

### 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.chotatujoho.go.jp/va/com/TopPage.html>)
- Database on Government Procurement Case Examples Concerning Information Systems (<http://cyoutatujirei.e-gov.go.jp/Main?CID=GPB0101G01>)

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 FY2009, part of the search functions have been expanded in JETRO's website for the government public procurement database, and the Database on Government Procurement Cases Examples Concerning Information Systems was revamped, whereby enhancing its registration information.

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](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.

- For open biddings, there seems to be bids of overly low rates being made quite frequently due to excessive competition. Please consider developing a framework that ensures that competition takes place within appropriate price ranges.

#### Answer

There is a special measure regarding government procurement which has been put in place to prevent any contracts to be entered with those who have placed a bid at the lowest-level prices, depending on the prices, if it has been discerned that the bidder who is to become the counterparty in a contract may not be able to carry out the work satisfactorily in line with the contract. This is called the Low-Bid Price Evaluation System.

In the process of entering into a contract, we deal with those who bid at low prices by properly utilizing this system.

- The establishment of the Low-Bid Price Evaluation System for the procurement of information systems is a step in a positive direction. However, I believe it is necessary to offer disclosure of follow-up information of to what extent this system is being used and how it has been effective.

#### Answer

Whenever a low-bid price evaluation has been carried out regarding government procurement related to information systems, it is entered in and publicized using the Database on Government Procurement Case Examples Concerning Information Systems

(<http://cyoutatujirei.e-gov.go.jp/Main?CID=GPB0101G01>) which is run by the Ministry of Internal Affairs and Communications.

Continued efforts will be made to ensure that information on low-bid price evaluation on government procurements related to information systems is properly entered into the said database.

- 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.