

Bidding for selecting investors to implement land - related projects under the new Investment Law

December 2024

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Bidding for selecting investors to implement projects involving land is one of the most efficient mechanisms for managing and allocating land resources today. This process not only ensures transparency and fair competition among investors but also optimizes the socio-economic benefits derived from land resources. However, the success of the bidding process depends on a thorough understanding of the legal framework, particularly the new provisions under the Investment Law 2020 and related guiding decrees, which is a prerequisite for both regulatory authorities and investors.

Concepts and Scope of Application

1. What is the correct understanding of investor selection through bidding?

Bidding for selecting investors to implement land-related projects is a process organized by state authorities to identify investors with the capacity, experience, and most effective investment proposals to execute projects associated with land use rights. In this process, investors compete not only on investment value but also on technical criteria, implementation schedules, and sustainable land use plans.

2. What is the scope of application for investor selection through bidding?

Under Decree 31/2021/ND-CP, bidding for selecting investors is applied in the following cases:

- Projects requiring land allocation or lease: These typically include new urban areas, industrial park projects, or strategic infrastructure development initiatives.
- Projects listed in approved portfolios: These portfolios must be sanctioned by competent authorities as part of land use planning, construction planning, or local socio-economic development plans.
- Land unsuitable for auctioning: In cases where the land requires the investor to build infrastructure or fulfill social commitments, bidding is used to ensure the most appropriate selection.

3. How does bidding relate to investment projects?

Bidding serves not only as a method for selecting investors but also as a crucial initial step in the implementation of investment projects. The bidding process is designed to ensure that land use rights are granted to an investor who has the capacity and commitment to execute the project within the agreed timeline while achieving socio-economic development goals.





Distinction Between Land Use Rights Auction and Project Bidding

To fully understand the nature of bidding for land-related projects, it is necessary to differentiate it from auctions of land use rights:

- Auction: A method of selling land use rights to the highest bidder, typically applied to land that already has basic infrastructure and does not require accompanying investment projects.
- Bidding: A method of selecting investors based not only on financial criteria but also on other factors, such as technical solutions, project schedules, and socio-economic efficiency.

Criteria	Auction	Bidding
Objective	To maximize financial returns for land use rights.	To select the best investor for project implementation.
Scope of Application	Land with pre-approved planning and no additional development required.	Projects requiring investors to build, develop, or commit to specific targets.
Execution Method	Individuals/organizations compete by bidding the highest price for land use rights.	Investors submit technical and financial proposals for evaluation.
Land Use Rights	Granted to the highest bidder.	Linked to commitments for project execution.

Example: A centrally located plot of land may be auctioned to maximize revenue for the state budget. Conversely, if the plot requires urban development or infrastructure projects, bidding will be applied to select the most capable investor.

Process for Implementing Bidding for Investor Selection

1. Preparing the Bidding Plan

The first step is preparing a bidding plan in which the regulatory authority defines the land use objectives and criteria for selecting investors. This plan must be developed based on factors such as the area's development needs, financial feasibility, and alignment with land use planning. A well-prepared bidding plan not only ensures transparency but also clearly defines requirements for investors from the outset.

2. Preparing the Bidding Documents

The bidding documents are crucial as they provide comprehensive information about the project, including:

- Detailed descriptions of the land plot, intended use, and related legal requirements.
- Evaluation criteria for investors, such as financial capacity, experience, and project commitment.
- Requirements for project schedules and penalties for contract breaches.

3. Public Announcement and Bidding Organization

Bidding information must be publicly announced through official channels such as the National Procurement Portal, local websites, or newspapers. This ensures that all interested investors have an equal opportunity to participate.

The bidding process includes:

- Receiving Bids: Investors submit their bidding documents as per the regulations.
- Bid Opening: Bids are opened publicly to ensure transparency.
- Evaluation and Awarding: Authorities evaluate the bids based on pre-disclosed criteria to select the most suitable investor.

4. Contract Signing and Land Allocation

The selected investor will sign a contract with the state authority to obtain land use rights and commit to implementing the project as per the approved plan.





Key Legal Updates to Note

1. Enhanced Transparency:

New regulations mandate full disclosure of bidding information to eliminate corruption or favoritism in the investor selection process.

2. Increased Investor Responsibility:

Investors must demonstrate financial capacity, experience with similar projects, and commitment to fulfilling social objectives.

3. Sustainable Development Goals:

The new bidding process requires projects to align with environmental protection and sustainable development goals, emphasizing resource conservation and minimizing negative impacts.

Risks and Proposed Solutions


1. Common Risks


- Bidding documents failing to meet criteria, leading to disqualification.
- Disputes arising during project implementation or over land use rights.
- Investors failing to meet project deadlines or quality standards as committed.


2. Proposed Solutions

- Legal Consultation from the Outset: Ensure all parties understand the legal framework, rights, and obligations.
- Careful Review of Bidding Documents: Ensure the completeness and compliance of bidding submissions.
- Strict Monitoring of Project Progress: State authorities should closely collaborate with investors to ensure project implementation aligns with commitments.

Bidding for selecting investors to implement land-related projects is an effective legal tool for managing and developing land resources. A thorough understanding of the legal framework and the essence of this process will help businesses and regulatory authorities achieve socio-economic objectives while minimizing risks during project implementation.

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