

(Provisional Translation)

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

(Approved by the Cabinet on February 5, 2010)

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

(1) Background and significance of the promotion of green contracts

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), there is no room for doubt that global warming is occurring.

As a consequence, global warming will likely cast negative impacts on our economic and social activities in multiple respects, not only causing frequent weather anomalies and drastically changing climates, but negatively impacting farming and agriculture and leading to increased incidents of infection, devastating disasters and so forth. We have already witnessed how 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 only harmful greenhouse gases that humanity emits into the environment. While socio-economic activities characterized by mass production, mass consumption and mass waste have benefited us greatly, such activities have wasted the Earth's limited resources and hampered the natural cyclical change of materials, imposing a heavy load on the global environment.

Against this background, 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 negatively impact the environment (hereinafter, "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 connection with the award of contracts.

The emissions of Greenhouse gases and others related to power supply, procurement of automobiles, procurement of ships, energy conservation improvement, refurbishment and construction, for which details on the award of contracts to address reductions of

emissions of greenhouse gases and others (hereinafter, “green contracts”) are stipulated by this Basic Policy, account for about 90% of the total greenhouse gas emissions sourced from the Government. In promoting green contracts, it is essential to ensure the achievement of the related targets (using the 2001 level as the benchmark, the average of emissions of greenhouse gas emissions directly and indirectly emitted in connection with affairs and projects of each governmental administrative organ from 2010 to 2012 should be cut by 8%) set in a program to be formulated concerning measures to be implemented with the view of curbing the Government’s greenhouse gas emissions in its affairs and projects pursuant to Article 20-2, paragraph 1 of the Act on Promotion of Global Warming Countermeasures (Law No.117 of 1998) (approved by the Cabinet on March 30, 2007; hereinafter, “National Government Action Plan”) and strive for further reductions.

Through these measures, we aim 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—one that can be inherited by future generations... in other words, a sustainable society.

It is expected that when concluding green contracts, in view of various factors other than price while bearing in mind economical efficiency and paying due regard to the inherent wisdom and efforts of industry, we can effectively improve environmental efficiency (in terms of environmental load related to the production of goods or the provision of services per unit) and ensure any increase in the environmental burden can be contained, even as our economy becomes more affluent and “value added.” Moreover, it is also expected that this will give rise to new economic activities by taking the lead in creating higher-performing green technologies and products that contribute to environmental conservation.

The State, independent administrative institutions, etc. (referring to independent administrative institution(s), etc. defined in Article 2, paragraph 3 of the Law concerning the Promotion of Contracts considering Reduction of Emissions of Greenhouse Gases and others by the State and Other Entities [Law No. 56 of 2007; hereinafter, “the Law”]; the same shall apply hereunder), local governments and local independent administrative institutions (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. establish 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 the initiative in promoting green contracts, which can be expanded by the private sector, thereby encouraging a nationwide shift to the promotion of contracts that take account of the reduction of emissions of greenhouse gases and others.

(2) Basic concept concerning the promotion of green contracts

The head of each ministry or agency, etc. (referring to “the head of each ministry or agency, etc.” set forth in Article 2, paragraph 5 of the Law; the same shall apply hereinafter) and the heads of independent administrative institutions, etc. shall strive to, pursuant to the provisions of Article 6 of the Law, as stipulated in this Basic Policy, take necessary measures for the promotion of green contracts.

In practice, the following approaches shall be taken toward the conclusion of contracts:

- (i) When entering into green contracts, the reduction of emissions of greenhouse gases and others should be considered in as wide range of fields as possible, in recognition that it is expected to be an effective approach toward the spread of eco-friendly goods and services (hereinafter, “goods, etc.”) in markets to take into account various factors other than price while bearing in mind economical efficiency.
- (ii) It is essential to keep in mind the concern that unless a contract considers the reduction of emissions of greenhouse gases and others, 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) It is essential to promote National Government Action Plan effectively through green contracts. In particular, for independent administrative institutions, etc. to promote green contracts, it is preferable to take a well-planned approach, in accordance with National Government Action Plan, while respecting the characteristics of an individual institution.

(iv) When specifying requisite performances etc. for procurement, these specifications should be necessary, sufficient and clear, in line with administrative purposes, etc., and contract-related information should be publicized. When setting forth requirements, the evaluation methodology, procedures for the award of contracts, etc., and when implementing contracts, it is essential to ensure fair competition with due consideration, by taking necessary measures to prevent small and medium-sized enterprises from unfair disadvantage.

(v) When implementing measures concerning the promotion of green contracts, it is essential to ensure accordance with other measures concerning the award of contracts by the States, etc.

(vi) When implementing measures concerning the promotion of green contracts, it is essential to ensure consistency with measures described in the Basic Energy Plan stipulated in Article 12, paragraph 1 of the Basic Act on Energy Policy (Law No. 71 of 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 accordance with other administrative purpose, with due consideration to compliance with the WTO Agreement on Government Procurement, lest an unnecessary impediment be posed on international trade.

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

(1) Contracts related to the supply of electricity

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

- For contracts to be concluded by bidding related to the supply of electricity, it is essential to select the successful bidder on the basis of price from among those qualified bidders who have met the requisite standard of greenhouse gas emission factors and effort of reduction of environmental loads (the status of introduction of new energy, the status of use of unutilized energy, etc.), which is prescribed in advance (hereinafter, “the bottom-cut method”), for the present.
- When considering details of bidding procedures under the bottom-cut method, it is essential to ensure accordance with actions for secured supplies while taking the actual situation of the region into account as well as fair competition.

- When concluding a contract related to the supply of electricity, it is essential to enter into contract with a power operator acknowledged as capable of supplying electricity to meet the required power demand, the estimated power consumption, etc. as described in specifications throughout the term of contract reliably and stably.

- The State and independent administrative institutions, etc. shall endeavor to ensure the appropriate and reasonable use of energy and, when implementing contracts related to the supply of electricity, to ensure fair competition with due consideration, by taking measures necessary to prevent small and medium-sized enterprises from unfair disadvantage, and at the same time, to ensure consistency with measures concerning the conclusion of contracts by other States, etc., measures described in the Basic Energy Plan stipulated in Article 12, paragraph 1 of the Basic Act on Energy Policy (Law No. 71 of 2002) and other measures related to the reduction of emissions of greenhouse gases and others by the States, etc.

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

a. Contracts related to the purchase, etc. of automobiles

Basic matters related to the reduction of emissions of greenhouse gases and others for contracts related to the purchase and lease of automobiles are stipulated as follows:

- For contracts to be concluded by bidding related to the purchase and lease of automobiles, it is essential to enter into contract with a party whose proposal is rated the best when comprehensively evaluated in terms of purchase price and environmental performance.

- With regard to requisite performance at the time of ordering, it is essential to prescribe requirements by taking properly administrative purposes into account, giving due consideration not to restrict biddings unnecessarily.

- Bidding requirements shall be set forth by type of fuel, for the present.

- With regard to specific requirements for a particular bid, the procuring party shall set forth details, based on data on the use of automobiles.

b. Contracts related to the procurement of ships

Basic matters related to the reduction of emissions of greenhouse gases and others for contracts related to the procurement of ships are stipulated as follows:

- When contracting for the outline design or the basic design for planning to procure ships, it is essential to employ the procedure to select a party who has

offered the most excellent technical proposal by evaluating comprehensively in light of the specified technical requisite standards, including features addressing the reduction of emissions of greenhouse gases and others in principle. 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, or the ships with little room for the design innovations.

- When a small craft is to be procured, it is essential to stipulate the requisites of the propulsion machinery (power engine) of a small craft. In principle, when setting the requisite, it includes the standard of the fuel consumption rate etc. of the propulsion machinery, and describing it clearly in a 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.

3. Basic matters related to contracts for energy conservation improvement projects.

Basic matters related to contracts for energy conservation improvement projects (referring to “energy conservation improvement projects” described in Article 5, paragraph 2, item 3 of the Law; hereinafter, “ESCO project”) are stipulated as follows:

- It is essential to conduct a feasibility study for the introduction of ESCO projects, and introduce ESCO projects as widely as possible.
- When planning an ESCO project, it is essential to grasp in advance the conditions of existing facilities accordingly, and draw up a plan for a program by making use of means for implementing an ESCO project appropriately and smoothly, such as feasibility studies, etc.
- When planning an ESCO project, it is essential to properly formulate a long-term in-service program and to realize thorough discussion, lest terms and conditions of a contract be subject to change within the term of contract.
- When deciding the ESCO operator, it is essential to comprehensively evaluate proposals not only by comparing prices but also by determining which offered technical proposal with other factors is the most suitable for the equipment and systems of the relevant facility, with innovations fully incorporated.
- In concluding a contract for an ESCO project, it is essential to consult thoroughly with the implementing operator in advance concerning the sharing of potential risks to arise during the period of the project.
- When implementing an ESCO project, it is essential to formulate guidelines

on maintenance and measurement/verification, according to the contract to be concluded.

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

4. Basic matters 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 awarded by the State and independent administrative institutions, etc.

Basic matters for contracts related to buildings are stipulated as follows:

- When contracting for the design service pertaining to the construction or large-scale refurbishment of a building, it is essential to employ the procedure to select a party who has offered the most excellent technical proposal by evaluating comprehensively in light of the specified technical requisite standards, including features addressing the reduction of emissions of greenhouse gases and others in principle (including affirmative use of natural energy) (hereinafter, “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, or the projects with little room for such design innovations.

- When contracting for the design service pertaining to the construction or large-scale refurbishment of a building, it is essential to describe the environmental conservation performance required for the design output clearly in contract documents in principle.

- If the green proposal procedure is employed, and when 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, it is essential to ensure the relevant features of the technical solution are reflected in the design output, by clearly describing the appropriate features in contract documents.

- If the green proposal procedure is employed, it is essential to conclude a contract with the selected party and to require the other party (the designer) of the contract to assess life-cycle CO₂ emissions (LCCO₂), in addition to comprehensive environmental conservation performance, with regard to the

design output.

- When ordering through the green proposal procedure, it is essential to announce to that effect officially with an outline of the order in advance, and when the outline has been modified, to publicize the outline as modified.
- When ordering through the green proposal procedure, it is essential to provide necessary information for those who are invited to offer technical , and to ensure those parties are allowed reasonable time for preparation.
- When ordering through the green proposal procedure, it is essential to ensure impartiality, transparency, and objectivity.

5. Other important matters related to the promotion of green contracts

(1) Promotion of green contracts in all contract categories

For all of the contract categories, as well as listed in the preceding 2 through 4, including associated contracts permitting the installation of equipment in government buildings, it is preferable to ensure features of the contract, to make use of the goods, etc. pertaining the contract, and to conduct affairs related to the award of contracts in a way as to contribute to the reduction of emissions of greenhouse gases and others in connection with the implementation of projects under contract and affairs to award contracts. Also, due consideration should be given lest the reduction of emissions of greenhouse gases and others in the administrative field cause increased emissions of greenhouse gases and others in non-administrative sectors.

(2) Establishment of structure to promote contracts

The head of each ministry or agency and the heads of independent administrative institutions, etc. shall establish a structure to promote green contracts. In principle, it is required that the head of the structure shall be a person who is competent in supervising green contracts entirely for the internal organization (in the case of each ministry or agency, a person who holds the office of or equivalent to Director General [Chief Secretary] or higher) and also that all internal organizations shall be involved in the structure. In particular, departments/divisions in charge of environmental affairs and departments/divisions in charge of accounting/procurement shall engage in the structure on their own initiative.

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

When publishing a summary of concluded green contracts, the head of each ministry or agency and the heads of independent administrative institutions, etc. shall publish a

summary in a form as plain as possible.

(4) Implementation of programs to enhance personnel's understanding for further promotion of green contracts

The head of each ministry or agency and the heads of independent administrative institutions, etc. shall seek to provide the personnel, including officials in charge of business practice relating to contracts, opportunities to enhance their understanding of green contracts and to acquire technical knowledge useful for concluding such contracts.

(5) Compilation, etc. of information

The State, with the view of contributing to the promotion of green contracts by the State, independent administrative institutions, etc., local governments, local independent administrative institutions, and other citizen of the State, shall compile and analyze the data relating to the concluded green contracts and other data, and shall make the results of such compilation and analysis extensively available in an easily understandable form. The head of each ministry or agency and the heads of independent administrative institutions, etc. shall seek to conclude contracts that contribute to the reduction of environmental loads as much as possible by making sufficient use of existing information including the relevant information.

(6) Harmonization with other measures

The State shall engage reasonably and effectively in the publication and compilation, etc. of information in coordination with the system established for the enforcement of the Law concerning the Promotion of Procurement of Environment-Friendly Products by the State, etc. (Law No. 100 of 2000), which stands for a pioneering initiative addressing the environment.

(7) Review of the Basic Policy

With the view of contributing to further promotion of green contracts, the State shall examine the progress of implementing this Basic Policy, and review this Basic Policy whenever deemed necessary, based on the results of the examination, in reference to available information/data described in (5) and so forth.

In this regard, with the view of contributing to the smooth implementation of green contracts by the State, etc., the Minister of the Environment shall provide the head of each ministry of agency, the heads of independent administrative institutions, etc., the

heads of local governments, and the heads of local independent administrative institutions with information related to subject matters to be examined, which shall be made available at the onset of examination pertaining to the review of this Basic Policy. The head of each ministry or agency and the heads of independent administrative institutions, etc. shall seek to grasp the present condition, etc. so as to prepare sufficiently to take necessary measures without hassle in case this Basic Policy is reviewed as a result of examination, by making use of the relevant information provided by the Ministry of the Environment.