

Hanoi, March 17, 2003

INTER-MINISTERIAL CIRCULAR

Instructions on Budgeting ODA Schemes and Projects

Based on Government Decree No. 17/2001/ND-CP, dated May 4, 2001, regarding the issuance of a regulation on ODA management and use,

MPI and MoF provide the following joint instruction on budgeting ODA schemes and projects:

I. GENERAL RULES

1. Scope of adjustment:

This circular includes instructions on budgeting ODA schemes and projects in the periods of ODA mobilisation, production, evaluation, approval, preparation and implementation of ODA schemes and projects.

2. Rules of budgeting ODA schemes and projects:

The budgeting of ODA schemes and projects must:

- follow Vietnam's existing laws and commitments made between the Vietnamese Government and foreign donors regarding the implementation of ODA schemes and projects; and
- mobilise ODA and allocate counterbalance capital effectively, avoiding wastefulness and conforming to actual speed and capacity of the implementation of ODA schemes and projects.

3. Budget contents of ODA schemes and projects:

This includes a budget of ODA (loan capital and non-refundable aid as classified by country or funding organisation) and domestic capital (funds from the central and local budgets, domestic credit funds, investors' available capital and contributed capital of project beneficiaries and other capital sources according to Vietnam's laws).

4. Modes of budgeting ODA schemes and projects:

4.1. In concert with domestic financial mechanisms, ODA schemes and projects are classified into the following categories:

- ODA schemes and projects allocated by the State from the State budget;
- ODA schemes and projects re-lent by the State; and
- ODA schemes and projects partially allocated and partially re-lent by the State.

4.2. A whole or part of ODA schemes and projects allocated by the State from the State coffer shall be budgeted as follows:

- a. Capital construction projects must be budgeted according to sources for capital construction;
- b. Administrative and career-oriented projects must be budgeted according to sources for administrative and career-oriented affairs with a breakdown of spending categories;
- c. For ODA schemes and projects that include expenditures for both capital construction and administrative and career-oriented affairs (later known as mixed projects),
 - the budgeting, implementation and final accounting of capital construction components shall follow rules applicable to capital construction projects; and
 - the budgeting, implementation and final accounting of administrative and career-oriented components shall follow rules applicable to administrative and career-oriented projects.

In some exceptional cases when either of the two components of a mixed project is too small, and a project owner or a project management agency requests uniform budgeting according to the rules applicable to either of the two project types (capital construction or administrative and career-oriented), MPI shall be in charge of coordinating with MoF in consideration and decision-making.

4.3. An investment decision regarding ODA schemes and projects must specify their spending type (capital construction, or administrative and career-oriented, or mixed projects) according to item 4.2 above.

5. Counterbalance capital:

Counterbalance capital is allocated according to the rules at Provision 12, Article 5 of the Regulation on ODA Management and Use, issued with Government Decree No. 17/2001/ND-CP, dated May 4, 2001. Details are as follows:

5.1. All ODA schemes and projects that require counterbalance capital must plan it annually. Management agency shall be responsible for synthesizing requirements and planning counterbalance capital of ODA schemes and projects under their direct management.

5.2. Counterbalance capital does not apply to the ODA schemes and projects for which the signed international agreement does not specify the contribution of the Vietnamese side, whether it be in cash, in kind or in other responsibilities.

5.3. For ODA schemes and projects re-lent by the State, or partially allocated and partially re-lent, owners must allocate all counterbalance capital and provide full explanations during the process of producing and approving projects regarding their capacity to ensure counterbalance capital.

For the projects of this type, owners shall be prioritized to borrow counterbalance capital from state credit sources, and responsible for refunding (both principals and interests) according to a credit contract.

5.4. For projects allocated by the State budget, counterbalance capital shall be ensured by the State budget and allocated in the State's annual draft budget according to corresponding capital sources of capital construction or administrative and career-oriented affairs. Specific assignments are as follows:

- The central budget shall ensure counterbalance capital for ODA schemes and projects directly managed and implemented by ministries and central agencies as project owners.
- Local budgets shall ensure counterbalance capital for projects with local authorities being owners and direct managers, including locally implemented component projects, or mini-projects under ODA schemes and projects with owners being ministries and central agencies.

5.5. Counterbalance capital allocated in an annual budget for projects shall have the following conditions:

- The project-related international agreement has been valid; and
- Domestic investment formalities have been completed.

5.6. For ODA schemes and projects for which the international agreement has been signed but not yet become valid; or the international agreement has become valid but domestic investment formalities have not yet been completed,

- management agencies shall be responsible for presenting their cases to MPI and MoF (during the time of budgeting) for allocation of reserve capital construction expenditures or each category of administrative and career-oriented expenditures (according to characteristics of counterbalance capital); and submitting their cases to an authorised level for a decision (in case the central budget is responsible for allocating counterbalance capital); or
- project owner shall be responsible for presenting their cases to management agencies (during the time of budgeting) for allocation of local budget reserves; and submitting their cases to an authorised level for a decision (in case the local budget is responsible for allocating counterbalance capital).

5.7. Management agencies must prioritize allocation of sufficient counterbalance capital in annual draft budgets to implement commitments made at the signed ODA international agreements, and in conformity with actual annual disbursement capacity of ODA schemes and projects.

Project owners shall be responsible for using counterbalance capital effectively according to the set objectives.

II. SPECIFIC RULES:

1. Proposals of capital sources and financial mechanisms for schemes and projects in ODA mobilisation period:

1.1. In planning ODA schemes and projects, management agencies must specify financial proposals, including ODA limits (loan capital and non-refundable aid), counterbalance capital and domestic financial mechanisms (detailed proposal samples of schemes and projects in Appendix 3, MPI's Circular No. 06/2001/TT-BKH, dated September 20, 2001, instructing the implementation of the Regulation on ODA Management and Use).

1.2. A list of ODA schemes and projects approved by the Prime Minister and foreign donors shall be a basis for producing feasibility study reports regarding ODA schemes and projects and domestic financial mechanisms.

1.3. Funds for preparing schemes and projects:

Based on the list of ODA schemes and projects provided by MPI, management agencies shall plan funds for preparing ODA schemes and projects according to the same procedures of making and approving financial plans stipulated at Provisions 3 and 4 below, including breakdowns by donors' capital, self-allocated capital and capital requesting the State budget's assistance, to submit to MPI and MoF.

For ODA schemes and projects funded by donors separately, neither belonging to a plan (or a priority list for ODA mobilisation) nor having a framework ODA international agreement, after the PM's approval of the reception proposal, management agencies shall plan funds for preparing schemes and projects to submit to MPI and MoF.

2. Proposals of investment capital and financial mechanisms for schemes and projects in the period of producing, evaluating and approving project documents:

Based on MPI's written notices regarding ODA schemes and projects that donors have agreed to fund in each period, management agencies shall instruct project owners to

produce pre-feasibility and feasibility study reports, or documents relating to schemes and projects to submit to an authorised level for approval.

2.1. Pre-feasibility study report content:

A pre-feasibility study report of ODA schemes and projects, produced according to Government Decree No. 52/1999/ND-CP, dated July 8, 1999, regarding the management of investment and construction, and Government Decree No. 17/2001/ND-CP, dated May 4, 2004, regarding the issuance of the Regulation on ODA Management and Use, must specify the following:

- Proposed structure and mode of funding or co-funding by particular donors for components of ODA schemes and projects;
- Capacity to ensure counterbalance capital from such sources as project owners' self-balance, credit capital, beneficiaries' contributed capital, and others.
- In case of the re-lending mechanism, a owner must develop a preliminary refunding plan for the project based on re-lending conditions under the framework stipulated in the Government's Regulation on Re-lending Foreign Loans issued according to the Finance Minister's Decision No. 02/2000/QD-BTC, dated January 6, 2000.

2.2. Feasibility study report content:

A feasibility study report of ODA schemes and projects, produced according to Government Decree No. 52/1999/ND-CP, dated July 8, 1999, regarding the management of investment and construction, and Government Decree No. 17/2001/ND-CP, dated May 4, 2004, regarding the issuance of the Regulation on ODA Management and Use, must specify the following:

- Specific conditions for domestic and foreign sources of funding schemes and projects (such as loan duration, grace period, interest rates, fees and others);
- Domestic financial mechanisms applicable to schemes and projects (allocation or re-lending);
- In case of the re-lending mechanism, a project owner must have a detailed re-funding plan (payment periods, revenue sources, etc.) based on re-lending conditions under the framework stipulated in the Government's Regulation on Re-lending Foreign Loans issued according to the Finance Minister's Decision No. 02/2000/QD-BTC, dated January 6, 2000. If the conditions of this framework cannot be followed, it is required to specify reasons and propose re-lending conditions in accordance with each project type and funding source so that MoF can take charge of coordinating with related agencies to consider the case to submit to the PM for his decision.

2.3. A decision to approve a feasibility report must specify all contents mentioned above at item 2.2., clarifying domestic financial mechanisms for schemes and projects, including forms and modes of capital transfer among parties related to schemes and projects, details of each spending component in capital construction and

administrative and career-oriented affairs, as well as assignments of spending tasks for different budget levels in allocating counterbalance capital.

- 2.4. Based on a feasibility report and project documents approved by an authorised level, a project owner shall produce and send to a management agency, MPI and MoF, a plan of using funds according to project implementation speed with a yearly breakdown (from the start year to the year of completing and putting the project into use), and breakdowns of ODA (by donor), counterbalance capital, forms of State budget allocation (capital construction, administrative and career-oriented affairs), re-lending and others (according to table samples in Appendix 1 of this Circular).

3. Procedures of producing, approving and providing annual financial plans for ODA schemes and projects:

- 3.1. Procedures of producing, approving and providing planned funds of preparing schemes and projects, and funds of implementation preparedness and implementation of ODA schemes and projects shall follow the sequence of producing and approving the State budget, as stipulated in the State Budget Law and legal documents on the management of investment and construction.

- 3.2. The budgeting of ODA schemes and projects shall be based on:

- the international agreement signed with a foreign donor;
- regulations on planning and drafting the State budget, current spending mechanisms and limits; and
- actual speed and capacity of project implementation.

Every year, in accordance with the time of drafting the State budget, and based on the above-mentioned regulations and reality, a project owner shall budget ODA schemes and projects, and send a financial plan to a senior management agency for synthesis. If the project uses re-lent funds, the plan must also be sent to a re-lending agency.

Financial plans must be produced according to the regulation on table samples in Appendix 2 of this Circular, enclosed by explanatory notes specifying calculation bases, analysing and evaluating implementation and particular problems, and proposed solutions. They must be sent on time as stipulated by a management agency to ensure the time for synthesizing the State's annual draft budget.

- 3.3. Management agencies shall synthesize actual implementation in the whole year, and propose a financial plan for the following year regarding ODA and counterbalance capital of ODA schemes and projects under their management to MPI and MoF (according to table samples in Appendix 3 of this Circular).

- 3.4. Based on financial plans sent by management agencies, MPI and MoF shall take charge of annually considering and synthesizing ODA schemes and projects'

financial plans, which shall be used as a basis for a general inclusion to the State's annual draft budget. The assignments are as follows:

- MPI shall take charge of capital construction investment projects or capital construction investment components of mixed projects.
- MoF shall take charge of administrative and career-oriented projects or administrative and career-oriented components of mixed projects.

After the State's draft budget is decided by an authorised level, MPI and MoF shall provide it to management agencies according to the existing regulations, specifying foreign funds of ODA schemes and projects.

Based on the State's draft budget provided or decided by an authorised institution, a management agency shall provide a detailed allocation plan, including ODA and counterbalance capital, for ODA schemes and projects, and inform financial institutions and treasuries of the same level.

3.5. Based on capital-related information of an authorised institution, the State treasury shall control and pay counterbalance capital according to the existing state budget allocation mechanism (capital construction investment funds shall be controlled and paid according to the capital construction investment mechanism; funds for administrative and career-oriented affairs according to the administrative and career-oriented expenditure mechanism).

4. Adjusting financial plans, transferring counterbalance capital and handling unplanned cases:

4.1. Based on actual implementation of ODA schemes and projects, a management agency shall adjust or submit the case to an authorised institution to adjust annual financial plans for schemes and projects according to the existing regulations. This shall be a basis for transferring budget-allocated counterbalance capital from schemes and projects unable to implement all their funds to other ODA schemes and projects that have complete formalities and sufficient capacity to exceed their yearly plans. Concurrently, the management agency shall inform financial institutions and treasuries of the same level. Based on a capital adjustment notice of an authorised institution, the State Treasury shall implement payments. In case of arising difficulties in terms of counterbalance capital, a project owner must present the case to a management agency for a solution.

The transfer of counterbalance capital from a project abundant in funds to a project short of funds shall be made in the same expenditure area only. It is not allowed to transfer counterbalance capital from a project of a capital construction investment expenditure area to a project of a regular expenditure area, and vice versa; it is not allowed to transfer capital from health care to education and training, and vice versa...

4.2. Regarding ODA schemes and projects for which counterbalance capital is not allocated timely in an annual budget plan or which have unexpected demand for counterbalance capital (counterbalance capital of those projects are guaranteed by the State budget), management agencies must arrange by themselves within a scope of a given budget. If arrangements are impossible, it is allowed to use the reserve capital specified in item 5.6., Section I of this Circular.

5. **Use and refund of advanced capital** (stipulated at Article 27, Government Decree No. 17/2001/ND-CP, dated May 4, 2001):

5.1. Advanced capital is an advance from the State budget according to an annual plan for ODA schemes and projects allocated by the State budget to implement a number of items of schemes and projects that have received ODA commitments, been planned but not yet been able to withdraw ODA. Therefore, a project owner does not have funds to implement work. The budget level that is responsible for allocating counterbalance capital (stipulated in item 5.4, Section I) is also responsible for allocating this advanced capital.

5.2. Advanced capital applies only to projects or project components that are allowed to use the capital withdrawal mode known as 're-funding' specified in ODA international agreements.

From the planned year when this capital withdrawal mode arises, based on spending levels and time required to withdraw capital from donors, a project must identify and record needs in the year's counterbalance capital plan to be allocated an advanced capital from the State budget.

5.3. Financial institutions of different levels shall cooperate with planning and investment agencies of the same levels to consider and make decisions on allocation for schemes and projects that require advanced capital.

Final accounting must be conducted for the refunding of advanced capital every year, and State treasures of different levels shall be responsible for withdrawing for the State budget (depending on which budget level has allocated counterbalance capital for a project) at the end of the planned year. Financial institutions of different levels shall be responsible for continued allocation of advanced capital according to the following year's plan (if needs arise) to ensure continuities of project implementation.

6. Report on financial plan implementation:

Project owners and management agencies shall be responsible for periodically reporting actual implementation of financial plans according to MPI's Circular 06/2001/TT-BKH, dated September 30, 2001, instructing the execution of the Regulation on ODA Management and Use, issued with Government Decree No. 17/2001/ND-CP, dated May 4, 2001. Periodical reports on actual implementation of financial plans of ODA schemes

and projects shall serve as a basis for mobilising ODA and budgeting schemes and projects.

III. IMPLEMENTATION PROVISION

This circular shall take effects 15 days as of the date of issuance, and replace Circular No. 6/1998/TTLT-BKH-BTC, dated August 14, 1998, jointly issued by MPI and MoF, instructing the counterbalance capital management mechanism for ODA schemes and projects. Previous regulations that run counter to this circular shall be invalid. Issues that arise during the implementation process are requested to be reported to MPI and MoF for consideration of revisions and supplements./.

Recipients:

- Central Party Committee's Office
- Government Office
- Ministries and ministerial-level agencies, government agencies
- Provincial and municipal people's committees under central management
- National Assembly's Office
- State President's Office
- People's Supreme Court
- People's Supreme Prosecutorate
- Central offices of mass organisations
- Official Gazette
- Archive: Offices of MPI and MoF

Minister of Finance

**Minister of Planning
and Investment**

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