

Client Alert

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Vietnam Launches Pilot Program For Public Procurement Tendering On the Internet

Circular No. 17/2010/TT-BKH ("**Circular No. 17**"), dated 22 July 2010, provides detail on a pilot program of tendering on the Internet. The Circular takes effect from 15 September 2010. The Circular provides some detailed rules for the pilot program. The general rules for tendering and bidding remain covered by Law No. 61/2005/QH11 (as amended by Law No. 38/2009/QH12) ("**Bidding Law**"), and Decree No. 85/2009/ND-CP ("**Decree No. 85**").

According to Article 1 of Circular No. 17, the pilot program of tendering on the Internet is applicable to all bidding packages relating to consultancy services, goods procurement, and construction and installation using three forms of contractor selection, including: domestic competitive offers, restricted bidding and open bidding (these forms are as defined in the Bidding Law). The pilot program applies specifically to the Hanoi People's Committee, Vietnam's State-owned electricity company EVN, and Vietnam's State-owned post and telecommunications company VNPT. Each of these pilot State agencies must choose at least five goods procurements, three consultancy services, and three construction and installation bidding packages for the program. These tenders will be conducted under an implementation timeline to be determined by the Director of the Bidding Management Department (a unit of the Ministry of Planning and Investment). However, other institutions are also encouraged to adopt this method of tendering on the Internet.

Once the method of tendering on the Internet is applied to a bidding package, a number of steps during the tendering process will be conducted over the Internet, including the announcement of the bidding plan, announcement of invitation for bidding, issuance of invitation dossiers, submission of bidding dossiers, bid opening, announcement of the bidding result, and announcement of contractors committing a violation of the Bidding Law. Circular No. 17 provides the general principles to facilitate these procedures, such as the validity of electronic documents (electronic signature is sufficient to validate the documents), the eligibility of the bid solicitors and the contractors, regulations on system maintenance (the system operators must inform all the related organizations at least fifteen days before carrying out maintenance services), and the minimum requirements for information technology infrastructure.

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Circular No. 17 also provides specific guidance on certain procedures for the tendering on the Internet process, including system user registration, issuance of digital certificates, and specific timelines and requirements applicable to contractors selection process. For example, according to Article 27 and Article 28 of Circular No. 17, in cases of open bidding and restricted bidding, contractors have at least ten days to prepare the documents for pre-qualification responses. For qualification responses, the contractors have at least fifteen days for small scale bidding packages, and twenty-five days for other packages.

The rights and obligations of various parties participating in tendering on the Internet are also provided, including the rights and obligations of the Ministry of Planning and Investment, the pilot agencies, the system operator, the digital certificate issuer, the bid solicitors and the bidders.

Many countries allow Internet tendering, which enhances transparency and facilitates submissions in a timely manner. It is hoped that Vietnam's pilot program will prove a successful model for expanding the system into all procurement areas and agencies.

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