligible for partial grant and partial on-lending, and on-lending projects of provincial People's Committees.

2. The on-lending agencies authorized by the Ministry of Finance shall control the payment dossiers of the projects or the project components that apply full on-lending mechanism.

3. For other programs and projects which have yet been specified in Clauses 1 and 2 of this Article, the Ministry of Finance shall determine the appropriate expenditure review agency, ensuring no overlap where two expenditure reviewing agencies control the same expenditure activity of the project.

#### **Article 60. Forms of expenditure review**

1. Prior review of expenditures means that the expenditure review agency inspects and validates the legality and validity of the expenditures before the project owners withdraw fund to pay the contractors or beneficiaries. Prior review of expenditures shall apply to expenditures not covered by Clause 2 of this Article.

2. Post review of expenditures means that the expenditure review agency inspects and validates the legality and validity of the expenditures after the project owners has withdrawn fund to pay the contractors or beneficiaries. Post review of expenditures shall apply in the following cases:

a) Payment from designated accounts to contractors or suppliers, except for designated accounts owned by the Ministry of Finance that apply prior review of expenditures;

b) Advance transfer from designated accounts to second-level accounts for projects having several management levels;

c) Expenditures from second-level accounts for the project management activities according to the estimates already approved by competent authorities.

d) Payment by L/C for procurement of goods and equipment, except for the last payment.

3. Within 30 days after the withdrawal of fund for payment, the project owner shall complete the payment dossiers and deliver to the expenditure review agency for validation as the basis for the next payment. Where it is deemed necessary, the project owner may negotiate with the contractors to apply prior review of expenditures for the expenditures specified in Clause 2 of this Article and deliver to the expenditure review agency for coordinated implementation.

#### **Section 4. WITHDRAWAL OF FUND, ACCOUNTING MANAGEMENT OF ODA AND CONCESSIONAL LOANS**

##### **Article 61. Forms of ODA and concessional loan withdrawal**

Forms of ODA and concessional loan withdrawal include:

1. Withdrawal of budget support: ODA and concessional loans shall be disbursed to the state budget for direct budget support or results-based funding.

2. Fund withdrawal for programs or projects: Fund withdrawal for programs or projects shall apply one or some of the following forms: Direct payment, payment by L/C, reimbursement, designated account.

##### **Article 62. Time limit for processing withdrawal applications for ODA and concessional loans**

1. Time limit for processing withdrawal applications at the Ministry of Finance is 04 working days from the date of receiving the complete dossier as required by the regulations. Time limit for processing statements of expenditures is 07 working days from the date of receiving the complete dossier as required by the regulations.

2. In case the programs and projects funded by ODA loans and concessional loans finish the last disbursement in the year of project closing, the project owner shall send the withdrawal application to the Ministry of Finance before December 01 (of the planning year) to ensure disbursement progress before January 31 of the following year. In case of a force majeure event which results in failure to disburse before January 31 of the following year, extension of implementation duration and disbursement of medium-term and annual public investment capital shall be applied in accordance with Clause 2, Article 68 of the Law on Public Investment.

##### **Article 63. Order and procedures for ODA and concessional loan withdrawal**

1. Order and procedures for fund withdrawal in the form of budget support:

a) The project owners and managing agencies shall take the lead or coordinate with the Ministry of Finance and concerned agencies in fulfilling Vietnam's commitments as agreed upon with the foreign lenders to satisfy the prerequisites for withdrawal of fund stated in specific international treaties, agreements on ODA and concessional loans;

b) The project owners and managing agencies shall take the lead or coordinate with concerned agencies in compiling dossiers and submitting fund withdrawal applications to the Ministry of finance according to the regulations of the foreign donors or lenders;

c) For general budget support, the Ministry of Finance shall process the withdrawal dossiers and applications, deliver them to the foreign lenders, and transfer the withdrawn funds to the state budget for use according to the signed international treaties and agreements on ODA and concessional loans;

d) For targeted budget support where the ODA and concessional loans are intended for a specific sector or field:

The program/project managing agencies must reach an agreement with the Ministry of Finance on the time and amount of ODA, concessional loan withdrawal, and ensure that the disbursed amount is incorporated in the annual financial plan of the component projects.

ODA and concessional loans that are disbursed to the state budget shall be allocated to component projects for use in accordance with the applicable procedures on managing state budget fund.

2. Order and procedures for fund withdrawal in the form of result-based funding:

a) The project owners and managing agencies shall take the lead and coordinate with concerned agencies in implementing the relevant disbursement linked indicators as agreed upon with the foreign lenders as a basis for fund withdrawal. Project owners are entitled to receive advance fund in accordance with the regulations of the foreign lenders in order to carry out the agreed work towards achieving disbursement linked indicators;

b) The project owners and managing agencies shall take the lead or coordinate with concerned agencies in making reports, documents, or providing documents that prove the fulfillment of the disbursement criteria prescribed in the signed international treaties or agreements on ODA and concessional loans to deliver to the foreign lenders. The project owners shall submit a fund withdrawal dossier and application to the Ministry of Finance according to the regulations of the foreign lenders;

c) The disbursed ODA and concessional loans shall be transferred to the account opened at the State Treasury of the program/project implementing agencies as agreed upon with the donors. The spending complies with the applicable state budget management procedures. At the end of each fiscal year, the balance of estimates of foreign funding sources shall be handled according to the applicable regulations on state budget management; the cash balance on the designated account shall continue to be used for activities of the program or project in the subsequent fiscal year according to the regulations;

d) When withdrawing funds under the results-based financing facilities, the project owner uses the exchange rate between Special Drawing Rights (SDR) and Vietnam Dong (VND) published on the donor's website at the time of preparing withdrawal application.

3. Order and procedures for ODA, concessional loan withdrawal in the form of project financing:

a) Forms of withdrawal:

Direct payment: transfer money directly to the contractors and suppliers of the projects.

Payment by letter of credit (L/C): means payment by L/C issued by the bank at the request of the project owner under commitments to the contractor or supplier on payment of a certain amount if the contractor or supplier can present a set of valid documents as prescribed in the L/C.

Reimbursement: a form in which a foreign donor pays to reimburse the eligible expenditures paid by the project owner for the project.

An designated account is a form in which foreign donors pay in advance a sum of money into a designated account opened for the project at the service bank so that the project owner can take initiative in paying for eligible recurrent expenditures of the project, thereby reducing the number of loan withdrawals;

b) After the foreign donors announce that they have fulfilled the prerequisites for fund withdrawal under specific international treaties, agreements on ODA and concessional loans, the project owners or the Project Management Units shall submit a fund withdrawal dossier in line with the form prescribed by the foreign lenders and with form of fund withdrawal to the Ministry of Finance;

In cases where the foreign lenders request additional documents or only approve part of the fund withdrawal application, the Ministry of Finance or the foreign lenders shall notify the project owner for timely coordination in handling reasonable requests of the foreign lenders;

c) The fund withdrawal dossier to be delivered to the Ministry of Finance: For each fund withdrawal transaction, the project owner or the authorized unit shall compile and deliver to the Ministry of Finance a fund withdrawal dossier in line with each form of fund withdrawal. The withdrawal dossier is described in Appendix VII to this Decree;

d) The electronic withdrawal application shall comply with the guidance of the Ministry of Finance after reaching an agreement with the donor.

**Article 64. Principles for accounting management of ODA, concessional loans into the state budget**

1. ODA and concessional loans to offset the State budget deficit must be fully and accurately accounted into the state budget.

2. For programs and projects that apply full or partial grant mechanism and subject to expenditure review at the State Treasury, the accounting into State budget for the ODA and concessional loans fully granted or partially on-lent (for provincial People's Committees) shall be carried out by the state treasury where the transactions are conducted.

3. State budget accounting shall be carried out based on the disbursement documents of ODA and concessional loans transferred to agencies, organizations and units for use as notified by foreign donors. For the payment from designated accounts, the project owners shall prepare written requests for accounting of ODA and concessional loans and deliver to the State Treasury for validation together with the expenditure review procedures. For other forms of fund withdrawal, the project owners shall prepare written requests for accounting of ODA and concessional loans and deliver to the State Treasury for validation within 03 working days after receiving the disbursement documents from the foreign donors, and send to the Ministry of Finance for monitoring.

#### **Article 65. Accounting of direct budget support**

Based on the notification advice of the service banks, the State Treasury shall debit ODA and concessional loans, and credit ODA and concessional loan revenues to the State budget as prescribed by regulations; In case of transferring foreign currencies to the centralized foreign currency reserve, the State Treasury shall account them according to regulations on revenues or loans of the State budget in foreign currencies.

#### **Article 66. Accounting of ODA and concessional loans at the State Treasury**

The State Treasury shall record revenues and expenditures for ODA and concessional loans eligible for grant and on-lending under programs and projects subject to expenditure review at the State Treasury, specifically as follows:

1. Account under the correct source code of granted ODA, targeted local budget support from ODA, on-lent ODA to the locality and make detailed accounting entries by type of ODA grant, ODA loan and concessional loan.

2. Advances shall be accounted to increase advance expenditures. Recovered advances shall be accounted to decrease advance expenditures.

3. The payments for completed volumes are accounted under actual revenues and expenditures for annual account finalization of the State budget.

4. For expenditures in the annual budget plan which have been reviewed by the State Treasury and paid to contractors and suppliers of goods service before January 31 of the following year, the State Treasury shall record as revenues and expenditures of the current year (year of transaction). For expenditures in the annual budget plan which have been reviewed by the State Treasury and paid to contractors and suppliers of goods service after January 31 of the following year, the project owners shall account as revenues and expenditures of the following year and prepare estimates accordingly.

5. Accounting dossiers shall comply with the Government's regulations on administrative procedures in the field of State Treasury. The project owner shall send the dossier to the State Treasury where the transactions are conducted to confirm the accounting before February 01 of the following year.

#### **Article 67. Accounting of on-lent ODA and concessional loans at the Ministry of Finance**

1. For the Government's ODA and concessional loans on-lent by the Ministry of Finance; for loans where the financial institutions and credit institutions are authorized by the Ministry of Finance to act as on-lending agencies to investment programs and projects: Based on the donor's disbursement notice and the project owner's statement of disbursement, the Ministry of Finance shall account the debt obligations in accordance with the regulations on accounting regime applicable to the central and local governments' loans and repayments; track statistics of on-lent amounts and Government guarantee.

2. When adjusting accounting entries of programs and projects falling under the accounting mandate of the Ministry of Finance, the Ministry of Finance shall base on the donors' disbursement notices to make an entry adjustment and send to on-lending agencies and project owners to adjust accordingly on financial statements and account finalization report on foreign capital.

#### **Article 68. Accounting exchange rate**

1. Direct payments and L/C payments made by the donor in foreign currencies to contractors and suppliers when being accounted in VND shall apply the transfer buying rate at the beginning of the day published the service bank or the bank where the State Treasury opens the account, or the transfer buying rate at the beginning of the day published by Joint Stock Commercial Bank for Foreign Trade of Vietnam in the absence of a service bank on the date when the donor makes loan to the Government.

2. For direct payments made by the donor in VND, the actual exchange rate shall be applied between the currency of indebtedness and the currency of payment.

3. In case the project expenditures are made from the designated account, expenditures from the designated account in VND and in foreign currency shall apply the transfer buying rates for the respective foreign currencies of the service bank or the bank where the State Treasury opens account at the time of payment.

4. When converting advance payment to actual payment for completed volume, the transfer buying rate at the beginning of the day published the service bank or the bank where the State Treasury opens the account at the time of accounting advance payment shall be applied to account for the recovered advances.

5. The project owner is responsible for determining and applying the exchange rate when requesting the State Treasury where the transactions are conducted to review expenditures or requests accounting of revenues and expenditures in foreign currencies as per regulations.

6. The project owner shall reevaluate the exchange rates for monetary items denominated in foreign currencies related to project activities at the end of the accounting period before preparing financial statements and upon request of the donors according to regulations of the accounting regime applied by the units.

#### **Article 69. Time limit for state budget accounting**

1. Expenditures from ODA and concessional loans validated under expenditure review procedures and disbursed until January 31 of the following year shall be accounted at the State Treasury where transactions are conducted within 05 working days from January 31.

2. The State Treasury shall complete the accounting of expenditures from ODA and concessional loans in the implementation year within 30 days from January 31.

3. The order and procedures for managing State budget accounting of ODA and concessional loans shall comply with the Government's regulations on administrative procedures in the field of the State Treasury.

### **Section 5. REPORTING, ACCOUNTING, AUDITING, ACCOUNT FINALIZATION, AND INSPECTION**

#### **Article 70. Online reporting on ODA loans and foreign concessional loans**

1. The managing agency shall publish information on the Program/Project Proposal, Report on investment policy proposal or Pre-feasibility study report, Project documents, Feasibility study report approved by the competent authorities on the National information system and database on public investment and the Ministry of Finance's web portal. The time limit for reporting is no later than 10 days from the date of approval/decision by the competent authority.

2. The project owner or the Project Management Unit shall submit an online report on the National Information System and Database on Public Investment, the Ministry of Finance's web portal on the Program/Project Implementation Master Plan, expected annual disbursement needs, annual allocated capital plans and revision thereof (if any), the disbursement of ODA and foreign concessional loans.

a) As for the Program/Project Implementation Master Plan and revision thereof (if any), the project owner or the Project Management Unit shall submit a report within 10 days from the date of receiving the document approved by the managing agency;

b) As for the expected annual disbursement needs, annual allocated capital plans and revision thereof (if any), the project owner or the Project Management Unit shall submit a report within 10 days from the date of receiving the document approved by the managing agency;

c) Regarding actual funds disbursement, the project owner or the Project Management Unit shall submit a report on the disbursement of ODA and concessional loans in the month within 05 days from the end of the month on the National Public Information System and Database on Public Investment and the Ministry of Finance's web portal.

3. The Ministry of Planning and Investment and the Ministry of Finance shall provide guideline on forms of online reports as prescribed in this Article.

#### **Article 71. Report on disbursement and state budget accounting status**

1. Within 15 days since each quarter end, the project owners shall carry out expenditure review at the State Treasury and send a report to the managing agencies and the financial agencies of the same level on disbursement of ODA and concessional loans in the quarter, together with the State budget revenue-expenditure accounting notes certified by the State Treasury where transactions are conducted.

Enterprises and public non-business units that receive the on-lent amount shall follow the regulations on the disbursement reporting requirements under the Government's Decree on on-lending.

2. Within 30 days from the closing date of the ODA and concessional loans, the project owner shall send a report concluding the withdrawal of ODA and concessional loans to the Ministry of Finance and the managing agency as a basis for the project's account finalization.

3. The Project owner shall compile and deliver the financial reports to foreign donors according to the provisions at specific international treaties, signed agreements on ODA and concessional loans, feasibility study reports, project documents (if any) and concurrently send the reports to the managing agency and the financial agency of the same level to promptly monitor and direct the financial management of the project.

4. Annually, within 60 days from the end of the reporting period, to facilitate reconciliation between the accounted data and actual disbursement, the managing agencies shall compile, synthesize and provide the Ministry of Finance, the State Treasury with the disbursement reports and accounting notes of the state budget revenues and expenditures from ODA and concessional loans.

5. The Ministry of Finance shall provide guideline on the forms of disbursement report.

#### **Article 72. Accounting, auditing, and account finalization regimes**

Regimes on accounting, auditing, and account finalization of programs and projects funded by ODA and concessional loans shall comply with the applicable regulations applicable to state budget fund and the directions of the Ministry of Finance while ensuring compatibility with the unique contents of the ODA and concessional loans.

#### **Article 73. Regulations on asset management**

Public assets formed from ODA and foreign concessional loans shall comply with the regulatory provisions on management and use of public assets.

### **Section 6. OTHER PROVISIONS ON FINANCIAL MANAGEMENT**

#### **Article 74. Unique contents of programs and projects funded by ODA and concessional loans**

1. Level of contractual advance, recovered advance, withheld ratio pending for performance guarantee shall comply with the contractual provisions between the project owner and the contractor in accordance with the regulatory provisions on contracts (the project owner may negotiate with contractors on advance guarantees for contracts with advance payment value not exceeding VND 1 billion). The project owners are responsible for managing and recovering the advances made to the contractors. In case of failure to recover, the project owner shall be responsible for repaying the donor.

2. For every request for certification and payment of the works warranty to transfer to the contractors, the project owner shall send the State Treasury a schedule to monitor the progress of warranty transfer and accumulated amount to be transferred for reconciliation and confirmation of the warranty amount in accordance with the contractual provisions so that the project owner can make the payment to the contractor. The time of payment for works warranty is the time to calculate the annual budget plan assigned to the project.

3. The last payment for independent audit costs shall be sourced from the counterpart fund.

#### **Article 75. Regulations on financial management of projects whose recurrent expenditures are prescribed in signed international treaties and loan agreements**

1. Project owners shall prepare disbursement plans in the planning year and 02 subsequent years for each program or project with breakdown by ODA loans, concessional loans, and ODA grants for recurrent expenditures and counterpart funds and submit to the Ministry of Finance.

2. The Ministry of Finance shall incorporate plans on ODA loans and ODA grants together with the loans for recurrent expenditures granted to ministries, ministerial-level agencies, central agencies and provincial People's Committees into the annual budget estimates.

3. After the recurrent budget is approved by the competent authority, concerned agencies shall enter the recurrent expenditure plan on the TABMIS according to the applicable regulations.

4. Review of recurrent expenditures for projects or activities shall comply with the Law on State Budget and guiding documents.

5. Projects with recurrent expenditure nature shall apply the administrative and non-business accounting regime. As for projects with hybrid nature of recurrent and capital expenditure, the project owner shall report to the managing agency for decision on the application of suitable accounting regime.

6. Within 06 months from the end of the disbursement, for projects funded by ODA and concessional loans and eligible for recurrent budget allocation, the Project Management Unit shall prepare an account finalization report with detailed breakdown by each source of ODA funds (ODA grants, ODA loans, concessional loans, counterpart funds) on the basis of aggregating all account finalization data throughout the project implementation duration already approved by the competent agency and notified to the managing agency. The managing agency shall synthesize report and send it to the Ministry of Finance.

7. The project owners (spending units) shall prepare and submit annual account finalization reports, annual financial statements to the managing agencies (direct accounting supervisor), or send them to financial agencies (in the absence of any direct accounting supervisor) according to the guiding documents on administrative and non-business accounting regime. The approval, appraisal and notification of annual account finalization shall comply with the Ministry of Finance's regulations on approval, appraisal, notification and synthesis of annual account finalization.

## **Chapter VII. FINANCIAL MANAGEMENT FOR ODA GRANTS**

or decisions on investment in programs and project documents or approved feasibility study reports: 01 notarized copy by the competent authority in accordance with applicable regulatory provisions;

c) Accounting request shall comply with the Government's regulations on administrative procedures in the field of State Treasury; **Article 76. Principles of financial management for ODA grants**

1. ODA grants as the state budget revenues shall be budgeted, reviewed, accounted, and finalized in accordance with the laws on state budget and financial management specified in this Decree. For new ODA grants that have not been incorporated in the budget estimates allocated and assigned by the competent authority, the project owners shall make additional estimates in accordance with the regulatory provisions on state management and relevant legislation.

2. For ODA grants directly managed by donors: The managing agencies are responsible for the tasks assigned under the signed international treaties, agreements on ODA grants, program/project documents or feasibility study reports; and in line with their functions and mandates, the provisions on accounting, taxes and other applicable regulatory provisions. In case the donor transfers ownership of the assets and equipment of the program or project to the project owner, the project owner shall establish the ownership over the assets in accordance with applicable regulations.

3. For mixed ODA grants: Comply with regulations on financial management for ODA loans and concessional loans prescribed in Chapter VI of this Decree.

4. For ODA grants aimed at emergency relief and disaster recovery: Comply with the Government's regulations on receipt, management and use of foreign support for emergency relief and disaster recovery.

5. In the event of any discrepancies on financial management between this Chapter and international treaties on ODA grants signed by the competent authorities, such international treaties shall prevail.

### **Article 77. Opening of payment accounts for ODA-funded programs and projects**

1. Accounts for counterpart funds: The project owners shall open accounts at the State Treasury where their transactions are conducted so as to effect the control and payment of counterpart fund of the projects.

2. Accounts for ODA grants: The project owner shall open an account to receive ODA grant at the service bank or the State Treasury system where the transactions are conducted.

a) The order and procedures for opening an account at the State Treasury and the management and use of accounts shall comply with applicable regulations;

b) The State Treasury shall organize the expenditure control and payment for projects from ODA source.

### **Article 78. Prepare financial plan for ODA grants**

1. Pursuant to the Decision approving the project/non-project document, or the Investment Decision for the program or project; international treaty or agreement on ODA grant (if any), the project owner shall prepare 3-year and annual budget plans for the ODA grant in accordance with the Law on State Budget and relevant legislation and send to the managing agency for incorporation.

2. The annual budget estimates for revenues and expenditures from ODA grants shall be detailed by each donor, program, project or non-project assistance, by each international treaty or agreement on ODA grant.

3. Formulation, synthesis, submission, approval, assignment and revision of ODA grant budget plan:

a) For ODA grant used for public capital expenditures, the regulatory provisions on public investment shall be applied;

b) For ODA grant used for recurrent expenditures, the regulatory provisions on state budget shall be applied;

4. Based on the annual budget limits assigned by the competent agency, the managing agency shall allocate funds with detailed breakdown by each program, project and non-project assistance and notify the Ministry of Finance and the Ministry of Planning and Investment of the detailed allocation plan.

5. The managing agencies shall direct and organize and report the implementation of budget estimates for the ODA grants in accordance with applicable regulations.

#### **Article 79. Expenditure review, disbursement, and accounting of ODA grant in cash**

1. Project owners shall perform expenditure review at the State Treasury according to the regulations on state budget management. The order and procedures for expenditure review and accounting shall comply with the regulatory provisions on administrative procedures in the field of State Treasury.

2. Expenditure review dossier sent to the State Treasury for the first time include:

a) Decision to assign or supplement budget estimates by the competent authority;

b) Notarized copy of the Decision approving the documents of the programs/projects or Decision on investment in programs/projects and project documents or approved feasibility study reports;

c) Notarized copies of the International Treaty or Agreement on ODA grant or Notice of ODA grant;

d) Procurement contract of related goods and services (if any). If the contract is executed in a foreign language, the Vietnamese translation with the project owner's signature and stamp shall be enclosed. Project owners are legally responsible for the accuracy of the Vietnamese translation;

đ) The written request for certification of eligible recurrent expenditures or the written request for payment of capital expenditures of the project owners shall comply with the Government's regulations on administrative procedures in the field of state treasury.

3. Each payment dossier submitted to the State Treasury shall comply with the regulations on expenditures from the state budget.

4. Disbursement of ODA grant in cash for programs and projects: Based on the expenditure review results and at the request of the project owner, the State Treasury or the service bank shall disburse funds to the project as per regulations; notify the Ministry of Finance of the disbursed ODA grant of each account owner on a monthly basis for each program or project.

5. Accounting of revenues and expenditures for projects:

a) On a monthly basis or from time to time, based on the expenditure review results and the written request for accounting ODA grant sent by the project owner, the State Treasury shall record accordingly as per regulations. In case the project owner opens an ODA account at the service bank, in addition to the above-mentioned dossier, the project owner needs to enclose a list of payment documents from the ODA account opened at the serving bank;

b) The State Treasury shall account it into the state budget under grant item according to regulations. Advances shall be accounted to increase advance expenditures. Recovered advances shall be accounted to decrease advance expenditures. The payments for completed volumes are accounted under actual revenues and expenditures for annual account finalization of the State budget.

c) Time of accounting shall comply with applicable regulations on state budget funds.

6. The payment of advances and expenditure review from ODA grant in cash shall comply with applicable regulations on state budget.

7. Interest earned on advance accounts must be separately accounted and used for payment of banking service charges according to the regulations. Banking service charges are considered expenses of the project.

8. Upon completion of spending activities on ODA grant account at the service bank, if there is no commitment in international treaties and agreements on ODA grant on the use of interest earned on the grant, the project owner shall remit the whole interest balance earned on the grant account into the state budget according to applicable

regulations. The use of such interest earned on the grant balance shall comply with the regulatory provisions on public investment and state budget.

#### **Article 80. Receiving ODA grant in kind and service support**

1. The receipt of imported relief goods shall comply with the Law on Customs, the Law on Import, Export Tax, and the Law on Tax Administration. Dossier to be sent to the customs office carrying out customs clearance procedures for imported relief goods include:

a) International treaties or agreements on ODA grants or aide memoire on commitment and receipt of ODA grants: 01 notarized copy by the competent authority in accordance with applicable regulatory provisions;

b) Decision approving the documents of the projects, non-project assistance or decisions on investment in programs and project documents or approved feasibility study reports: 01 notarized copy by the competent authority in accordance with applicable regulatory provisions;

c) Other documents prescribed by laws on customs procedures.

2. Tax refund or tax exemption dossier for goods and services purchased domestically with ODA grant sent to the tax authorities includes:

a) International treaties or agreements on ODA grants or aide memoire on commitment and receipt of ODA grants: 01 copy;

b) Decision approving the documents of the projects, non-project assistance or decisions on investment in programs and project documents or approved feasibility study reports: 01 copy;

c) The written request for certification of eligible recurrent expenditures and the written request for payment of capital expenditures of the project owners shall comply with the Government's regulations on administrative procedures in the field of state treasury;

d) Other documents prescribed by laws related to tax refund or tax exemption.

3. Taxes, fees and charges comply with applicable laws on taxes, fees and charges.

4. After the goods have been delivered, the owner of project or non-project assistance shall prepare a dossier to send to the State Treasury for State budget accounting as per regulations. Accounting dossier of revenues and expenditure includes:

a) International treaties or agreements on ODA grants or aide memoire on commitment and receipt of ODA grants: 01 notarized copy by the competent authority in accordance with applicable regulatory provisions;

b) Decision approving the project documents

d) For imported goods: Contracts, bills of lading or other equivalent transport documents, commercial invoices or customs declarations of import goods for cases where commercial invoices are not available: 01 notarized copy by the competent authority in accordance with applicable regulatory provisions. For goods purchased domestically: Procurement contracts, VAT invoices, goods delivery records: 01 notarized copy by the competent authority in accordance with applicable regulatory provisions;

đ) Decision on assignment of ODA grant estimates or revisions thereof in the year by the competent authorities.

5. The State Treasury shall account cost of imported goods as the price excluding taxes, fees and charges as prescribed.

### **Chapter VIII. DUTIES AND ENTITLEMENTS OF AGENCIES AND ORGANIZATIONS IN MANAGING AND USING ODA AND CONCESSIONAL LOANS**

#### **Article 81. Duties and entitlements of the Ministry of Planning and Investment**

1. To take the lead in drafting cooperation strategies and policies with foreign donors; and orientations to attract, manage and use foreign donors' ODA and concessional loans.

2. To take the lead in formulating, submitting for promulgation or promulgating legislative documents on management and use of ODA and concessional loans within its competence.

3. To take the lead in determining the capital investment needs to be financed by ODA and concessional loans; synthesizing and submitting to the Prime Minister proposals on programs and projects funded by ODA and concessional loans.

4. To take the lead and coordinate with concerned agencies in appraising funding sources and availability for investment projects funded by ODA or concessional loans.

5. To take the lead and coordinate with concerned agencies in proposing the Government to sign framework/specific international treaties and framework agreements on ODA grants that are not associated with loans defined in Clause 4 Article 29 of this Decree; To propose the Prime Minister to sign framework/specific agreements on ODA grants that are not associated with loans defined in Clause 3 Article 32 of this Decree.

6. To synthesize and propose investment policy for programs and projects funded by ODA and concessional loans falling under the approving competence of the Prime Minister, except for Category A projects; To send official notice to foreign donors on approval of the program/project proposal, decisions on investment policy, and request for support.

7. To synthesize and propose the implementation policy for technical assistance projects and non-project assistance funded by ODA and concessional loans falling under the approving competence of the Prime Minister; To send official notice to foreign donors on approval of the technical assistance projects and non-project assistance, and request for support once the implementation policy and project/non-project documents have been approved by the competent authorities.

8. To coordinate with the Ministry of Finance in elaborating framework and specific international treaties, agreements on ODA and concessional loans.

9. To coordinate with the State Bank of Vietnam in formulating international treaties on ODA grant not associated with loans with international financial institutions.

10. To coordinate with the Ministry of Finance and concerned agencies in determining the grant elements, assessing the impacts of new loans on public debt safety thresholds and domestic financial mechanisms applicable to program, project in accordance with the regulatory provisions.

11. To monitor and evaluate programs and projects funded by ODA and concessional loans in accordance with regulatory provisions on monitoring and evaluation of public investment, management and use of ODA and concessional loans.

12. To act as the focal point in resolving bottlenecks arising in the course of program/project implementation; issues related to multiple ministries or agencies to ensure progress and accelerate disbursement of ODA and concessional loans; propose the Prime Minister to decide solutions for issues related to ODA and concessional loans falling under the approving competence of the Prime Minister.

Where necessary, to establish an interdisciplinary working group to work directly with managing agencies, project owners, Project Management Units, and foreign donors to review, assess, and promptly address the issues within its competence.

13. To submit biannual, annual, and ad-hoc reports on mobilization, management, and use of ODA and concessional loans to the Prime Minister; To propose solutions for bottlenecks arising in the course of program/project implementation.

## **Article 82. Duties and entitlements of the Ministry of Finance**

1. To coordinate with the Ministry of Planning and Investment and concerned agencies in developing cooperation strategies and policies with foreign donors.

2. To provide instructions on preparation of contents related to conditions for use of capital, domestic financial mechanism, financial management of programs and projects; financial appraisal of on-lending projects.

3. To take the lead in determining the grant elements, evaluating the impacts of ODA and concessional loans on public debt safety thresholds, determining domestic financial mechanisms for programs and projects funded by ODA and concessional loans.

4. To take the lead and coordinate with the concerned agencies in proposing the Government to sign framework and specific international treaties on ODA, concessional loans, and ODA grants for ODA and concessional loan-funded programs/projects specified in Clause 2, Article 29 of this Decree; To propose the Prime Minister to sign framework and specific agreements on ODA, concessional loans, and ODA grants for ODA and concessional loan-funded programs/projects specified in Clause 2, Article 32 of this Decree.

5. To coordinate with the Ministry of Planning and Investment in appraising funding sources and availability for investment projects funded by ODA or concessional loans.

6. To officially represent the "borrower" for ODA and concessional loans in the name of the State or the Government to the foreign donors.

7. To synthesize and submit proposal to the Prime Minister for decision on cancellation the surplus funds; send an official written notice to the donor of the cancellation of the surplus funds as specified under Clause 5, Article 47 of this Decree.

8. Financial management of programs and projects:

a) To take the lead and coordinate with concerned agencies in providing instructions on financial management of programs and projects;

b) To provide guidelines on the format and reports on financial management of programs and projects in accordance with applicable regulatory provisions and the international treaties and agreements on ODA and concessional loans signed with foreign donors;

c) To provide capital from state budget and other funding sources to repay ODA loans and concessional loans when they are due;

d) To monitor and inspect financial management in the use of ODA and concessional loans and organize accounting work into the State budget for these funding sources;

d) To comply with the reporting regime on disbursement, fund withdrawal and repayment of ODA and concessional loans in accordance with the laws on public investment, public debt management and applicable regulations;

e) To take the lead and coordinate with the Ministry of Planning and Investment in providing sufficient counterpart fund from administration funding sources for preparation and implementation of the programs and projects eligible for grant from central government budget in the annual budget plans;

g) To organize on-lending and collection activities of the programs/projects applying on-lending mechanism from the State budget.

#### **Article 83. Duties and entitlements of the State bank of Vietnam**

1. To coordinate with the Ministry of Planning and Investment and concerned agencies in developing cooperation strategies and policies with foreign donors; developing master plans and plans for attraction, coordination, management, and use of ODA and concessional loans; analyzing and evaluating the effectiveness of such funding sources.

2. To coordinate with the Ministry of Planning and Investment and the Ministry of Finance in assessing sources of ODA, concessional loans, counterpart fund, and their availability (for capital provided by the World Bank, Asian Development Bank, international financial institutions, and other international banks in which the State bank of Vietnam acts as a representative).

3. To take the lead and coordinate with concerned agencies in proposing the competent authorities to sign international treaties on ODA grants that are not associated with loans from international financial institutions, as stipulated in Clause 3, Article 29 of this Decree.

4. To coordinate with the Ministry of Finance in proposing the competent authorities to sign framework and specific international treaties and agreements on ODA and concessional loans for financial institutions and international banks in which the State bank of Vietnam acts as a representative.

5. To provide comments on banks eligible to become service banks for the programs or projects funded by ODA and concessional loans.

#### **Article 84. Duties and entitlements of the Ministry of Justice**

1. To appraise the draft international treaties and agreements on ODA and concessional loans as prescribed by law.

2. To participate in negotiation and development of draft international treaties and agreements on ODA and concessional loans.

3. To provide comments on reports investment policy proposal for judicial cooperation programs/projects.

4. To appraise documents of technical assistance projects, non-project assistance in cooperation with foreign donors falling under the approving competence of the Prime Minister in accordance with the law on management of international judicial cooperation; To provide comments on the judicial cooperation programs/projects or non-project assistance falling under the approving competence of the managing agency.

5. To provide comments on the draft international treaties and agreements on ODA and concessional loans as prescribed by law.

**Article 85. Duties and entitlements of the Ministry of Foreign Affairs**

1. To coordinate with concerned agencies, based on general diplomatic policies, in developing and implementing policies on raising ODA and concessional loans, cooperation policies; participate in raising ODA and concessional loans.

2. To coordinate with the Ministry of Planning and Investment and concerned agencies in directing diplomatic missions of Vietnam in other countries or at international organizations to raise ODA and concessional loans in accordance with policies and plans for attraction, coordination, management, and use of ODA and concessional loans in each period.

3. To participate in negotiation and provide comments on international treaties and agreements on ODA and concessional loans; provide inputs for proposals to sign international treaties and agreement on ODA and concessional loans.

4. To carry out foreign affairs procedures on the signing and implementation of international treaties; organize the filing, copy and publication of treaties on ODA and concessional loans in accordance with the Law on International Treaties.

5. To grant Full Power to sign agreements on ODA and concessional loans.

6. To participate in evaluation of the programs and projects at the request of competent authorities.

7. To monitor and inspect compliance with procedures for signing and implementing international treaties and agreements on ODA and concessional loans as prescribed by law.

**Article 86. Duties and entitlements of other Ministries, ministerial agencies, and Governmental agencies**

1. To coordinate with the Ministry of Planning and Investment and concerned agencies in developing strategies and plans for attraction, coordination, management, and use of ODA and concessional loans; develop policies on coordinating and improving the effectiveness of ODA and concessional loans under their mandate.

2. To formulate program/project proposals and reports on investment policy proposal or pre-feasibility study reports, documents of the projects or non-project assistance and submit to the competent authorities for approval under their competence.

3. To coordinate with the proposing agency in proposing the competent authorities to sign specific international treaties and agreements on ODA, concessional loans for the programs or projects in which they act as the managing agency as stipulated in Clauses 2, 3, and 4, Article 29 and Clauses 2 and 3, Article 32 of this Decree, and execute such international treaties and agreements according to the regulatory provision.

4. To propose the Government to sign specific international treaties on ODA grant as prescribed in Clause 1 Article 29 hereof and implement such international treaties in accordance with regulatory provisions on international treaties; Propose the Prime Minister to sign agreements on ODA grant as prescribed in Clause 1 Article 32 hereof and implement such agreement as prescribed by law.

5. To perform state management tasks regarding ODA and concessional loans under their mandate as prescribed by law.

6. To ensure information disclosure, transparency, and accountability for effectiveness of ODA and concessional loans provided for the programs and projects under their mandate.

**Article 87. Duties and entitlements of the provincial People's Committees**

1. To coordinate with the Ministry of Planning and Investment, other Ministries and concerned agencies in developing strategies and plans for attraction, coordination, management, and use of ODA and concessional loans; develop policies on coordination and improvement of effectiveness of ODA and concessional loans within their provinces/cities.

2. To formulate program/project proposals and reports on investment policy proposal or pre-feasibility study reports, documents of the projects or non-project assistance and submit to the competent authorities for approval under their competence.

3. To coordinate with the proposing agency in proposing the competent authorities to sign specific international treaties and agreements on ODA, concessional loans for the programs or projects in which they act as the managing

agency as stipulated in Clauses 2, 3, and 4, Article 29 and Clauses 2 and 3, Article 32 of this Decree, and execute such international treaties and agreements according to the regulatory provision.

4. To coordinate with the Ministry of Planning and Investment in proposing the Prime Minister to sign specific international treaties on ODA grants as prescribed in Clause 4 Article 29 hereof and implement such international treaties in accordance with regulatory provisions on international treaties; To coordinate with the Ministry of Planning and Investment in proposing the Prime Minister to sign agreements on ODA grants as prescribed in Clause 3 Article 32 hereof and implement such agreements as prescribed by law.

5. To direct and organize land acquisition, site clearance, and compensation tasks of programs and projects in their provinces in accordance with law and international treaties on ODA and concessional loans to which the Socialist Republic of Vietnam is a signatory.

6. To perform state management tasks regarding ODA and concessional loans in their provinces as prescribed by law.

7. To ensure information disclosure, transparency, and accountability for effectiveness of ODA and concessional loans provided for the programs and projects under their mandate.

8. To provide capital for central government budget to repay foreign lenders with regard to the programs and projects applying on-lending of ODA and concessional loans from the central government budget to the local governments.

## **Chapter IX. IMPLEMENTATION**

### **Article 88. Arrangements for implementation**

1. The Ministry of Planning and Investment shall elaborate guidance on the implementation of this Decree.

2. The Ministry of Finance shall issue a Circular guiding the implementation of this Decree in terms of financial management for programs/projects funded by ODA and concessional loans as per their competence.

### **Article 89. Transitional Clauses**

1. For programs and projects funded by ODA loans and concessional loans whose portfolio of projects have been approved by the competent authorities, any amendments or supplements in the course of implementation shall follow the regulations on revising investment policy under this Decree.

2. Programs and projects whose Proposals and investment policies have been approved before the effective date of this Decree may proceed with subsequent order and procedures prescribed under this Decree.

3. Technical assistance programs/projects funded by ODA grants to prepare investment projects and technical assistance projects/non-project assistance funded by stand-alone ODA grants whose program/project documents have been approved before the effective date of this Decree may proceed with subsequent order and procedures prescribed under this Decree.

4. For technical assistance projects/non-project assistance funded by ODA grants whose implementation policies and project/non-project documents have been approved before the effective date of this Decree, if any amendments in the course of implementation does not lead to transformation into technical assistance projects or non-project assistance falling under the approving competence prescribed under Clause 1 Article 23 of this Decree, the managing agency shall proceed with the order and procedures for revising project/non-project documents prescribed under Clause 2, Article 27 of this Decree. On the contrary, if the amendment leads to transformation into technical assistance projects or non-project assistance falling under the approving competence prescribed under Clause 1 Article 23 of this Decree, the managing agency shall proceed with the order and procedures for approving and revising prescribed under Articles 25, 26 and 27 of this Decree.

5. In the event of any amendments or supplements to the agreements on ODA loans and concessional loans signed by the competent authority in the name of the State, such ODA and concessional loans shall be regulated by this Decree.

6. For currently ongoing umbrella projects, the managing agency of the umbrella project does not have the function of coordinating, allocating and assigning fund plans to component projects.

### **Article 90. Enforcement**

1. This Decree comes into force as of May 25, 2020 and replaces the Government's Decree No. 16/2016/ND-CP dated March 16, 2016 and Decree 132/2018/ND-CP dated October 01, 2018 on management and use of foreign donors' ODA and concessional loans.

2. Ministers, Heads of ministerial agencies, Heads of Governmental agencies, Chairmen of the People's Committees of provinces and centrally-administered cities, relevant organizations and individuals are responsible for the implementation of this Decree./.

**Recipient(s):**

- Secretariat of the Party Central Committee;
- Prime Minister, Deputy Prime Ministers;
- Ministries, Ministerial-level agencies, Government's agencies;
- People's Councils and People's Committees of provinces and centrally-run cities;
- Office of the Party Central Committee and Party Committees;
- Office of the Party General Secretary;
- Office of the President;
- CEMA and Committees of the National Assembly;
- Office of the National Assembly;
- Supreme People's Court;
- Supreme People's Procuracy;
- State Audit of Vietnam;
- National Financial Supervisory Commission;
- Vietnam Bank of Social Policies;
- Vietnam Development Bank;
- Central Committee of Vietnam Fatherland Front;
- Central agencies of socio-political organizations;
- Office of the Government: Chairman-Minister, Vice Chairmen, Assistant to the Prime Minister, General Director of Government E-portal, affiliated Departments, and the Official Gazette;
- For filing: Admin., ICD. (2 copies).

**ON BEHALF OF THE GOVERNMENT  
THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Xuan Phuc**

**Appendix I**  
**METHODS OF CALCULATING GRANT ELEMENTS OF THE LOANS**  
*(Attached to the Government's Decree No. 56/2020/ND-CP dated May 25, 2020)*

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1. Grant elements are determined based on the loan currency, loan duration, grace period, interest rate, charges, fees, other borrowing costs, structural aid to increase the loan's concessional value (if any) and the discount rate at the time of calculation. Aid for technical assistance, hiring consultants for the design and elaboration of feasibility study reports, etc. will not be counted.

2. Grant elements of a loan shall be calculated by the following formula:

$$GE = \left(1 - \frac{r}{a \cdot d}\right) \left(1 - \frac{\frac{1}{(1+d)^{aG}} - \frac{1}{(1+d)^{aM}}}{d(aM - aG)}\right)$$

Where:

GE: Grant element of the loan (%)

G: Grace period (year)

M: Maturity (year).

r: Interest rate (%) is the aggregate rate of the nominal interest rate and all of other borrowing charges and fees under the foreign loan agreement, including the structural ODA grant to increase the concessional value (if any), and is calculated based on the internal rate of return (IRR) of the disbursement cash flows and debt repayment cash flows for each year during the project's loan maturity.

a: The number of installments in a year (following the conditions of the donor)

d: d: discount rate for each period:  $d = [(1 + d')^{(1/a)}] - 1(\%)$

d': d': discount rate (%) corresponding to the market lending rate of the Vietnamese Government at the time of calculation.

3. The discount rate corresponding to the market lending rate of the Vietnamese Government at the time of calculation as mentioned in Clause 2 above is determined as follows:

a) If, at the time of calculation, the Vietnamese Government issues international bonds, the discount rate is the lower interest rate between the government bond yield and the discount rate prescribed in Clause 2 of this Article.

b) If, at the time of calculation, the Government does not issue international bonds, for foreign loans with a maturity of less than 15 years, the discount rate is the differentiated discount rate (DDR) published annually by OECD for each major borrowing currency; For loans with a maturity of 15 years or more, the discount rate is calculated as the average of the 10 most recent Commercial Interest Reference Rates (CIRR) published by OECD for each major borrowing currency (USD, EUR, JPY, and WON) plus a maturity risk premium also published by OECD. For other currencies, the discount rate published by OECD for USD shall apply./.

**Appendix II**  
**SAMPLE PROPOSAL FOR PROGRAMS, PROJECTS FUNDED BY ODA AND CONCESSIONAL LOANS**  
*(Attached to the Government's Decree No. 56/2020/ND-CP dated May 25, 2020)*

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**I. PRIMARY INFORMATION**

1. Name of program or project (in Vietnamese and English)
2. Managing agency, proposing agency and program/project owner (tentative): Name, address and other relevant information.
3. Intended foreign donor and co-donor (if any).

**II. BASIS FOR PROPOSAL**

- The importance, necessity and feasibility of the programs, projects in terms of economy, society, environment, science and technology, socio-economic development master plans, sector development master plans, etc.
- Efforts made to solve the raised issues.
- Programs and projects being implemented in the same field (if any).
- Expected foreign donor (clearly stating the reasons for using the ODA or concessional loans of this donor).

**III. PROPOSAL CONTENTS**

1. Objectives and scope of the program or project: Description of overall objectives, specific objectives, and scope of the program/project.
2. Expected main results of the program or project: Summary of expected main results.
3. Expected program/project duration (including construction time and operation time).
4. Estimated total fund and structure of funding sources for project implementation and proposed financial mechanism:
  - Total funds: ODA grants, ODA loans, foreign concessional loans, counterpart funds with detailed breakdown by the original currency and VND, USD equivalents (using the accounting exchange rate published by the Ministry of Finance at the time of proposing).
  - Loan terms and conditions: Clearly state the expected type interest (floating/fixed), the expected interest rate and fees (if any); the floating interest rates in the proposal including base rate (Libor, Sibor, Eurobor, etc.) and reference market spread at the time of loan proposal for projects expected to be financed by floating interest rate loans; expected maturity and grace period.
  - Proposed domestic financial mechanism, expected annual disbursement progress (corresponding to the implementation duration of programs and projects).
  - Debt repayment plan.
5. Impact assessment:
  - Preliminary assessment of economic, social and environmental effectiveness (if any).
  - Preliminary assessment of the impacts on medium-term investment plans of the proposing agency./.

**Appendix IIIa**  
**SAMPLE REPORT ON INVESTMENT POLICY PROPOSAL FOR THE PUBLIC INVESTMENT PROGRAMS  
FUNDED BY ODA AND CONCESSIONAL LOANS**

*(Attached to the Government's Decree No. 56/2020/ND-CP dated May 25, 2020)*

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**I. PRIMARY INFORMATION**

1. Name of program (in Vietnamese and English)
2. Managing agency, proposing agency and program owner (tentative): Name, address and other relevant information.
3. Intended foreign donor and co-donor (if any).

**II. PRIMARY CONTENTS OF THE PROGRAM**

Contents of the report on investment policy proposal for a public investment program funded by ODA and concessional loans shall follow Article 29 of the Law on Public Investment and add the contents related to ODA and concessional loans as follows:

1. Summary of other completed and ongoing programs and projects funded by various funding sources (if any) to assist in solving relevant issues.
2. Demand for ODA and concessional loans to support program implementation; alignment with the policies and priorities in using ODA and concessional loans of the Government and foreign donors.
3. Expected funding sources and levels provided by foreign donors (ODA grants, ODA loans, concessional loans) in original foreign currency and in VND and USD equivalents.
4. Intended counterpart fund and funding sources: central government budget, local government budget, project owner's capital (tentative), bank loans, other legitimate funding sources, capital budget, and recurrent budget (in VND and USD equivalent).
5. **BINDING CONDITIONS FOR USE OF ODA AND CONCESSIONAL LOAN IMPOSED BY THE FOREIGN DONORS** Explanation of the binding conditions (if any) for use of ODA and concessional loan imposed by the foreign donors.
6. Domestic financial mechanism applied to the program (full grant, full on-lending, partial on-lending from the state budget; on-lending terms and conditions; repayment plan); method for provision - project financing or budget support; method for on-lending - via a commercial bank or directly from the state budget.
7. Direct and indirect beneficiaries of the program.
8. Preliminary evaluation of programs and projects on: effectiveness (economic, social, environmental), feasibility and sustainability.
9. Proposed arrangements for program management and implementation.
10. Prior activities: Reach an agreement with the foreign donor on proposed prior activities prescribed in Article 17 of this Decree, including expected costs, duration, responsibilities of Vietnamese agencies and the foreign donor./.

## Appendix IIIb

### **SAMPLE PRE-FEASIBILITY STUDY FOR PROJECTS OF NATIONAL IMPORTANCE AND CATEGORY A PROJECTS FUNDED BY ODA, CONCESSIONAL LOANS**

*(Attached to the Government's Decree No. 56/2020/ND-CP dated May 25, 2020)*

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#### **I. PRIMARY INFORMATION**

1. Name of project (in Vietnamese and English).
2. The managing agency, proposing unit, and project owner (intended): names, addresses, and other relevant information.
3. Intended foreign donor and co-donor (if any).

#### **II. PRIMARY CONTENTS OF THE PROGRAM/PROJECT**

Contents of the pre-feasibility study report of a project of national importance or Category A project funded by ODA and concessional loan shall follow Article 30 of the Law on Public Investment and add contents related to ODA and concessional loans as follows:

1. Summary of other completed and ongoing programs and projects funded by various funding sources (if any) to assist in solving relevant issues.
  2. Demand for ODA and concessional loans to support program implementation; alignment with the policies and priorities in using ODA and concessional loans of the Government and foreign donors.
  3. Expected funding sources and levels provided by foreign donors (ODA grants, ODA loans, concessional loans) in original foreign currency and in VND and USD equivalents.
  4. Intended counterpart fund and funding sources: central government budget, local government budget, project owner's capital (tentative), bank loans, other legitimate funding sources, capital budget, and recurrent budget (in VND and USD equivalent).
- 5. BINDING CONDITIONS FOR USE OF ODA AND CONCESSIONAL LOAN IMPOSED BY THE FOREIGN DONORS** Explanation of the binding conditions (if any) for use of ODA and concessional loan imposed by the foreign donors.
6. Domestic financial mechanism applied to the program (full grant, full on-lending, partial on-lending from the state budget; on-lending terms and conditions; repayment plan); method for provision - project financing or budget support; method for on-lending.
  7. Direct and indirect beneficiaries of the program.
  9. Preliminary evaluation of programs and projects on: effectiveness (economic, social, environmental), feasibility and sustainability.
  10. Proposed arrangements for program management and implementation.
  11. Prior activities: Reach an agreement with the foreign donor on proposed prior activities prescribed in Article 17 of this Decree, including expected costs, duration, responsibilities of Vietnamese agencies and the foreign donor./.

**Appendix IIIc**  
**SAMPLE REPORT ON INVESTMENT POLICY PROPOSAL FOR A PROGRAM/PROJECT FUNDED BY ODA  
AND CONCESSIONAL LOAN**

*(Attached to Decree No. 56/2020/ND-CP dated May 25, 2020 by the Government)*

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**I. PRIMARY INFORMATION**

1. Name of program or project (in Vietnamese and English)
2. The managing agency, proposing unit, and project owner (intended): names, addresses, and other relevant information.
3. Intended foreign donor and co-donor (if any).

**II. PRIMARY CONTENTS OF THE PROGRAM/PROJECT**

Contents of the report on investment policy proposal for a program/project funded by ODA and concessional loan shall follow Article 31 of the Law on Public Investment and add contents related to ODA and concessional loan as follows:

1. Summary of other completed and ongoing programs and projects funded by various funding sources (if any) to assist in solving relevant issues.
2. Demand for ODA and concessional loans to support program implementation; alignment with the policies and priorities in using ODA and concessional loans of the Government and foreign donors.
3. Expected funding sources and levels provided by foreign donors (ODA grants, ODA loans, concessional loans) in original foreign currency and in VND and USD equivalents.
4. Intended counterpart fund and funding sources: central government budget, local government budget, project owner's capital (tentative), bank loans, other legitimate funding sources, capital budget, and recurrent budget (in VND and USD equivalent).
5. **BINDING CONDITIONS FOR USE OF ODA AND CONCESSIONAL LOAN IMPOSED BY THE FOREIGN DONORS** Explanation of the binding conditions (if any) for use of ODA and concessional loan imposed by the foreign donors.
6. Domestic financial mechanism applied to the program (full grant, full on-lending, partial on-lending from the state budget; on-lending terms and conditions; repayment plan); method for provision - project financing or budget support; method for on-lending.
7. Direct and indirect beneficiaries of the program.
8. Preliminary evaluation of programs and projects on: effectiveness (economic, social, environmental), feasibility and sustainability.
9. Proposed arrangements for program management and implementation.
10. Prior activities: Reach an agreement with the foreign donor on proposed prior activities prescribed in Article 17 of this Decree, including expected costs, duration, responsibilities of Vietnamese agencies and the foreign donor./.

**Appendix IVa**  
**SAMPLE LETTER OF TRANSMITTAL FOR INVESTMENT POLICY PROPOSAL OF THE**  
**PROGRAMS/PROJECTS FUNDED BY ODA AND CONCESSIONAL LOANS**  
*(Attached to the Government's Decree No. 56/2020/ND-CP dated May 25, 2020)*

**NAME OF AGENCY**

\_\_\_\_\_  
No.: .....

**THE SOCIALIST REPUBLIC OF VIETNAM**  
**Independence - Freedom - Happiness**

*Date.....*

**LETTER OF TRANSMITTAL**  
**Investment policy decision for the program/project**

For the attention of: (The agency making investment policy decision for the program/project).

Pursuant to the Law on Public Investment dated June 13, 2019;

Other (relevant) legal bases;

(Name of agency) would like to hereby submit the proposed investment policy of (Name of the program/project) to (Name of the decision-making agency of the program/project's investment policy) with the following main contents:

**I. GENERAL INFORMATION ABOUT THE PROGRAM/PROJECT**

1. Name of the program/project:
2. Managing agency:
3. Program/project owner (tentative):
4. Foreign donor and co-donor (if any):
5. Objectives:
6. Scale and scope of investment:
7. Category of project:
8. Duration:
9. Location:

10. Total fund for program/project implementation (specifying sources and levels of fund, investment phase with specific time lines, fund allocation plan) in VND and equivalents in the original currency and USD, including:

- Sources and levels of ODA and concessional loans (ODA grants, ODA loans, concessional loans) in original foreign currency and in VND and USD equivalents.

- Sources and levels of counterpart fund (capital budget and recurrent budget) in VND and USD equivalent.

11. Domestic financial mechanism:

12. Other relevant information (if any);

**II. THE DEVELOPMENT PROCESS OF PRE-FEASIBILITY STUDY REPORT FOR CATEGORY A PROJECTS, REPORTS ON INVESTMENT POLICY PROPOSAL FOR PROGRAMS AND PROJECTS**

- Contents of the Program/Project Proposal approved by the competent authority.

- Description of the process for developing a pre-feasibility study report, report on investment policy proposal for program and projects, and changes compared to the approved Program/Project Proposal (if any).

- Evaluation of the implementation of programs and projects in the previous phase (for follow-up programs and projects).

- Appraisal of investment policy, funding sources and availability to finance the program/project.

- Other relevant information (if any).

### III. LIST OF ENCLOSED DOSSIERS

Enclose dossiers prescribed under Clause 1, Article 16 of this Decree.

(Name of agency) would like to seek approval of (Name of the decision-making agency of the program/project's investment policy) for (Name of the program/project) above during the (Implementation duration/period)/.

**Recipient(s):**

- As above;
- The agency appraising investment policy for the program/project;
- Other concerned agencies;
- For filing:

**REPRESENTATIVE OF THE AGENCY**

*(Signature, full name, title and stamp)*

**Name of the representative**

Appendix IVb

**SAMPLE LETTER OF TRANSMITTAL FOR APPRAISAL OF FEASIBILITY STUDY REPORT AND REPORT ON INVESTMENT POLICY PROPOSAL FOR THE PROGRAMS/PROJECTS FUNDED BY ODA AND CONCESSIONAL LOANS**

*(Attached to the Government's Decree No. 56/2020/ND-CP dated May 25, 2020)*

**NAME OF AGENCY**

**THE SOCIALIST REPUBLIC OF VIETNAM  
Independence - Freedom - Happiness**

No.: .....

Date.....

**LETTER OF TRANSMITTAL**

**For appraisal of pre-feasibility study report/  
Report on investment policy proposal of program/project .....**

For the attention of: (Lead appraising agency).

Pursuant to the Law on Public Investment dated June 13, 2019;

Other (relevant) legal bases;

(Name of agency) would like to hereby submit the Pre-feasibility study report/Report on investment policy proposal for the (Name of program/project) to (Name of appraising agency) for appraisal with the following main contents:

**I. GENERAL INFORMATION ABOUT THE PROGRAM/PROJECT**

1. Name of the program/project:
2. Managing agency:
3. Program/project owner (tentative):
4. Foreign donor and co-donor (if any):
5. Objectives:
6. Scale and scope of investment:
7. Category of project:
8. Duration (investment progress and phasing):
9. Location:

10. Total fund for program/project implementation (specifying sources and levels of fund, investment phase with specific time lines, fund allocation plan) in VND and equivalents in the original currency and USD, including:

- Sources and levels of ODA and concessional loans (ODA grants, ODA loans, concessional loans) in original foreign currency and in VND and USD equivalents;

- Sources and levels of counterpart fund (capital budget and recurrent budget) in VND and USD equivalent.

11. Domestic financial mechanism:
12. Funding sources proposed for appraisal:
13. Other relevant information (if any):

**II. LIST OF ENCLOSED DOSSIERS**

Enclose dossiers prescribed under Clause 1, Article 15 of this Decree.

(Name of agency) would like to seek appraisal of (Name of appraising agency) for the Pre-feasibility study report/Report on investment policy proposal for the (Name of program/project) described above./.

**Recipient(s):**

**REPRESENTATIVE OF THE PROPOSING AGENCY**

- As above;
- The agency making investment policy decision for the project;
- Other concerned agencies;
- For filing:

*(Signature, full name, title and stamp)*

**Name of the representative**

**Appendix IVc**  
**SAMPLE REPORT ON APPRAISAL RESULTS FOR FEASIBILITY STUDY REPORT AND REPORT ON INVESTMENT POLICY PROPOSAL FOR THE PROGRAMS/PROJECTS FUNDED BY ODA AND CONCESSIONAL LOANS**  
*(Attached to the Government's Decree No. 56/2020/ND-CP dated May 25, 2020)*

**THE APPRAISING AGENCY**

\_\_\_\_\_  
No.: .....

**THE SOCIALIST REPUBLIC OF VIETNAM**  
**Independence - Freedom - Happiness**

\_\_\_\_\_  
Date.....

**REPORT**  
**Appraisal results of pre-feasibility study report/  
Report on investment policy proposal for the program/project**

For the attention of: \_\_\_\_\_ agency for appraisal).

(Name of the appraisal agency) have received Letter of Transmittal No. ... dated .... of (Name of proposing agency) to submits the pre-feasibility study report/Report on investment policy proposal for appraisal in relation to (Name of the program/project proposed for appraisal). After reviewing and synthesizing comments and appraisal results of the concerned agencies, we (Name of appraising body) would like to report on the appraisal results of the Feasibility Study Report/Report on investment policy proposal for the (Name of program/project) as follows:

**Part I**  
**APPRAISAL DOSSIER AND APPRAISAL ARRANGEMENTS**

**I. APPRAISAL DOSSIER**

1. Letter of transmittal to the agency making investment policy decision for the program/project.
2. Pre-feasibility study report or Report on investment policy proposal in accordance with the Law on Public Investment.
3. Internal appraisal report.
4. Appraising agency's opinions on funding sources and availability in accordance with Article 33 of the Law on Public Investment.
5. Other relevant documents (if any).

**II. LEGAL BASIS FOR APPRAISAL**

1. Law on Public Investment.
2. Documents guiding the implementation of the Law on Public Investment.
3. Other (relevant) legal bases (if any).

**III. APPRAISAL ARRANGEMENTS**

1. Lead appraising agency:
2. Coordinating appraising agency:
3. Form of appraisal: Organize meetings or collect written appraisal opinions or combination thereof (if necessary).

**Part II**  
**APPRAISAL OPINION FOR THE PROGRAM/PROJECT**

**I. DESCRIPTION OF GENERAL INFORMATION AND PROPOSALS OF APPRAISING AGENCY/COUNCIL FOR THE PROGRAM/PROJECT .....**

1. Name of the program/project:
2. Managing agency:
3. Program/project owner (tentative);
4. Foreign donor and co-donor (if any):
5. Objectives:
6. Scale and scope of investment:
7. Category of project:
8. Duration (investment progress and phasing):
9. Location:

10. Total fund for program/project implementation (specifying sources and levels of fund, investment phase with specific time lines, fund allocation plan) in VND and equivalents in the original currency and USD, including:

- Sources and levels of ODA and concessional loans (ODA grants, ODA loans, concessional loans) in original foreign currency and in VND and USD equivalents;
- Sources and levels of counterpart fund (capital budget and recurrent budget) in VND and USD equivalent.

11. Domestic financial mechanism:
12. Funding sources proposed for appraisal:
13. Other relevant information (if any):

**II. SYNTHESIS OF APPRAISAL OPINIONS OF COORDINATING UNITS**

Synthesize appraisal opinions of the coordinating units in accordance with the Law on Public Investment and the Government's Decree.

**III. OPINIONS OF APPRAISING AGENCY**

Appraisal of investment policy must comply with the Law on Public Investment and the Government's Decree. The appraisal opinions should focus on the contents specified in Article 15 of this Decree. Other comments (if any).

.....

*(In each specific case, the Appraising Agency/Council may supplement or adjust the contents of the appraisal opinions to ensure compliance with the Law on Public Investment, instructions of the Prime Minister, and guiding documents of the Ministry of Planning and Investment).*

**IV. CONCLUSION**

(Name of Program/Project) is qualified (not yet qualified) to submit the proposed investment policy to the competent authority for approval and proceed to the next steps.

Above is the appraisal opinion of (Name of Appraising agency/Council) on the investment policy of the program/project, (Name of the proposing agency) is kindly requested to seek the competent authority's approval of the investment policy or revision thereof (in the event of revising investment policy)./.

**Recipient(s):**

- As above;
- The agency making investment policy decision for the project;
- Other concerned agencies;
- For filing:

**REPRESENTATIVE OF THE APPRAISING AGENCY**

*(Signature, full name, title and stamp)*

**Name of the representative**

Appendix IVd

**SAMPLE RESOLUTION (DECISION) ON INVESTMENT POLICY FOR THE PROGRAMS/PROJECTS FUNDED  
BY ODA AND CONCESSIONAL LOANS**

*(Attached to the Government's Decree No. 56/2020/ND-CP dated May 25, 2020)*

\_\_\_\_\_  
**THE AGENCY MAKING DECISION ON  
INVESTMENT POLICY FOR THE  
PROGRAM/PROJECT**

\_\_\_\_\_  
**THE SOCIALIST REPUBLIC OF VIETNAM  
Independence - Freedom - Happiness**

Date.....

No.: .....

**RESOLUTION (DECISION)  
Regarding investment policy for the program/project.....**

\_\_\_\_\_  
**BASIS FOR APPROVING COMPETENCE**

*Pursuant to the Law on Public Investment dated June 13, 2019;*

*Pursuant to the documents guiding the implementation of the Law on Public Investment;*

*Pursuant to other relevant documents (if any);*

*In considering the request of the (Name of managing agency)/(Name of Appraising Council).*

**RESOLUTION (DECISION):**

**Article 1. Approve (Make decision on) investment policy for a program/project (Name):**

1. Managing agency:
2. Foreign donor and co-donor (if any):
3. Objective and scale.
4. Location and duration.
5. Total investment, fund structure (in VND and equivalents in the original currency and USD) include:
  - a) ODA grants, ODA loans, concessional loans (in original foreign currency and in VND and USD equivalents);
  - b) Counterpart funds (in VND and USD equivalents).
6. Domestic financial mechanism and on-lending method.
7. Other relevant information (if any).

**Article 2. Arrangements for implementation**

1. (Name of managing agency) is responsible for:
  - a) Taking the lead and coordinating with concerned agencies in completing the Feasibility Study Report of the (Name of program/project) and submitting it to the competent authority for making investment decision on the project in accordance with the Law on Public Investment and related legislation.
  - b) Other relevant information (if any).

**Article 3. Enforcement clauses**

1. (Name of managing agency) and other concerned agencies are responsible for the implementation of this Resolution/Decision.
2. (Name of the agency assigned to inspect and supervise the implementation of this Resolution/Decision) is responsible for examining and supervising the implementation of this Resolution/Decision and reporting to the (Name of agency making investment policy decision for the project) in accordance with law./.

**Recipient(s):**

- The agencies named in Article 3;
- The agency making investment policy decision for the project;
- Lead appraising agency for investment policy/Appraising Council
- Other concerned agencies;
- For filing:

**REPRESENTATIVE OF THE AGENCY**

*(Signature, full name, title and stamp)*

**Name of the representative**

**Appendix V**  
**SAMPLE DOCUMENTS FOR TECHNICAL ASSISTANCE PROJECTS FUNDED BY ODA GRANTS**  
*(Attached to the Government's Decree No. 56/2020/ND-CP dated May 25, 2020)*

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**I. BASIC INFORMATION ABOUT THE PROJECT**

1. Name of project (in Vietnamese and English).
2. Managing agency, proposing agency and project owner (tentative): Name, address and other relevant information.
3. Intended foreign donor and co-donor (if any).
4. Expected duration.
5. Project location.

**II. CONTEXT AND NECESSITY OF THE PROJECT**

1. Suitability with and contributions of the project to national socio-economic development strategies and plans, sectoral and local development master plans.
2. Relation with other programs and projects which contribute to solving relevant issues of the program/project.
3. Necessity of the project (specify the issues to be solved within the framework of the project).
4. The need for technical assistance funded by ODA grants.

**III. BASIS FOR SUGGESTION OF FOREIGN DONOR**

Specify the suitability of the project with the foreign donor's orientation and priorities; foreign donors' conditions for providing ODA grants, and Vietnam's ability to meet such conditions.

**IV. OBJECTIVES OF THE PROJECT**

Overall and specific objectives of the project.

**V. PROJECT DESCRIPTION**

Components, activities, and results of technical assistance; assessment of practicality of technical assistance.

**VI. BENEFICIARIES**

Direct and indirect beneficiaries of the project.

**VII. PROJECT IMPLEMENTATION, MONITORING AND EVALUATION PLAN**

1. Plan for carrying out prior activities (if any).
2. Master plan and detailed work plan for the first year.
3. Project monitoring and evaluation plan.

**VIII. ARRANGEMENTS FOR PROJECT MANAGEMENT AND IMPLEMENTATION**

It is necessary to specify arrangements for project management and implementation; coordination mechanism among the stakeholders in the project preparation, implementation and management; the project owner's capacity for project implementation and management.

**IX. TOTAL CAPITAL**

Detailed breakdown by each component, item and budget line - capital or recurrent expenditures, including:

1. ODA grants (in original currency and USD equivalent).
2. Counterpart fund (in VND and USD equivalent). Specify the sources of counterpart fund (central, local government budget), value of contribution in kind. Responsibilities to provide counterpart fund of different budget levels, implementers and beneficiaries of the project (if applicable).
3. Financial mechanism.

**X. BINDING CONDITIONS FOR USE OF ODA GRANT IMPOSED BY THE FOREIGN DONOR (IF APPLICABLE)**

Explanation on binding conditions for use of ODA grants imposed by the foreign donor (if applicable)/.

**Appendix VI**  
**SAMPLE DOCUMENT FOR NON-PROJECT ASSISTANCE FUNDED BY ODA GRANTS**  
*(Attached to the Government's Decree No. 56/2020/ND-CP dated May 25, 2020)*

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**I. BASIC INFORMATION ABOUT THE PROJECT**

1. Name of project (in Vietnamese and English).
2. Managing agency, proposing agency and project owner (tentative): Name, address and other relevant information.
3. Intended foreign donor and co-donor (if any).
4. Expected duration.
5. Project location.

**II. DEMANDS FOR THE NON-PROJECT ASSISTANCE**

1. Specify the necessity and need for non-project assistance.
2. The rationale for proposing the foreign donor.

**III. OBJECTIVES AND CONTENTS OF NON-PROJECT ASSISTANCE**

Specify the overall and specific objectives of the non-project assistance.

**IV. ARRANGEMENTS FOR NON-PROJECT ASSISTANCE MANAGEMENT AND IMPLEMENTATION**

Specify the mechanism for cooperation among the stakeholders in the non-project assistance implementation and management; the project owner's capacity for non-project assistance implementation and management.

**V. TOTAL CAPITAL OF NON-PROJECT ASSISTANCE**

1. ODA and concessional loan (in original currency and in VND and USD equivalents).
2. Counterpart fund and sources thereof (in VND and in USD equivalent).
3. Financial mechanism.

**VI. CONDITIONS FOR USE OF ODA GRANT IMPOSED BY THE FOREIGN DONOR**

Explanation on binding conditions for use of ODA grants imposed by the foreign donor (if applicable)/.

**Appendix VII**  
**WITHDRAWAL DOSSIER**

*(Attached to the Government's Decree No. 56/2020/ND-CP dated May 25, 2020)*

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**I. WITHDRAWAL DOSSIER FOR ODA AND FOREIGN CONCESSIONAL LOANS SUBMITTED TO THE MINISTRY OF FINANCE**

1. The project owner or an authorized unit shall send a set of legal documents to the Ministry of Finance, including:

a) A copy of the international treaty, agreement on ODA and concessional loans signed with the donor and the project operation manual (if any);

b) The original of the Program/Project Document and the investment Decision or feasibility study report approved by the competent authority; code of the investment project, code of the budget spending unit issued by a competent authority;

c) Contract signed between the project owner and the contractor (copy);

d) Donors' agreements, correspondences or "no objection" letters; agreements with the contractor on project implementation (list of eligible expenditures, contract performance guarantee, an advance guarantee under specific contractual provisions) (copy);

đ) A copy of the account opening certification and stamp specimen certified by the State Treasury where the transactions are conducted or account opening certification of the service bank (in case of opening a payment account);

e) Upon the first withdrawal of the fiscal year, the project owner or the authorized unit shall send to the Ministry of Finance the decision of the competent authority to assign the annual budget estimates for the project's granted and on-lent funds (copy).

2. The project owner only sends one original or a copy bearing the affixed seal of the project owner. If the document is prepared in a foreign language, the Vietnamese translation with the project owner's signature and stamp shall be enclosed. Project owners are legally responsible for the authenticity and accuracy of the copies and Vietnamese translation;

**II. WITHDRAWAL DOSSIER FOR DIRECT PAYMENT**

1. Project owners or authorized units shall prepare and send to the Ministry of Finance 01 withdrawal dossier including:

a) Withdrawal application, enclosed with standardized statements and necessary supporting documents required by the donor;

b) Invoice or payment request of the contractor or supplier (notarized copy);

c) The written request for payment, certified by the expenditure reviewing agency (original copy).

2. In addition to the above documents, for advance payment under a contract signed with a contractor/supplier/consultant, the project owner shall send the Ministry of Finance a contract performance guarantee and an advance guarantee of the commercial bank (notarized copies). The minimum advance guarantee value is equivalent to the advance value, which will remain valid until the project owner has fully recovered the advance fund.

**III. WITHDRAWAL DOSSIERS FOR L/C PAYMENTS**

1. Form of withdrawal by L/C with a commitment letter:

a) Procedures for issuing L/C and commitment letter:

The project owner shall send the Ministry of Finance the following documents:

- A written application, which clearly states the disbursed fund in the planning year, expected allocation to the currently applied L/C and commitment letter.

- A copy of the contract or contract Addendum (if any) signed with the contractor in accordance with the regulations; The contract should contain a clause that specifies one of the conditions for L/C payment that every payment must be certified of the validity by the expenditure review authority in the form of prior review. Post review can be accepted for procurement of goods and equipment, in particular, but not for the last payment. For every L/C payment, the project owner shall provide a written request for payment certified by the expenditure review agency of such payment or previous payment, depending on whether it is prior review or post review.

- Donor's no objection letter.

- Application dossiers for commitment letters following the donor's form (in case the donor requests the Ministry of Finance to send an application for commitment letter).

b) Procedures for amending L/C:

The project owner shall send the Ministry of Finance the following documents:

- Written request for amendment of L/C or commitment letter, clearly stating the accumulated disbursed fund up to the time of amendment, expected allocation to the currently revised L/C.

- A copy of the Contract Addendum related to the amendment of L/C or commitment letter (if any).

- Donor's no objection letter (Copy).

2. Form of fund withdrawal by letter of credit (L/C) from the designated account:

The project owner shall send to the Ministry of Finance the dossier for consideration of opening L/C from the designated account. The dossier includes the following documents:

- Request for L/C payments from the designated account which reports the amount already disbursed in the planning year, the allocation plan for currently applied L/C which specifies that the value of the new or modified L/C is up to the undisbursed annual plan allocated by the project owner for such L/C;

- A copy of the contract or contract Addendum (if any) signed with the contractor in accordance with the regulations; The contract should contain a clause that specifies one of the conditions for L/C payment that every payment must be certified of the validity by the expenditure review authority in the form of prior review. Post review can be accepted for procurement of goods and equipment, in particular, but not for the last payment. For every L/C payment, the project owner shall provide a written request for payment certified by the expenditure review agency of such payment or previous payment, depending on whether it is prior review or post review.

#### **IV. WITHDRAWAL DOSSIER FOR REIMBURSEMENT**

1. The project owner shall send the Ministry of Finance the withdrawal dossier including the following documents:

a) Written withdrawal application and the statements in the donor's form. The withdrawal application must clearly state the name and account number of each advancing unit. For advances from the state budget (fund for project preparation and implementation), the withdrawal application must clearly state the name and account number of the budget level from which the fund is advanced.

b) Money transfer documents (printed copy of electronic documents or paper documents) proving that the payments have been paid by the project owner to contractors, beneficiaries or statement between project owners and contractors/beneficiaries;

c) The written request for payment of capital expenditures, certified by the expenditure reviewing agency (original copy);

d) A statement of expenditures that match the expenditure review results and fund transfer documents.

2. At the request of donors, the Ministry of Finance may request additional documents.

#### **V. WITHDRAWAL DOSSIERS FOR DISBURSEMENTS TO THE DESIGNATED ACCOUNT**

1. First withdrawal to designated account: The first withdrawal to the Designated Account shall be based on the limits (or the maximum levels) of the Designated Account specified in the signed international treaties and agreements on ODA and concessional loans. In order to make the first withdrawal, the project owner shall send to the Ministry of Finance the following documents for consideration and signing of the withdrawal application to be sent to the donor:

a) Withdrawal application;

b) Withdrawal form and statements made in the donor's form;

c) Detailed expenditure plan for up to the next 03 months.

2. Advances to second-level accounts:

a) Withdrawal to a second-level account must be carried out via the Designated Account. The currency of the second-level account is borrowing foreign currency. The opening of second-level account in VND must be approved by the Ministry of Finance;

b) For advance payments in VND to second-level accounts, second-level account owners shall account them according to the exchange rates published by the service bank at the time of making the advance issuance and perform accounting on the principle of first in - first out.

3. Expenditures from Designated Account with the Ministry of Finance being the account owner: The project owner shall send the Ministry of Finance the following documents:

a) A written request for payment from the program/project owner;

b) Requests for payment by contractors, suppliers, beneficiaries;

c) The written request for payment, certified by the expenditure reviewing agency (original copy) for each payment (for prior review). In case of advance payment, it is necessary to provide documents of bank advance guarantee for the advance as prescribed. The advance guarantee value is equivalent to the advance value, which will remain valid until the project owner has fully recovered the advance fund.

4. Expenditures from Designated Account with the project owner being the account holder: The project owner shall send to the Service Bank/State Treasury where the accounts are opened the following documents:

a) Fund transfer documents to the contractors, suppliers, beneficiaries using the form provided by the Serving Bank/State Treasury where the account is opened;

b) The written request for payment, certified by the expenditure reviewing agency (original copy) for each payment (for prior review). In case of post review, the project owner shall send the payment request certified by the expenditure review agency (the original) to the Service Bank/State Treasury where the account is opened.

5. Additional withdrawal from the Designated Account: In order to withdraw additional capital from the Designated Account or statement of expenditures from the Designated Account, the Project Owner shall send the following documents to the Ministry of Finance:

a) A written request for additional withdrawal or statement of expenditures from the Designated Account;

b) Detailed expenditure plan from the Designated Account for a period of up to 03 months in case of additional withdrawal. The exchange rate applicable to withdrawal to designated account is the transfer buying rates for the respective foreign currencies of the service bank or the bank where the State Treasury opens account at the time of preparing withdrawal application;

c) Withdrawal application, statements and supporting document as prescribed by the donor;

d) The written request for payment, certified by the expenditure reviewing agency (original copy) or a statement of eligible expenditures certified by the expenditure reviewing agency (original copy); for advance payments under contracts signed with contractors or suppliers, the project owners shall send contract performance guarantee and advance guarantees of commercial banks (copies) to the Ministry of Finance. The advance guarantee value is equivalent to the advance value, which will remain valid until the project owner has fully recovered the advance fund.

đ) Statement of the Designated Account prepared by the Project Owner in the form prescribed by the donor and certified by the Project Owner;

e) Statement of the Designated Account and accounting notes for each transaction of the State Treasury where the account is opened or service bank, details of the original currency amount, beneficiary and date of transaction, applicable exchange rate and VND equivalent, opening balance, outflows, and closing balance; If there is a second-level account, enclose its statement.

## **VI. SIGNING OF WITHDRAWAL APPLICATIONS**

Upon receipt of the valid dossier, the Ministry of Finance shall consider signing the withdrawal applications to the donors. Withdrawal applications can be sent to donors by mail or via online forms according to donors' regulations./.