

## **( Provisional Translation )**

### **Basic Policy concerning the Promotion of Contracts considering Reduction of Emissions of Greenhouse Gases and Others by the State and Other Entities**

1. The basic direction for the promotion of contracts that consider reduction of emissions of greenhouse gases and others.

#### **(1) Background and significance of the promotion of green contract**

In light of the scale and severity of its anticipated impacts, global warming is the most significant environmental issue threatening the foundations of human survival. According to a report by the Intergovernmental Panel on Climate Change (IPCC), warming of the climate system is unequivocal, and since 1950s, many of the observed changes are unprecedented over decades to millennia.

As a consequence, global warming is likely to cast negative impacts on our economy and society in a diverse manner, not only causing frequent weather anomalies and drastically changing climates, but inflicting damage on farming and agriculture, leading to increased incidents of infection, escalation of disasters, and so forth. We have already witnessed how badly global warming has affected water resources and vulnerable ecosystems. It is projected that as the temperature continues to rise, more serious impacts will ensue.

It is not limited to harmful greenhouse gases that humanity emits into the environment. While socio-economic activities characterized by mass production, mass consumption, and mass disposal have benefited us greatly, such activities have wasted the earth's limited resources and hampered the natural material circulation, imposing a heavy load on the global environment.

In contrast, we must ensure the development and prosperity of humankind by seeking solutions to these challenges. To this end, it is essential to reduce emissions of greenhouse gases and other substances that strain the environment (hereinafter referred to as “greenhouse gases and others”) across all sectors. In particular, it will be an overridingly important approach to strive to reduce emissions of greenhouse gases and others by addressing the reduction of environmental loads in awarding contracts.

The emissions of greenhouse gases and others related to power supply, procurement of automobiles, etc., procurement of ships, and refurbishment for energy conservation and construction, whose details on awarding contracts considering reductions of emissions of greenhouse gases and others (hereinafter referred to as “green contracts”)

are stipulated in the Basic Policy, account for about 90% of the total greenhouse gas emissions generated by the Government. "The National Government Action Plan (Cabinet decision on May 13, 2016)", based on Article 20, Paragraph 1 of the Act on Promotion of Global Warming Countermeasures (Act No.117 of Oct.9, 1998), indicates that "using the FY 2013 level as a starting point, greenhouse gas emissions directly and indirectly emitted in connection with operation and projects of each governmental administrative organ should be reduced by 40% by FY 2030. As an interim target, the Government as whole shall aim for 10% reduction by FY 2020." Accordingly, to promote green contract, the Government achieves the targets unfailingly and strives for further reduction of greenhouse gas emissions, etc.

Through these measures, it is desired to build a society wherein people in every country can enjoy wellbeing in a sound, fertile environment conserved in all dimensions, from a global level to the community level—a society that can be inherited by future generations, in other words, a sustainable society.

When concluding green contracts, various factors other than pricing are to be considered in recognition of the inherent wisdom and efforts of industries, keeping economic efficiency in mind. By doing so, it is expected we can improve environmental efficiency (in terms of environmental loads related to the production of goods or the provision of services per unit) and contain any increase in the environmental burden, even as our economy booms and wealth increases. Moreover, it is also expected that this will give rise to additional economic activities by taking a lead in creating higher-performing green technologies and products that contribute to environmental conservation.

The State, incorporated administrative agencies, etc. (referring to incorporated administrative agencies, etc. defined in Article 2, paragraph 3 of the Act on Promotion of Contracts of the State and Other Entities, Which Show Consideration for Reduction of Emissions of Greenhouse Gases, etc. [Act No. 56 of May 23, 2007; hereinafter referred to as "the Act"]), local governments and local incorporated administrative agencies (hereinafter, "the State, etc.") occupy a significant place in the national economy as a central player engaged in daily economic activities. In addition, the modality of concluding contracts by the State, etc. is of great importance, influencing those concluded by other entities. Therefore, it would bring significant benefits to markets if the State, etc. established the practice of concluding green contracts.

Along with the purport of Article 24 of the Basic Environmental Law (Law No. 91 of 1993) and Article 3, paragraph 3 of the Act on Promotion of Global Warming

Countermeasures, it is called upon the State, etc. to take an initiative in promoting green contract, which can be applied to the private sector, thereby encouraging a nationwide shift to the promotion of green contract.

(2) Basic concept concerning the promotion of green contract

The heads of ministries and agencies (referring to “the heads of ministries and agencies” set forth in Article 2, paragraph 5 of the Act; the same shall apply hereinafter) and the heads of incorporated administrative agencies, etc. shall strive to, pursuant to the provisions of Article 6 of the Act, as stipulated in the Basic Policy, take necessary measures for the promotion of green contract.

In practice, the following considerations shall be made before concluding contracts:

- (i) When entering into green contracts, the reduction of emissions of greenhouse gases and others should be realized in as many fields as possible, reminding that market penetration of eco-friendly goods and services (hereinafter referred to as “goods, etc.”) can be expected by taking various factors other than pricing into account while bearing economic efficiency in mind.
- (ii) To keep in mind there is a concern that unless the reduction of emissions of greenhouse gases and others is considered in a contract, larger volumes of greenhouse gases and others are likely to be emitted in connection with the production and use, etc. of goods, etc. under the relevant contract, as a consequence of which the State, etc. might incur higher costs for environmental conservation.
- (iii) National Government Action Plan shall effectively promoted through green contracts. In particular, it is preferable for incorporated administrative agencies, etc. to take a well-planned approach, in accordance with National Government Action Plan, respecting the characteristics of each organization.
- (iv) When specifying performance requirements, etc. for procurement, they should be stipulated clearly and precisely, in line with purposes, etc., and contract-related information should be publicized. When setting forth requirements, evaluation methodology, procedures for awarding of contracts, etc., and fair competition shall be ensured by taking measures against unfair treatment to small and medium-sized enterprises.

(v) When implementing measures concerning the promotion of green contract, it shall be ensured they are in harmony with other measures concerning contracts by the States, etc.

(vi) When implementing measures concerning the promotion of green contract, it shall be ensured they are in harmony with measures described in the Basic Energy Plan stipulated in Article 12, paragraph 1 of the Basic Act on Energy Policy (Act No. 71 of June 14, 2002) and other measures related to the reduction of emissions of greenhouse gases and others by the States, etc.

(vii) It is required to ensure harmony with other administrative purpose, in due consideration of compliance with the WTO Agreement on Government Procurement, lest an unnecessary impediment be posed on international trade.

2. Basic approaches related to the reduction of greenhouse gas emissions, etc. for contracts with overriding priority on the reduction of greenhouse gas emissions, etc.

(1) Contracts related to the supply of electricity

Basic approaches related to the reduction of emissions of greenhouse gases and others for contracts related to the supply of electricity are stipulated as follows:

- When concluding a contract related to the supply of electricity, the procuring party endeavors to contract with an electricity retailer with a small greenhouse gas emission factor.

- For a contract to be concluded by bidding, the procuring party selects a successful bidder on the basis of pricing from among those qualified bidders who have met the requisite standard of greenhouse gas emission factors, efforts of reduction of environmental loads (statuses of introduction of renewable energy and of use of unutilized energy), and status of disclosure of power source and greenhouse gas emission factor, which is prescribed in advance (hereinafter referred to as “the bottom-cut method”), until otherwise stipulated by the Basic Policy.

- When considering details of bidding procedures under the bottom-cut method, until otherwise stipulated by the Basic Policy, the procuring party considers the appropriate region and refers to the supply state of electricity in the region and the greenhouse gas emission factor of the electricity retailer. Additionally, in that case, the procuring party shall ensure harmony with actions for secured

supplies while taking fair competition into account.

- When concluding a contract related to the supply of electricity, the procuring party enters into contract with an electricity retailer acknowledged as capable of supplying electricity to meet the agreed power demand and the estimated power consumption, etc. as described in the specifications throughout the term of contract reliably and stably.
- The State and incorporated administrative agencies, etc. shall endeavor to ensure the appropriate and reasonable use of energy and, when implementing contracts related to the supply of electricity, to assure fair competition in due consideration of taking measures against unfair treatment to small and medium-sized enterprises. They further ensure harmony with measures concerning other contracts by the States, etc., measures described in the Basic Energy Plan stipulated in Article 12, paragraph 1 of the Basic Act on Energy Policy (Act No. 71 of June 14, 2002), and other measures related to the reduction of emissions of greenhouse gases and others by the States, etc.

(2) Contracts related to the procurement, etc. of greenhouse gas-emitting products

(i) Contracts related to the procurement, etc. of automobiles

Basic approaches related to the reduction of emissions of greenhouse gases and others for contracts related to the procurement and lease of automobiles are stipulated below:

- For a contract to be concluded by bidding related to the procurement and lease of automobiles, the procuring party enters into contract with a party whose proposal is rated the best after a comprehensive evaluation of procurement price and environmental performance.
- Performance requirements at the time of ordering have to be prescribed in line with administrative purposes, giving due consideration not to restrict biddings unnecessarily.
- With regard to specific requirements for a particular bid, the procuring party shall set forth details, based on the usage of automobiles.

(ii) Contracts related to the procurement of ships

Basic approaches related to the reduction of emissions of greenhouse gases and others for contracts related to the procurement of ships are stipulated below:

- When ordering a schematic design or a basic design for planning a ship procurement, the procuring party shall select a party who has offered the most

excellent technical proposal after a comprehensive evaluation by requesting, in principle, technical specifications including features addressing the reduction of emissions of greenhouse gases and others. However, this rule does not necessarily apply to the ships with overriding priority on other factors than the reduction of emissions of greenhouse gases and others according to their uses, or the ships with little room for the design innovations on emission reduction.

- When a small craft is to be procured, the procuring party shall stipulate the requisites of the propulsion machinery (power engine) of it including the standard of the fuel consumption, etc. and describe them, in principle, clearly in the specification, etc. However, this rule does not necessarily apply to the ships with overriding priority on other factors than the reduction of emissions of greenhouse gases and others according to their uses, etc.

### 3. Basic approaches related to contracts for energy conservation improvement projects

Basic approaches related to contracts for energy conservation improvement projects (referring to “energy conservation improvement projects” described in Article 5, Paragraph 2, Item 3 of the Act; hereinafter referred to as “ESCO project”) are stipulated below:

- When planning replacement or improvement of main equipment etc., ESCO projects are to be introduced as far as possible, judging from the comprehensive perspective based on the energy consumption in the facilities etc.
- An ESCO project plan shall be drawn up by making use of means for implementing an ESCO project appropriately and smoothly, such as feasibility studies, etc., based on correct information of the conditions of the existing facilities in advance.
- A long-term in-service program shall be deliberately formulated, lest terms and conditions of a contract be subject to change within the term of contract.
- An ESCO operator shall be selected not only by comparing prices but also by comprehensively determining the most innovative and suitable technical proposal and others.
- Prior to concluding a contract for an ESCO project, the procuring party shall agree with the implementing operator on the sharing of potential risks to arise during the period of the project.
- The contract shall stipulate that appropriate guidelines on maintenance and measurement/verification be formulated, when implementing an ESCO project.

- Before the completion of an ESCO project, with regard to area(s) pertaining to the technical scope employed as an ESCO project, the implementing operator is requested to create guidelines necessary for the proper maintenance and administration following the termination of the project.

4. Basic approaches related to the reduction of emissions of greenhouse gases and others under contracts other than those listed in the preceding 2 and 3 that fall into the categories of contracts related to buildings or other contracts of the State and incorporated administrative agencies, etc.

(1) Contracts related to buildings

Basic approaches for contracts related to buildings are stipulated below:

- When ordering design service pertaining to construction or large-scale refurbishment of a building, the procuring party shall select a party who has offered the most excellent technical proposal after a comprehensive evaluation by requesting, in principle, technical specifications including features addressing the reduction of emissions of greenhouse gases and others (including affirmative use of natural energy, etc., hereinafter referred to as “the green proposal procedure”). However, this rule does not necessarily apply to the projects with overriding priority on other factors than the reduction of emissions of greenhouse gases and others according to their uses, or the projects with little room for such design innovations on emission reduction.
- When ordering design service pertaining to construction or large-scale refurbishment of a building, the environmental conservation performance as a required design output be clearly described in contract documents in principle.
- If the green proposal procedure is employed, and thereby features addressing the reduction of emissions of greenhouse gases and others contained in the technical proposal offered by the selected party are judged appropriate in terms of economical efficiency as well, the relevant features of the technical solution shall be reflected in the design output, by clearly describing them in the contract documents.
- If the green proposal procedure is employed, a contract with the selected party shall be concluded, and the counterparty (the designer) of the contract shall be requested to provide assessment of life-cycle CO<sub>2</sub> emissions (LCCO<sub>2</sub>), in addition to comprehensive environmental conservation performance, as a design output.
- When ordering through the green proposal procedure, the procuring party

shall announce about it with an outline of the order in advance, and when the outline has been modified, publicize the outline as modified.

- When ordering through the green proposal procedure, necessary information for those who are invited to offer technical proposals shall be provided and reasonable time for preparation be ensured those parties.
- When ordering through the green proposal procedure, impartiality, transparency, and objectivity shall be ensured.

## (2) Contracts related to the industrial waste disposal

Basic approaches for contracts related to the industrial waste disposal are stipulated below:

- Qualification for bidding, such as effort of reduction of greenhouse gas emissions, and ability and achievements in conducting adequate industrial waste disposal shall be laid down before contracts subject to bidding are concluded by the bottom-cut method.
- With regard to specific requirements for a bid under the bottom-cut, the procuring party shall formulate them according to the characteristics of industrial waste to be disposed.

## 5. Other important matters related to the promotion of green contract

### (1) Promotion of green contract to all kinds of contracts

For all contracts including those listed in the preceding 2 through 4 and associated contracts permitting the installation of equipment in government buildings, it is desirable to ensure contents of the contract, the goods, etc. pertaining the contract, and operation of awarding of the contract shall contribute to the reduction of emissions of greenhouse gases and others in connection with the implementation of projects under contracts. Besides, due consideration should be given lest the reduction of emissions of greenhouse gases and others in the government sector cause increased emissions of greenhouse gases and others in non-government sectors.

### (2) Creating a system for promoting green contract

The heads of ministries and agencies and the heads of incorporated administrative agencies, etc. shall create systems to promote green contract. In principle, it is required that the head of the system shall be a person who is competent in supervising green contract for the entire organization (in the case of ministries and agencies, a person who holds the office of or equivalent to Director General [Chief Secretary] or higher) and the



whole organization shall be involved in the system. In particular, departments/divisions in charge of environmental affairs and accounting/procurement shall proactively operate the system.

(3) Publication, etc. of a summary of contracts concluded

When publishing a summary of concluded green contracts, the heads of ministries and agencies and the heads of incorporated administrative agencies, etc. shall do it in a form as plain as possible.

(4) Implementation of staff education programs, etc. for promoting green contract

The heads of ministries and agencies and the heads of incorporated administrative agencies, etc. shall, to the best of their powers, provide the staff, including practitioners in charge of contracts, opportunities to enhance their awareness of green contract and acquisition of technical knowledge useful for concluding such contracts.

(5) Compilation, etc. of information

The State, with a view to contributing to the promotion of green contract by the State, incorporated administrative agencies, etc., local governments, local incorporated administrative agencies, and other citizens, shall compile and analyze the data related to the concluded green contracts, and shall make them publicly accessible in an easily understandable form. The heads of ministries and agencies, and the heads of incorporated administrative agencies, etc. shall, to the best of their powers, implement contracts that contribute to the reduction of environmental loads by making sufficient use of existing information including the aforementioned one.

(6) Coordination with other measures

The State shall deal reasonably and effectively with the publication and compilation of information, etc. in coordination with the system established for the enforcement of Act on Promotion of Procurement of Eco-friendly Goods and Services by the State and Other Entities (Act No. 100 of May 31, 2000), which stands for a pioneering initiative addressing the environment.

(7) Review of the Basic Policy

With a view to contributing to promotion of green contract, the State shall examine the progress of implementing the Basic Policy in reference to the information/data described in (5) and so forth, and thereon review it whenever deemed necessary, based

on the results of the examination.

At the same time, for a smooth implementation of green contract by the State, etc., the Minister of the Environment shall, at the onset of consideration of a review of the Basic Policy, provide the heads of ministries and agencies, incorporated administrative agencies, etc., local governments, and local incorporated administrative agencies with information related to matters to be examined . The heads of ministries and agencies and the heads of incorporated administrative agencies, etc. shall do their best to act well in advance, like grasping the status quo, etc. so as to take necessary measures hassle-free in the event the Basic Policy is reviewed in the end, by making use of the relevant information provided by the Minister of the Environment.