

(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 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 the "Summary for Policymakers of the Working Group I Contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC)" released in August 2021, it is unequivocal that human influence has warmed the atmosphere, ocean and land. Widespread and rapid changes in the atmosphere, ocean, cryosphere and biosphere have occurred. The scale of recent changes across the climate system as a whole and the present state of many aspects of the climate system are unprecedented over many centuries to many thousands of years.

In Japan, the average temperature has risen, heavy rains, damage caused by typhoons, effects on crops and ecosystems, etc., and it is not easy to clarify the relationship between individual weather disasters and global warming, but analysis using numerical models based on observation values predicts that the risk of heavy rains and intense heat will increase further in the future as global warming progresses.

In light of this situation, Japan declared in October 2020 that will aim for net-zero greenhouse gas emissions, namely "net-zero by 2050", and at the Global Warming Prevention Headquarters and the U.S.-sponsored Leaders' Summit on Climate in April 2021, Japan aims to reduce its greenhouse gas emissions by 46% in FY 2030 from its FY 2013 levels, setting an ambitious target which is aligned with the long-term goal of achieving net-zero by 2050. Furthermore, Japan will continue strenuous efforts in its challenge to meet the lofty goal of cutting its emission by 50%.

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 "the National Government Action Plan (Cabinet decision on October 22, 2021)" based on Article 20 of the Act on Promotion of Global Warming Countermeasures (Law No.117 of 1998), "using the FY 2013 level as the benchmark, greenhouse gas emissions directly and indirectly emitted in connection with affairs and projects of each governmental administrative organ should be reduce 50% by FY 2030. As provided for by the plan, in promoting green contracts, the government tackles reduction of greenhouse gas emissions certainly in its affairs and projects, and strives 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:

- When concluding a contract related to the supply of electricity, it is essential to contract electricity retailer with a low greenhouse gas emission factor.

- 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, effort of reduction of environmental loads (the status of introduction of renewable energy, the status of use of unutilized energy), the status of disclosure of power supply composition and greenhouse gas emission factor, etc., which is prescribed in advance (hereinafter, “the bottom-cut method”), until otherwise provided for by the basic policy.
- When considering details of bidding procedures under the bottom-cut method, ensuring fair competition, until otherwise provided for by the basic policy, consider the appropriate region, refer to the state of supply of electricity in the region and the greenhouse gas emission factor of the electricity retailer.
- When concluding a contract related to the supply of electricity, it is essential to specify the minimum ratio of renewable energy electricity to the electricity to be procured, to enter into contract with a electricity retailer 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.
- Endeavor to procure renewable energy electricity that contributes to the expansion of the introduction of renewable energy sources as much as possible.
- 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 procurement, etc. of greenhouse gas-emitting products
- (i) Contracts related to the procurement, etc. of automobiles

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

- For contracts to be concluded by bidding related to the procurement 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 procurement 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.
- With regard to specific requirements for a particular bid, the procuring party shall set forth details, based on data on the use of automobiles.

(ii) 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:

- 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.

(1) Contracts related to buildings

Basic matters for contracts related to the design of buildings, contracts related to the operation and maintenance of buildings, and contracts related to the refurbishment of buildings (hereinafter referred to as "contracts related to buildings") are stipulated as follows:

- When constructing new building construction, in principle, it is essential to convert buildings to ZEB (Net Zero Energy Building) and introduce renewable energy.
- When refurbishment existing buildings, based on the energy conservation effects of the refurbishment, medium to long-term refurbishment plan with a view to ZEB conversion shall be considered as necessary.
- When contracts related to buildings, in order to decarbonize buildings throughout their life cycle, from the planning and design phase of buildings to

the operational phase of maintenance and management, as well as the refurbishment phase of buildings, effective cooperation and evaluation of measures and initiatives at each phase based on data measurement and analysis of energy consumption, etc., and the establishment of processes to achieve the required performance, including the use of experts, shall be considered.

(i) Contracts related to the design of buildings

Basic matters for contracts related to buildings are stipulated as follows. 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 ordering 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”).
- When ordering for the design service pertaining to the construction or large-scale refurbishment of a building, it is essential to describe the environmental conservation performance based on the extension of the service life of the facility, energy and resource conservation, use of natural energy, and the use of materials and equipment such as wood in consideration of reducing environmental impact required for the design output clearly in contract documents in principle.
- When contracting for the design service pertaining to the construction or large-scale refurbishment of a building, it is essential to describe in the contract documents as necessary, the introduction of energy management functions in light of the importance of utilizing data such as energy consumption throughout the life cycle of the building.
- 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.

(ii) Contracts related to the operation and maintenance of buildings

Basic matters for contracts related to the operation and maintenance of buildings are stipulated as follows:

- When ordering a contract for the operation and maintenance of a building, in principle, it is essential to describe in the contract documents the contents of consideration for the reduction of emissions of greenhouse gases and others.
- When ordering a contract related to the operation and maintenance of a building, the orderer shall consider a contracting method that contributes to operational improvement, such as a multi-year contract or a batch order for several facilities, based on the actual energy consumption conditions and characteristics of the target facility.
- When selecting a business operator based on a comprehensive evaluation of price and factors other than price among contracts related to the operation and maintenance of buildings submitted for bidding, in principle, it is essential to require to proposals that include content that takes into consideration the reduction of emissions of greenhouse gases and others.
- When contracting for the operation and maintenance of a building, implementer shall be requested to use eco-tuning, etc., to measure and analyze data such as energy consumption, and to improve operations by reflecting the analysis results. In addition, the actual operation data shall be utilized for examination of the refurbishment plan.
- With regard to specific required specifications and bidding conditions shall be

set by the procurer based on the use and characteristics, etc., of the building.

(iii) Contracts related to the refurbishment of buildings

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

- Refurbishment of buildings is ESCO project or refurbishment project other than ESCO project that contribute to energy conservation and decarbonization (hereinafter referred to as "other energy conservation refurbishment project").
- When the plan for refurbishment, appropriate building refurbishment project (ESCO project or other energy conservation refurbishment project) shall be selected from a comprehensive perspective, such as determining the feasibility of introducing ESCO project based on data measurement and analysis of data such as the characteristics of the facility and energy consumption, and the results of data analysis.

(a) Contracts related to the ESCO project

The basic matters of the contract for the energy conservation improvement project (ESCO project) are as listed in 3 above.

(b) Contracts related to the other energy conservation refurbishment project

Basic matters for contracts related to the other energy conservation refurbishment project are stipulated as follows:

- When the plan for other energy conservation refurbishment project, efforts shall be made to utilize data such as energy consumption at the operation phase of the facility, and as necessary, energy management functions that contribute to operational improvement in operation and maintenance after refurbishment shall be expanded.
- When ordering other energy conservation refurbishment project, a contract method that contributes to the reduction of energy consumption or greenhouse gas emissions shall be selected according to the characteristics of the facility and the purpose of the renovation.
- With regard to specific required specifications and bidding conditions shall be set by the procurer based on the purpose, etc., of the refurbishment of the building.

(2) Contracts related to the industrial waste management

Basic matters for contracts related to the industrial waste management are stipulated as follows:

- For contracts to be concluded by bidding related to the industrial waste management, it is essential to select the successful bidder under the bottom-cut method who has met the requisite standard of effort of reduction of emissions of greenhouse gases and the requisite standard of ability and results, etc. concerning execution of proper industrial waste management.
- With regard to concrete requirements for a bid under the bottom-cut, the procuring party shall decide in consideration of the characteristic of the processed industrial waste.

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 Law Concerning the Promotion of Procurement of Eco-friendly Goods and Services by the State and Other Entities (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 or 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.