

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>)
- Website for Search of Procurement Information
(<http://www.chotatujoho.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 an example in 2014, part of the search functions has been expanded in the Website for Search of Procurement 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).

(*) 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.

●It appears that the Low-Bid Price Evaluation System is not functioning for the procurement of information systems. What steps are being taken to ensure that this system is effective?

Answer

While continuing to make appropriate use of the Overall-Greatest-Value (OGV) Evaluation method (price merits: technical merits = 1:3) which emphasizes technological competencies, we will also take measures including requesting the presentation of specific supporting documents which concern the feasibility of executing the contract (scale of development, man-hours, work processes, work schedule, details of productivity etc.) based on the IT Governance and Management Guideline for Government Information Systems (CIOs council decision of 3 December 2014, Revision of 25 February 2019) which will come into force from FY2015.

● 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

The rules currently in force have promoted the use of divided procurement; however, this is now being reexamined; based on the IT Governance and Management Guideline for Government Information Systems (CIOs council decision of 3 December 2014, Revision of 25 February 2019) which will come into force from FY2015, a decision has been made to review the question of the most rational unit basis for dividing up procurement in terms of ensuring competitiveness and reducing costs, after taking feasibility of execution, life-cycle costs, and technical validity into consideration.

● The introduction of the new Overall-Greatest-Value (OGV) Evaluation method (price merits: technical merits = 1:3), which allows more weight to be placed on an enterprise's technological competencies in the evaluation, has produced a certain level of outcomes; however, as the technical merits are weighted strongly towards assessing whether the minimum requirements are fulfilled, this has resulted in the technological capabilities of the enterprises not being properly evaluated in some cases. Is there not a need to operate the evaluation system in a more flexible manner to ensure that this is a mechanism which will allow the technological capabilities of the various enterprises to be properly evaluated?

Answer

Based on the IT Governance and Management Guideline for Government Information Systems (CIOs council decision of 3 December 2014, Revision of 25 February 2019) which will come into force from FY2015, the decision has been made to take steps that will ensure that the OGV Evaluation method evaluates the best proposals properly, including placing a heavier relative weight on additional points, after taking into account the evaluation items which are to be emphasized, based on the particular characteristics of the procurement itself.