

<Tentative Translation>

**Summary of the Act for the Promoting Promoting Adequacy of Proper Tenders
Tendering and Contracts Contracting of for Public Works**

Section 1: The Purpose (Article 1)

The purposes of this Act are to secure the people's reliance on citizens' trust toward to public works and to promote the sound progress development of the construction industry that contracts public works, by --commissioned by the Central Government, quasi-governmental agencies, and local governments through the

- Establishing establishment the of requirements that form the foundation of proper tendering and contracting basic matters to improve adequacy of tenders and contracts of public works that are ordered by the Central Government, the Quasi- Governmental Agencies and the Local Governments.,
- Ensure adequate access to Announcement of relevant information,
- Taking measures for announcement of the information, against the unjust various improper illegal practices actions, etc. and measures to promoting proper adequacy systems for formation for implementation of public works implementation, in the formation for execution.
- And improving simultaneously develop the legislative system such as determination of the Guiding Principle deliberating grafting the Guiding Principle on measures for promoting adequacy proper tendering and contracting procedures.

Section 2: Definitions (Article 2)

(1) In this Act, "the quasi-governmental agencies" mean are defined as the entities that have been established directly by the a legal Act directly or that have been established through by a special means based on a some special Act and special establishment action means (excluding not including the entities that are to which the excluded from provisions under of Item 15 of Article 4 of the Act for the Establishing menting of the Ministry of Public Management, ; Home Affairs, ; Posts and Telecommunications is not applied), or that have been established through some a special Act and necessary require approval of competent from government organization agencies for their its establishment, or the Independent Administrative Agencies that correspond to to which all any of following Items apply and that specified by the Cabinet Order.

(a) An entity that with more than half of its capital is invested funded by the Central Government or an entity that receives the financial resources subsidies as a main source for the the cost of operating costs its business of its activities is from

provided mainly by the subsidy of the Central Government grants or aid.

(b) An entity that orders procures construction works on a planned and regular basis according to its plan and continuously, in order to achieve the purpose of its establishment or perform its main business duties.

(2) In this Act, “public works” mean is defined as construction works that are ordered by the Central Government, quasi-governmental agencies or local governments.

Section 3: Basic matters Items for to promote the adequacy of Proper Ttenderings and cContractings for the pPublic Wworks (Article 3)

Tenders and contracts of the public works should be made more more adequate proper by -

(1) Securing the transparency of tendering and contracting processes and the content of contracts.

(2) Promoting the fair competition among those who wish to participate in tenders and or to enter contracts.

(3) Completing Completely the exclusion ofabolishing improperjust actionspractices such as bid-rigging in tenders and contracts.

(4) Securing properproper implementation of contracted the public works that have been contracted

Section 4: Announcement of the iInformation (Article 4 to 9)

(1) The head Head of each Ministry and Agency of the Central Government shall annually announce the matters (defined by the Cabinet Order) concerning the prospect of orders of for public works in each fiscal year in accordance with the Cabinet Order, and when the prospect is is changed, he/shethe HHead of the various Ministries or Agencies shall announce the revised matters in accordance with the Cabinet Order.

(2) The head Head of each Ministry and Agency of the Central Government shall announce the matters as follows in accordance with the Cabinet Order.

(a) Trade names or names of the bidders and the bidding prices; trade names or names of the awardees and the award prices; when the qualification of participants for the tender has been decided, the qualification; trade names or names of designees in the designated competitive bidding; other matters (defined by the Cabinet Order) concerning the tendering and contracting process of its public works.

(b)Trade names or names of the contractors, the contract prices and other matters (defined by the Cabinet Order) concerning the content of its public works contracts

(3) The representatives Representative of each quasi-governmental agency shall, in accordance with the provision of (1) and (2), take necessary measures to announce the information concerning tenders and contracts of their public works.

(4) The heads Head of each local government shall annually announce the matters (defined by the Cabinet Order) concerning the prospect of orders of for public works in each fiscal year in accordance with the Cabinet Order, and when the

prospect is changed, he/she the Head shall announce the revised matters in accordance with the Cabinet Order.

(5) The heads Heads of local governments shall announce the matters as follows in accordance with the Cabinet Order.

(a) Trade names or names of the bidders and the bidding prices; trade names or names of awardees and the award prices; when the qualification of participant for the tender has been decided, the qualification; trade names or names of designees in the designated competitive bidding; other matters (defined by the Cabinet Order) concerning the tendering and contracting process of their public works.

(b) Trade names or names of the contractors, the contract prices and other matters (defined by the Cabinet Order) concerning the content of the public works contracts

(6) The provision of (4) and (5) shall not prevent the local governments from establishing their necessary rules for the announcement of information concerning tenders and contracts of their public works by their Local Ordinance, in addition to the announcement defined in (4) and (5),.

Section 5: Countermeasures Action Measures Against unjust Improper Actions, Etc. (Article 10 and 11)

(1) If When the Head of Ministries and Agencies, the Representative of quasi-governmental agencies or the head Head of local governments (hereinafter referred to as “the “head Head of the Governmental Entities”) is aware of the fact leading to sufficient suspicion of a knows a sufficient fact that there is an act on a tender and a contract of their public works that has doubtfully violation of the provision of Article 3 or Item 1 of Paragraph 1 of Article 8 (*1) of the Act Concerning Prohibition of Private Monopolization and the Maintenance of Fair Trade regarding a tender or a contract of its the Entities’ public works, he/she the Head is shall legally required to inform the fact to Fair Trade Commission of the facts.

(* (*1) Article 3: Prohibition of private monopolization and unfair trade restriction. Item 1 of Paragraph 1 of Article 8: Prohibition of substantial restriction of competition in certain trade sphere.

(2) If When If the Hhead of the Governmental Entities is aware of the fact leading toknows a sufficient suspicion that fact evidence against the construction company contracted for the Entities’ the public works comes under in question f or the following Items, with regard to the tender and contract for the public works under its responsibility, the Head is legally required to construction company must inform that a contractor of their public works doubtfully has come under any one of the following Items contracting a tender and a contract of the public works, he/she shall inform the fact to the Licenser Granting Authority of the Construction License (Minister of Land, Infrastructure and Transport-- (hereinafter referred to as “Minister of LIT”) --or the Prefectural Governor of the prefecture) to the company to the contractor and the Governor who has the with local jurisdiction of the prefecture.

(a) When the If the company has comes under any one of Item 3,4, or 6 to 8 of Paragraph 1 of Article 28 (*2) of the Construction Business Act.

(*2) Violation of other Acts; blanket subcontracting; subcontracting from or to a contractor without valid Construction License; subcontracting to a contractor whose Construction License is suspended or whose business is prohibited

(b) When If the company has violates the Paragraph 4 of Article 24-7 (applied through (2) or (3) of Section 6 or (4) of Section 6) (*3), Paragraph 1 or 2 of the same Article, or Article 26 or Article 26-2 (*4) of the Construction Business Act

(*3) Creation, submission, check or display of the Ledger of the Formation for Implementation of works

(*4) Assignment of the technical manager for the implementation

Section 6: Promotion of Proper Adequacy Formation for Implementation (Article 12 to 14)

(1) The provision of Paragraph 3 of Article 22 (*4) of Construction Business Act shall not be applied to public works.

(*4) Exception to the prohibition of the blanket subcontracting

(2) The contractor of the public works (limiting limited to the party those who has mandated to create the Ledger of Formation for Implementation specified by the Paragraph 1 of Article 24-7 of Construction Business Act) shall submit a copy of the Ledger that he/she has created to the commissioning entities.

(3) When If the commissioning entity asks requests the contractor of the public works (specified in (2)) to accept the check whether inspections to ensure the formation management formation for implementation of the works coincides with the description of the Ledger of the Formation for Implementation, such as the state condition of assignment of for the person who carrying out the technical management for the implementation of the public works, the contractor shall not refuse the check inspection.

(4) In applying the provision of Paragraph 4 of Article 24-7 (*5) of the Construction Business Act to the contractor of public works (specified in (2)), “in a place clearly visible” in the same Paragraph shall be changed to “in a place clearly visible to the persons involved in the implementation and to the public”.

(*5) Display of the Ledger of the Formation for Implementation

(5) In order to make the formation for implementation in the work sight site adequate, the Head of the Governmental Entities shall take necessary measures such as the check inspect whether the formation for implementation coincides with the description of the Ledger of the Formation for Implementation.

Section 7: The Guiding Principle (Article 15 to 18)

(1) Central Government shall establish the Guiding Principle (hereinafter referred to as “the Guiding Principle”) on measures (excluding the measures concerning Section 4, Section 5 and (5) of Section 6) for promoting proper tendering and contracting of for the public works that are ordered commissioned by the head Head of Governmental Entities.

(2) Following The following matters shall be determined in the Guiding Principle in accordance with the provision of Section 3.

- (a) Matters on regarding the announcing announcement of the information (excluding the information concerning (1), (2), (4) and (5) of Section 4) on the process of tenders and contracts and the contents of contracts.
- (b) Matters on regarding measures to properly reflect the opinion of third party people of experienced or persons of academic and experienced standings properly, etc. on the process of tenders and contracts and the contents of contracts.
- (c) Matters on regarding measures to properly deal with complaints on the process of tenders and contracts and the contents of contracts properly.
- (d) Matters on regarding improving the method of tenders and contracts in order to promoting promote the fair competition.
- (e) Matters on regarding measures for evaluating the implementation of public works, for the purpose of more adequate proper tendering and contracting in future.
- (f) Other than (a) to (e), matters on measures to promote proper adequacy tendering and contracting.
- (3) On establishing the Guiding Principle, the autonomy of quasi-governmental agencies and local governments shall be considered.
- (4) The Minister of LIT, Minister of Public Management, ; Home Affairs, ; Posts and Telecommunications (hereinafter referred to as “Minister of PHPT”) and Minister of Finance shall make create the a draft of for the Guiding Principle, consulting the heads of Ministries and Agencies of the Central Government and the Ministers who have jurisdiction of over quasi-governmental agencies in advance, and shall request the a Decision of the Cabinet Decision. After the Decision, the three Ministers shall publish the Guiding Principle without delay.
- (5) Before making the creating a draft of the Guiding Principle, the Minister of LIT shall hear the opinion of the Central Council for Construction Contracting Business.
- (6) The Head of Governmental Entities shall make efforts to take necessary measures to promote proper tendering and contracting for the public works in accordance with the provision of the Guiding Principle.
- (7) The Minister of LIT and Minister of Finance may ask has authority to request the heads of Ministries and Agencies and the Ministers who have jurisdiction to over quasi-governmental agencies,; and and the Minister of LIT and Minister of PHPT may ask has authority to request local governments, to submit a report on the situation of measures taken in accordance with the Guiding Principle.
- (8) The Minister of LIT, Minister of PHPT and Minister of Finance shall put together the reports of (7), and shall publish the summary of the reports annually.
- (9) The Minister of LIT and Minister of Finance may ask the heads of Ministries and Agencies and the Ministers who have jurisdiction to over quasi-governmental agencies, ; and the Minister of LIT and Minister of PHPT may ask local governments, to take measures that are particularly necessary to promote proper tendering and contracting for the public works in consideration of the Guiding Principal Principle.

Section 8: Collection, Arrangement Organization and Offer Provision of the Information by the Central Government (Article 19 and 20)

- (1) The Minister of LIT, Minister of PHPT and Minister of Finance shall make efforts to collect, arrange organize and offer provide the information, whose, whoseif its prevalence availability promulgation are would be useful to promote properadequacy tendering and contracting of thefor public works.**
- (2) The Central Government, quasi-governmental agencies and local government shall make efforts to take necessary measures to regarding their officials, such as education and training to acquire the knowledge of the relatedevant Acts and Ordinances and the executing technology of public works in the responsible area of responsibility, for the purposeto ensure that tenders and contracts of the public works are properly executed.**
- (3) The Minister of LIT and the Governors of the Prefecture shall make efforts to take necessary measures to for those who operatewho carry oninvolved ain cConstruction businessBusinessIndustry, such as diffusion of knowledge of regarding related relevant Acts and Ordinances, for the purposeto ensure that tenders and contracts of public woks are properly executed.**

Section 9: Attachment

- (1) This Act shall be enforced from the date decided by the Cabinet Order, and the date shall be within 3 months counting from the date of the promulgation of this Act. However, the provisions of Section 4 to Section 6, (6), (7) and (9) of Section 7, and (2) of Section 9 (limited to the part section revising the provision of Article 28 of the Construction Business Act) shall be enforced from April 1st, 2001, and the provision of (8) of Section 7 shall be enforced from April 1st, 2002.**
- (Attachment Article 1)**
- (2) Additionally, necessary provisions for transitional arrangements and the amendmentsnn of the Construction Business Act are shall be defined.**

(Attachment Article 2 and Article 3)