

Reference Material III - 5

Answers to Opinions and Requests about the Voluntary Measures on Government Procurement

●It appears that not much is publicly known about the information on procurement made available in the databases of government websites and other venues. Also, efforts for improvement are required in these venues offering information, specifically through the enhancement of search functions, among other means.

Answer

Information on procurement is provided on the websites of each relevant procuring entity and other venues, through the following means, aimed at contributing to the benefit of suppliers being interested in government procurement activities:

- Official gazette, or kanpo, featuring public notices on government procurement;
- Online version of the official gazette, or kanpo, on the website of the National Printing Bureau (<http://kanpou.npb.go.jp/>)
- Government public procurement database of the Japan External Trade Organization (JETRO)
(<http://www.jetro.go.jp/cgi-bin/gov/govj0101.cgi>)
- Integrated database of government procurements
(<http://www.chotatujocho.go.jp/va/com/TopPage.html>)

Based on public opinions, including the ones cited above, the government will also try to enhance the search functions to facilitate the access to needed information. For example in this fiscal year, part of the search functions have been expanded in JETRO's website for the government public procurement database. The Government will further continue its endeavors to provide information more conveniently.

If you find any unclear points about government procurement, please feel free to inquire at the contact service of each relevant procuring entity.

●Concerning technical specifications, there are prescriptions of such specifications that are not related to the practical use, which in effect serves to exclusively designate certain products. There is concern that this practice risks favoring particular makers.

Answer

Under the GPA, a procuring entity shall not adopt any technical specifications that have the effect of creating unnecessary obstacles to international trade. The Action Program, which specifies actions to take in each sector, also stipulates that technical specifications should be made in an impartial manner.

A supplier can file a complaint if it deems that the particular technical specification is in violation of these rules, including the cases that have just been pointed out above (*).

If you have any other questions about the system such as conditions and procedures for filing a claim, please access the website of the Cabinet Office (http://www5.cao.go.jp/access/japan/chans_main_j.html).

(*) In such a case, the supplier is recommended to first confer with the procuring entity and seek to reach a settlement.

●Even if a supplier files a complaint concerning government procurement, it is questioned whether such complaint is fairly treated, since the complaint reviewing entity is established within the government. There is also concern that a supplier filing a complaint may be unfairly treated by the entity being complained about and other procuring entities.

Answer

The Government Procurement Review Board has been set up to further promote the transparency, fairness and competitiveness and to enhance the structure to receive and process complaints.

The Government Procurement Review Board is a fair and independent reviewing entity that has no interest in the results of procurements, as required under the GPA. The Board's

members consist of experts who have no interest in the complaints filed and who review complaints, free from any external influences.

If an enterprise using the complaint review system is placed in a disadvantageous position by the procuring entity, such consequence is in violation of the GPA. The Government of Japan thoroughly instructs procuring entities in order to ensure compliance with the Agreement.

- Since open tenders tend to result in excessive competition, it is requested to consider setting a minimum value for the winning bid.

Answer

For reasons such as conflict with the GPA and in light of the basic principle of the Accounting Law, which calls for the efficient implementation of the budget, it is difficult to introduce the system that would establish a minimum limit on prices and thereby eliminate all offers which are below a certain price.

We will take steps to eliminate mala fide and dishonest businesses, in such ways as establishing appropriate tender qualifications and using the low bid review system and the Overall-Greatest-Value Evaluation method.

●Concerning the procurement of information systems, there appears to be a tendency of a de facto monopoly in the field of information technologies, when the scale of any given order is excessively huge, or when the procurement is based on a years-long accumulation of relevant know-how or specific technologies.

Answer

The Government of Japan has formulated a "Basic Guideline for the Government Procurement concerning Information Systems" (approved on March 1, 2007 by the CIO Liaison Committee of each Ministry and Agency) (hereinafter the "Procurement Guideline").

Pursuant to the Procurement Guideline, the Government of Japan will promote free and fair competition in service markets and realize a truly competitive environment. In particular, the Government will: (1) avoid procuring as a package for large-scale projects and instead promote a divided procurement in which a project is divided into appropriate scales; (2) avoid a monopoly by those entities that have accumulated knowledge about the details of relevant operations, and instead arrange procurement specifications to cover all information which is indispensable for the assumption of proposed projects; and (3) avoid the use of specific technologies developed by specific entities, and instead promote the use of procurement specifications that are based on widely accepted standards such as international standards and the Japanese Industrial Standards.

●In the context of the procurement of information systems, it is considered important, when procuring the processes, such as designing and development, to employ a perspective of evaluation based on the life-cycle cost.

Answer

Concerning the procurement of processes, such as designing and development, the Procurement Guideline recommends technical evaluation based on life-cycle costs, encompassing the processes of future operations and conservation.

The Government will promote initiatives for strategic procurement of information systems, including those initiatives based on the Procurement Guideline.

●A divided procurement is recommended for the procurement of information systems, but there is a risk that a mismatch between divided systems holds up the overall system. It is also possible that a need to coordinate among the vendors could cause a delay in the procurement schedule. The merits of a divided procurement should therefore be judged from the nature of the system such as required quality, cost and deadline, etc.

Answer

Regarding the procurement of information systems, there is a concern that ordering as a package may virtually limit market opportunities to major providers and intensify the dependence on certain providers, thus excluding other providers. To address this problem, it is stipulated that a large-scale system which costs more than 500 million yen to build or develop should in principle be subject to a divided procurement.

However, it would be more efficient to avoid a divided procurement, when it seems especially risky or can cause significant cost increases or unacceptable delays. In such cases, the merits of a divided procurement would be judged from the nature of the system or content to be built or developed.

●Regarding the Overall-Greatest-Value Evaluation method (OGV) for the procurement of information systems, it can be considered that rather than evaluating technical merits and price merits uniformly on a 1:1 ratio, the ratio should be changed flexibly, for example by raising the ratio for technical merits, in cases where high levels of technical competency is sought.

Answer

To procure high-quality information systems in more adequate ways, a new evaluation method has been made available for procurement, for which the public tender announcement or official tender notice is made on and after August 1, 2002. This new method evaluates tenders by adding up technical and pricing points calculated on the tender price, when an information system is procured using the Overall-Greatest-Value Evaluation method. Given that the weighting of the technical points in the total evaluation remains unchanged regardless of the

price, we consider that full application of this evaluation method can be an effective countermeasure against excessively low-priced bids.

We intend to follow-up on the implementation of government procurement for information systems and where necessary, examine improved methods of evaluation.