

REQUIREMENT FOR PROVISION OF PROFESSIONAL SERVICES

ENGINEERING SERVICES

SOCIALIST REPUBLIC OF VIET NAM

Questionnaire on the Requirements for Provision of Professional Services

Services Sub-Sector: Construction-related Engineering

Country Name: Vietnam

I. Regulation and Organisation of this Professional Services

1. Please describe in general the structure and organisation of this sub-sector and how it is being regulated in your country. This could include:

- The range of the activities regularly practiced by the professionals in this sub-sector in your country. Please indicate which of these activities that are NOT regulated in your country, if any.
- Explanation of whether this sub-sector is regulated by law, self-regulated by a professional body, or a combination of both; whether the regulation is centralised or decentralised, etc.
- List of concerned professional bodies and/or ministries/government agencies, the functions of each of them, and how they interact in regulating this sub-sector.

Construction-related engineering practice is regulated by law, under the Construction Law. The Ministry of Construction is responsible for regulating the practice of Engineers practicing in construction field. The regulation is centralised by the Ministry of Construction but some operating implementations are decentralised and regulated through Provincial Departments for Construction and their respective Provincial Consulting Committees.

The practice of construction-related engineering covers all construction-related engineering disciplines, e.g. structural, electrical, sanitary, mechanical, electronics and communications, geo-technical engineering. The enumeration of any discipline in this section shall not be construed as excluding any other engineering discipline that relating to construction.

2. Please list down the relevant legislations/rules and regulations regulating this sub-sector in your country.

Construction-related engineering practice is regulated by the Construction Law No. 16/2003/QH11 dated 26th of November, 2003 and related Decrees, Decisions, Circulars guiding the implementation of the Construction Law.

II. Qualification Requirements

3. What are the qualification requirements for individual practitioners in your country in terms of:

- professional education (e.g. whether shall be university/higher education degree, post-graduate education etc).
- professional examination/assessment;
- work experience;
- practice and training; and
- language skills?

There are three basic qualification requirements for registration as a professional engineer practicing in construction field:

- *completed an engineering degree at the university level given by a recognised Vietnamese/oversea university or other competent body;*
- *acquired practical experience of not less than 5 years after graduation;*
- *participated in soil investigation work and/or design work of not less than 5 projects.*

4. Please specify the number of years/months required for each of the above, as well as the availability of alternative routes (e.g. degree route and non-degree route) to achieve the qualifications required. If different qualification requirements exist for different activities or types of work, please specify.

There is no any other alternative route to achieve the qualifications required.

5. Are there any other qualification requirements apart from those set out in Q.3 above (e.g. minimum age, registration with a professional body, restriction on the scope of practice, place of origin/citizenship/residency requirements)? Please specify.

None

6. Who conducts/supervises the professional examination/assessment?

Provincial Departments for Construction are statutory bodies responsible for conducting professional assessment. The detail process of professional assessment is implemented by Provincial Consulting Committees set up by the respective Provincial Departments for Construction.

7. Are the professional examinations/assessments conducted at regular intervals? Please specify the frequency, fees charged, and differences in practice adopted by individual provinces/states.

An applicant for registration as a professional engineer practicing in construction field can submit his/her application to a Provincial Department for Construction at any time. No professional examination is required. The application will be assessed on a case-by case basis. License will be granted

to qualified applicant within 30 working days since the time the Department receives sufficient application documents.

III. Qualification Procedures

8. What are the procedures involved in order to qualify as a professional in this sub-sector, including the approving authorities involved, their respective requirements, the fees charged and the timelines that need to be observed? How long does it normally take to complete the procedures?

The applicant is required to submit an application to a Provincial Department for Construction in the prescribed form together with all supporting documents.

The Provincial Department for Construction then checks the submitted documents for adequacy and regularity and assigns the relevant Provincial Consulting Committee to examine the documents.

Within 30 working days since receiving of sufficient application documents, the Provincial Department for Construction grants license to qualified applicant.

IV. Recognition Arrangements

9. Are there any mechanisms (e.g. automatic recognition or mutual recognition arrangements at government level or between professional bodies) to take account of qualifications, experience, expertise, license etc. acquired or obtained by foreign professionals in another country? Please explain the mechanism and specific requirements.

Presently, Vietnam does not have any mutual recognition arrangement with overseas countries at government level. Regarding mutual recognition arrangement between professional bodies, Vietnam Union of Science & Technology Association (VUSTA) is a signatory of ASEAN Engineers Register established under the ASEAN Federation of Engineering Organisation (AFEO).

10. Please give a brief explanation of foreign reciprocity provisions/requirements for granting registration to professionals from foreign countries, if any.

Foreign Professional Engineers can practice in construction field in Vietnam with a professional practicing certificate issued or recognised by relevant Vietnamese authorities.

V. Licensing Requirements

(a) For Individuals

11. Apart from the qualification requirements mentioned above, what are the licensing requirements for individuals in your country, for example?

- membership of a professional body
- registration with the relevant ministry or any other institution
- absence of criminal record
- taking of an oath

- minimum and/or maximum age
- subscription to a professional indemnity insurance (including any minimum specification)
- place of origin/citizenship/residency requirements
- continuing professional development (CPD)
- others (please specify)

If different licensing requirements exist for different activities, please specify.

Other qualification requirements apart from those set out in Q.3 above are as follows:

- *being eligible for civil rights and having mental capacity for civil behaviour in accordance with the Law. For Vietnamese, it is required to have identity card; For foreigners and Vietnamese people residing abroad, it is required to have passport and permit for temporary residency in Vietnam;*
- *being of good conduct (having no record of professional negligence);*
- *fulfilled payment of required fees.*

(b) For Firms (Including Regulations Governing Establishment)

12. Are professional firms regulated? If yes, are there any specific licensing requirements, for example:

- legal form in which one can establish (e.g. partnership, incorporation, other)
- minimum capital
- minimum/maximum number of partners
- qualifications of individual partners
- membership of a professional body
- incorporation or registration with the relevant ministry or any other institution
- requirements regarding natural persons carrying out professional services on behalf of the firm, including any restrictions on foreign firms employing local professionals
- requirements regarding ownership (voting rights) of the firm, including place of origin/citizenship/residency requirements of board of directors and restrictions on partnership with local firms.
- requirements regarding management/administration of the firm, including place of origin/citizenship/residency requirements of board of directors, minimum number/percentage of local directors, managers etc.
- others (please specify)

If different requirements exist for different activities, please specify.

Firms supplying professional engineering services in construction are regulated by law in Vietnam.

Domestic firms are required to apply to Provincial Department for Planning and Investment for Business Registration. These firms can be established in forms of state-owned corporation, private corporation, limited corporation, stock corporation, partnership, incorporation and co-operative. The leader/executive manager of the firm is required to have professional practicing certificate. There is no requirement for minimum capital.

Firms with 100% foreign owned capital or foreign joint-venture firms can only be established in form of limited company. To establish a firm with 100% foreign owned capital or joint-venture consulting firm, it is required to obtain Investment License under the Law for foreign investment in Vietnam granted by the Ministry for Planning and Investment or relevant Provincial People's Committee. The Investment License is equivalent to Business Registration. According to the Labour Law, only those foreign professionals whose skills and expertise are not available in Vietnam can be employed to work in Vietnam.

13. Is the use of international or foreign firms names restricted? Please specify.

It is not restricted to use international or foreign firms' names.

VI. Licensing Procedures (For Both Individuals and Firms)

14. What are the procedures required for application for license or renewal of license, including the authorities involved, their respective requirements (including documentation), and fees charged? How long does it normally take to obtain or renew a license? Please specify in case of differences between individuals and firms.

Individuals

For individuals apply for new license, please see details in section III above.

For those apply for renewal of license, the applicant is required to submit an application to a Provincial Department for Construction in the prescribed form together with all supporting documents. Within 15 working days since receiving sufficient documents, the Provincial Department for Construction reissues license to qualified applicant. The main requirements are:

- *being a registered professional engineer possessing a license (valid or expired);*
- *submitting record of working experience since grant of previous license;*
- *being of good conduct (having no record of professional negligence);*

Firms

Local consulting firms are not required to apply for Contractor License. However, they are required to have adequate qualification in accordance with the type and scale of the project and the type of services undertaken. Their qualification should be specified in their Business Registration.

Foreign consulting firms which are nominated or selected through bidding process to provide professional services on a project basis in Vietnam are required to apply to the Ministry of Construction or a relevant Provincial Department for Construction for Contractor License. The licensing procedure normally takes 20 working days since the day of receiving sufficient application documents. Required fee is 2 millions Vietnamese Dong. Basic requirements for Contractor License are:

- *Being nominated or selected contractor of a construction project;*
- *Having a contract to provide professional services for that project;*
- *Having adequate ability to provide those professional services to the project;*
- *Having a joint-operation with a Vietnamese consulting firm or employing a Vietnamese consulting firm as a sub-contractor;*

VII. Regulations Governing Entry and Temporary Stay of Natural Persons for the Purpose of Supplying the Professional Services

15. Is the entry and stay of professionals subject to labour market tests or any other restrictions? Please specify.

According to the Labour Law, only those foreign professionals and technical persons whose skills and expertise are not available in Vietnam can be employed to work in Vietnam.

VIII. Professional Ethics

16. What activities/disciplines are subject to professional ethical codes? Please specify the main policy objectives of these codes.

It is stipulated by the Construction Law and Decision regarding Professional License that Engineers practicing in construction field are required to have no record of professional negligence, to be faithful and unbiased and not to involve in corruption cases.

17. Which body or institution develops this code and monitors its implementation? What are the consequences in case of breach of the ethical code by a professional or a firm?

The Ministry of Construction and Provincial Departments for Construction are statutory bodies responsible for developing and monitoring implementation of ethical code. Depending on seriousness of the breach of the code, the consequences may be: warning, suspension or withdrawal of license.

IX. Appeal Mechanisms and Dispute Resolution Procedures

18. Do individuals or firms have the right to appeal if their application is rejected or their license is withdrawn?

Yes.

19. What body or institution is responsible for the resolution of disputes?

The applicant may appeal to Provincial Departments for Construction, the Ministry of Construction or the Court.

20. Please provide a summary of the mechanism/procedures and a list of relevant legislation/regulations.

X. Additional Information

21. Is it possible to obtain further or updated information on the regulatory regimes of the professional services concerned through web-sites, journals, or brochures? What sort of information is included? Please give details.

Please refer to <http://www.moc.gov.vn>. Currently, information is only given in Vietnamese.

22. Please provide contact details (name, address, fax, telephone, email address, etc.) of the persons who can provide further information/clarification on this sub-sector in your country.

Contact point: Ministry of Construction, Department for International Cooperation - 37 Le Dai Hanh str., Hai Ba Trung dist., Hanoi, Vietnam

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