NEW LEGAL FRAMEWORK FOR SELECTION OF INVESTORS TO IMPLEMENT BUSINESS INVESTMENT PROJECTS

NGUYEN QUOC DZUNG

On July 7, 2026, the Government promulgated Decree 274/2026/ND-CP providing details for a number of articles and measures for implementation of the Law on Bidding regarding the selection of investors to implement business investment projects (**Decree 274**). Against the backdrop of recent significant changes to the laws on bidding, investment and land, Decree 274 is issued to replace and consolidate the provisions previously dispersed across Decree 23/2024/ND-CP, Decree 115/2024/ND-CP and their amending and supplementing instruments. Decree 274 has a broad scope of regulation, aiming at not only ensuring consistency and uniformity within the legal system but also resolving certain practical difficulties, shortening procedures and strengthening decentralization in the process of investor selection for implementation of business investment projects. In this Legal Newsletter, NHQuang&Associates will focus on analyzing certain notable new points of Decree 274 that may have a direct impact on enterprises and investors.

First, Decree 274 determines the projects subject to bidding for investor selection and the conditions on land funds intended for project implementation. The Decree has consolidated the projects subject to bidding for investor selection stipulated in the previous decrees into three groups, including:

- Land-using investment projects in accordance with the Land Law;
- Land-using investment projects subject to bidding under specialized laws governing a sector or an industry;
- Investment projects not using land but subject to bidding under specialized laws governing a sector or an industry.

At the same time, clause 4, Article 4 of Decree 274 adds the conditions applicable to the land fund intended for implementation of a land-using investment project, whereby such land fund must be subject to the cases of either land recovery under Article 79 of the Land Law or land lease under Resolution 254/2025/QH15; be under the management of a State agency or organization; and must be included in the list of land areas for bidding decided by the provincial People's Council. In addition, Decree 274 also clarifies the cases in which bidding for investor selection is not required, including where an investor opts for an agreement on receipt of land use rights without proposing land recovery by the State under point c, clause 1, Article 127 of the Land Law, and where current holder of land use rights proposes a project and obtains the approval for investment policy concurrently with investor approval under the investment law. This content is of particular significance for enterprises that are weighing up whether to pursue project implementation through bidding for investor selection or through an agreement on receiving land use rights.

Second, Decree 274 s supplements a mechanism for investor selection in special cases. The Law on Bidding 2023, as amended and supplemented in 2025, has introduced provisions on investor selection in special cases under Article 34a, and delegated to the Government the task of providing details for application of this mechanism. On that basis, Decree 274 specifies four groups of projects eligible for investor selection in special cases, among which the most notable one is "project chain" proposed by an investor, comprising a project subject to bidding for investor selection together with a project already undergoing implementation by the same investor, for the purpose of forming and developing an industrial cluster or value chain, thereby ensuring efficient and synchronized exploitation and operation of the entire project chain in alignment with sectoral master plans. This provision helps strengthen linkages among projects, shorten investment preparation time and encourage investors to propose large-scale projects that enable the formation of industrial clusters, value chains or supply chains. However, to ensure rigorous and efficient application of investor selection in special cases, the selected investors must still fully satisfy the requirements on financial capacity, conditions for project implementation and other criteria determined by the competent authority. Accordingly, any investor seeking to take advantage of the flexibility of this mechanism must demonstrate its implementation capacity, overall efficiency, the linkage between the projects, and the conformity of the project chain with the sectoral master plans, development orientations as well as local socio-economic development objectives.

Third, Decree 274 changes the approach to the standards for evaluation of land use efficiency and the obligation to make payments to the state budget for certain land-using projects. Under Decree 274, the minimum rate of payment to the state budget specified in the bid dossier is no longer determined by reference to the "average increase following auction of land use rights per area unit of all land zones, land funds and land plots" as previously applied; instead, it is determined based on the "average state budget contribution rate proposed by bid-winning investors of all urban area and rural residential area projects for which investor selection results have already been obtained within the administrative boundary of the province during the most recent three consecutive years", provided that certain conditions on reference results are met and a certain threshold of land use scale or total investment capital is reached. Where a locality has no reference data from prior bidding projects, regarding rural residential area projects, the bidding dossier will not stipulate this minimum rate, and the investor shall itself propose the rate of contribution to the state budget as a basis for evaluating the bid dossier. In addition, Decree 274 further clarifies the legal nature of the amount an investor commits to pay to the state budget under investor selection results, treating it as other payment to the state budget, and requires the project contract to specifically stipulate the form, schedule, time limit for payment and

remedial measures in the event that the investor fails to honour its commitment. This is a noteworthy change, as it affects not only investors' financial strategy in preparing the bid dossier but also increases their accountability for fulfilling commitments after being selected as the winning bidder.

In addition to the above, enterprises should also note that the roadmap for online investor selection will take effect from January 1, 2027. Specifically, Article 70 of Decree 274 provides that the submission procedure for the proposal dossier of a project not subject to investment policy approval and proposed by the investor, together with the procedure for online invitation for expression of interest, shall be carried out on the Vietnam National E-Procurement System.

Decree 274 will take effect from August 21, 2026. The new provisions of the Decree are aimed not only at consolidating, enhancing transparency and simplifying procedures, but also at opening up more flexible mechanisms for projects of specific nature, while at the same time strengthening investors' accountability for fulfilling their commitments once selected. Given that the legal framework on land is still being proposed for further amendment this year, enterprises should proactively review their project development plans, approach to accessing land funds, project chain structuring, bidding strategy and financial obligations to ensure conformity with the requirements of Decree 274 as well as with future regulations. Should Clients and readers wish to learn more, or seek advice on the conditions for application, dossier, procedures, or impacts of Decree 274 on any specific project, NHQuang&Associates stands ready to provide relevant clarification and legal opinions.