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THE GOVERNMENT

No: 24/2011/ND-CP

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom - Happiness

Ha Noi, 5th April 2011

DECREE

Amending a number of articles of the November 27, 2009 decree No.108/2009/ND-CP on investment in the form of build-operate-transfer contract, build-transfer-operate contract, build-transfer contract

The government

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

Pursuant to the November 29, 2005 Law on Investment;

Pursuant to the November 26, 2003 Law on Construction;

Pursuant to the November 29, 2005 Law on Business;

Pursuant to the June 19, 2009 Law Amending and Supplementing a Number of Articles of the Laws concerning capital construction investment;

At the proposal of the Minister of Planning and Investment,

DECREES:

Article 1. Amending a number of Articles of Decree No. 108/2009/ND-CP as follows:

1. Amending, supplementing Article 4 as follows:

“Article 4. Investment domains

1. The Government encourages the implementation of projects of new infrastructure works building, and operation, management or projects of current works improvement, expansion, modernization, and operation, management in the following domains:

a) Roads, road bridges, road tunnels and ferry landings;

b) Railways, railway bridges and railway tunnels;

c) Airports, seaports and river ports;

d) Clean water supply systems; sewage systems; and wastewater and waste collecting and handling systems;

d) Power plants and power transmission lines;

e) Infrastructure works of health service, education, training, career training, culture, sport and offices of State agencies;

g) Other infrastructure works as decided by the Prime Minister.

2. For works specified at Point g, Clause 1 of this Article, ministries, branches and provincial-level People's Committees shall collect written opinions of concerned ministries, branches and localities and submit them to the Prime Minister for consideration and decision for each specify case”

2. Amending clause 2 Article 8 as follows:

“2. Expenses for formulating and appraising projects feasibility study reports, including expenses relating to the preparation of other projects shall be allocated from the state budget and other revenue sources (if any).”

3. Amending clause 2 Article 11 as follows:

“2. A Project proposal shall include contents provided for feasibility study reports under laws on construction and contents provided in points a, b, c, d, đ clause 2 and points a, b clause 3 Article 12 of this Decree.”

4. Amending Article 12 as follows:

“Article 12. Elaboration and approval of feasibility study reports

1. The competent state agencies organize to make feasibility study reports for using as a basis for making a bidding dossier and negotiating a project contract with the investor.

2. Besides the contents are made according to provision of laws on construction, the feasibility study reports of BOT and BTO projects must include the following contents:

a) Analysis of the necessity and advantages of implementation of the project in the form of BOT, BTO or BT contracts as compared to other forms of investment;

b) Determination of goods, services and prices, charges expected to be collected from the operation of the works;

c) Determination of duration of construction, exploiting and methods of the project works business, management operation;

d) Determination of conditions, and methods of transfer and receipt of the works in accordance with provisions in Chapter VI of this Decree;

đ) Proposed application of investment incentives and supports form and government guarantee (if any) in accordance with provisions in Chapter VII of this Decree.

3. Besides the contents are made according to provisions of law on construction, the feasibility study reports of BT projects must include the following contents:

a) Suitable contents as provided in points a, d, đ clause 2 of this Article;

b) Conditions of payment in cash or conditions of other projects implementation.

4. Competence for approval of feasibility study reports:

a) The Prime Minister may approve feasibility study reports of national important projects under the National Assembly's resolutions;

b) Ministers, heads of ministerial-level agencies and chairpersons of provincial-level People's Committees may approve feasibility study reports of other projects of groups A, B and C.”

5. Before the approval of feasibility study reports referred to provisions in point b clause 4 of this Article, Ministries, branches, Provincial-level People's Committees submit to Prime Minister for consideration, decision of government guarantee for projects or using central state budget for supporting the implementation of projects.”

Article 2. Effect

This decree takes effect on May 20, 2011.

Article 3. Implementation provision

Ministers, heads of ministerial-level agencies, heads of governmental agencies, chairmen of the Provincial level People's Committees under their management functions and duties are responsible for guiding specifically and the implementation of this Decree.

THE GOVERNMENT**PRIME MINISTER**

(signed)

Nguyen Tan Dung

