

Cease and Desist Order and Surcharge Payment Order
against Participants in the Bidding for Vehicle Management Jobs Ordered by
the Ministry of Land, Infrastructure, Transport and Tourism
(Tentative Translation)

June 23, 2009
Japan Fair Trade Commission

The Japan Fair Trade Commission (JFTC) investigated participants in the bidding for vehicle management jobs^(Note 1) ordered by the Ministry of Land, Infrastructure, Transport and Tourism (MLIT) through Hokkaido and other Regional Development Bureaus, in accordance with the provisions under the Antimonopoly Act. The JFTC found that they were in violation of Article 3 (Prohibition of Unreasonable Restraint of Trade) of the Act. Accordingly, the JFTC issued cease and desist orders today in accordance with Paragraph 2, Article 7 of the Act and surcharge payment orders in accordance with Paragraph 1, Article 7-2 of the Act.

Further, the JFTC found the involvement of the staffs of the MLIT in bid rigging for the vehicle management jobs ordered by Hokkaido Regional Development Bureau, among the violations described above. Hence, the JFTC today issued a demand to the Minister of Land, Infrastructure, Transport and Tourism to take improvement measures in accordance with the Act on Elimination and Prevention of Involvement in Bid Rigging, etc.

Further, it was found that the retirees of MLIT, the former Ministry of Construction, or the former Hokkaido Development Agency, who were accepted by the participants in the Bidding as officers or employees, were involved in violations in relation to the vehicle management jobs ordered by Hokkaido, Tohoku, Kanto, Hokuriku, Chubu, and Kyushu Regional Development Bureaus among those described above. Accordingly, the JFTC requested the MLIT today to take necessary measures.

(Note 1) Refers to the jobs related to driving, checking, and maintenance of the vehicles owned by the customer for the period that is specified in the agreement (includes other jobs. if such jobs are ordered together)

< I > Cease and Desist Order and Surcharge Payment Order

1. Violating Entrepreneurs, Number of Cease and Desist Orders and Surcharge Payment Orders Received, and the Surcharge Amounts

(For details of the violating entrepreneurs, refer to the attached table.)

| No. | Violating Entrepreneur | Number of Cease and Desist Orders Received | Number of Surcharge Payment Orders Received | Surcharge Amount (Total) |
|-----|------------------------------------|--|---|--------------------------|
| 1 | Nihon Doro Koun Inc. | 9 | 9 | 1,633,060,000 yen |
| 2 | Hokkyo Renrakusha Kanri KK | 1 | 1 | 300,530,000 yen |
| 3 | Nihon Sogo Service KK | 9 | 9 | 277,490,000 yen |
| 4 | Daishinto Inc. | 7 | 7 | 206,450,000 yen |
| 5 | Musashi-Kohatsu Corporation | 1 | 1 | 64,930,000 yen |
| 6 | Nikkei Service Corporation | 1 | 1 | 41,130,000 yen |
| 7 | Senon Limited | 3 | 1 | 25,060,000 yen |
| 8 | Anzen Enterprise Corporation | 1 | 1 | 21,480,000 yen |
| 9 | Nishino Kensetsu Kanri Co., Ltd. | 1 | 1 | 16,510,000 yen |
| 10 | Aquatellus Corporation | 1 | 1 | 16,350,000 yen |
| 11 | Kanto Road Maintenance Corporation | - | - | - |

| | |
|-------|-------------------|
| Total | 2,602,990,000 yen |
|-------|-------------------|

(Note 2) Kanto Road Maintenance Corporation shown in the above table had resolved to dissolve the company on April 30, 2008 and stopped all its business activities. Its liquidation was completed on July 29, 2008.

(Note 3) “ - ” in the above table shows that the applicable entrepreneur is a violating party that is not subject to a cease and desist order or surcharge payment order.

2. Outline of the Violation

(1) In this case, the violations were found in connection with the orders by Hokkaido and other Regional Development Bureaus respectively as follows:

A. Vehicle management jobs ordered by Hokkaido Regional Development Bureau Hokkyo Renrakusha Kanri^(Note 4), Nihon Doro Koun, Daishinto, and Nihon Sogo Service substantially restrained competition, in concert, in the field of specific vehicle management jobs ordered by Hokkaido Regional Development Bureau^(Note 5), contrary to public interest, in order to prevent decline in order prices, in the way that from March 19, 2002 at the latest^(Note 6), the senior managing director of Hokkyo Renrakusha Kanri^(Note 7) selected a planned successful bidder and the above four companies treated such bidders as the planned contractor, and those other than the planned contractor managed to have such a planned contractor successfully receive the order.

B. Vehicle management jobs ordered by the respective Regional Development Bureau

For the specific vehicle management jobs^(Note 8) ordered by the Regional Development Bureau shown in the column “Regional Development Bureau” in the table below, the entrepreneurs shown in the column “Violating Entrepreneurs” substantially restrained competition, in concert, in the field of specific vehicle management jobs ordered by respective Regional Development Bureau, contrary to public interest, in order to prevent decline in order prices, in the way that from January 1, 2005 at the latest^(Note 9), they treated the existing entrepreneur^(Note 10) as a planned contractor or otherwise decided a planned contractor, and those other than the planned contractor managed to have such a planned contractor successfully receive the order.

| | Regional Development Bureau | Violating Entrepreneurs |
|-----|--------------------------------------|---|
| [1] | Tohoku Regional Bureau | Nihon Doro Koun, Nihon Sogo Service, Daishinto, and Senon |
| [2] | Kanto Regional Development Bureau | Nihon Doro Koun, Musashi-Kohatsu, Daishinto, Nihon Sogo Service, Anzen Enterprise, Nishino Kensetsu Kanri, and Kanto Road Maintenance |
| [3] | Hokuriku Regional Development Bureau | Nihon Doro Koun, Nihon Sogo Service, and Daishinto |
| [4] | Chubu Regional Bureau | Nihon Doro Koun, Nihon Sogo Service, Senon, and Daishinto |
| [5] | Kinki Regional Development Bureau | Nihon Doro Koun, Daishinto, Nikkei Service, Nihon Sogo Service, and Aquatellus |
| [6] | Chugoku Regional Development Bureau | Nihon Doro Koun and Nihon Sogo Service |

| | | |
|-----|-------------------------------------|---|
| [7] | Shikoku Regional Development Bureau | Nihon Doro Koun and Nihon Sogo Service |
| [8] | Kyushu Regional Development Bureau | Nihon Doro Koun, Nihon Sogo Service, Daishinto, and Senon |

(2) Hokkyo Renrakusha Kanri received most of the orders for specific vehicle management jobs from Hokkaido Regional Development Bureau as described in (1) A, and Nihon Doro Koun and Nihon Sogo Service received more than half or all of the orders for each specific vehicle management jobs from respective regional development bureau as shown in (1) B. In this case, it was found that retirees from MLIT, the former Ministry of Construction, or the former Hokkaido Development Agency, who were accepted by these three companies as their officers or employees respectively exchanged information related to the bid price or the like with other bidders in order to commit the violation described in (1) A and to commit the violation in relation to the specific vehicle management jobs ordered by the regional development bureaus [1] to [4] and [8] in (1) B.

(Note 4) All the names of the entrepreneurs are provided hereafter without the “KK” (Co., Ltd., Corporation, Inc. or Limited, in English).

(Note 5) Refers to the vehicle management jobs ordered by MLIT through the Development Construction Department office of Hokkaido Regional Development Bureau by means of designated competitive bidding.

(Note 6) In case of Daishinto, such action was conducted on and after March 11, 2003.

(Note 7) Refers to the retiree from Hokkaido Development Bureau of the former Hokkaido Development Agency, who was a managing director of Hokkyo Renrakusha Kanri until May 27, 2005, a senior managing director from that date to June 5, 2007, and a consultant from July 1, 2007 to June 30, 2008

(Note 8) Specific vehicle management jobs ordered by a regional development bureau mean the vehicle management jobs ordered by means of competitive bidding or designated competitive bidding by MLIT through Office of River and National Highway at the applicable regional development bureau.

(Note 9) For the specific vehicle management jobs ordered by Tohoku Regional Bureau, such action was conducted by Daishinto on and after March 24, 2006 at the latest, and by Senon on and after March 25, 2008 at latest. For the specific vehicle management jobs ordered by Kanto Regional Development Bureau, such action was conducted by Kanto Road Maintenance until April 30, 2008. For the specific vehicle management jobs ordered by Kyushu Regional Development Bureau, such action was conducted by Daishinto on and after March 30, 2007 at the latest, and by Senon on and after March 26, 2008 at the latest.

(Note 10) Refers to those who are currently entrusted with the vehicle management jobs at the applicable office or the like at the time of bidding conducted there.

3. Outline of the Cease and Desist Order

The JFTC issued the cease and desist orders against each violation in connection with the orders by Hokkaido Regional Development Bureau and the respective Regional Development Bureaus as described in 2 (1).

- (1) The entrepreneurs subject to the cease and desist order (hereinafter referred to as the “addressees”) shall respectively acknowledge that they have stopped the action described in 2 (1). They shall further have a resolution at a meeting of their Board of Directors that they will not take any action similar to that in 2 (1) in the future, and that each of them will independently endeavor to receive orders in the future.
- (2) Each addressee shall respectively notify the measures taken in accordance with (1) to the other addressees and Hokkaido and other Regional Development Bureaus and also shall have them disseminated among its employees.
- (3) Each addressees respectively shall not take any action similar to that described in 2 (1) mutually among themselves or in cooperation with other entrepreneurs in the future.

4. Outline of the Surcharge Payment Order

The entrepreneurs subject to the surcharge payment order shall respectively, by September 24, 2009, pay the amounts listed in the column “Surcharge Amount” of the attached table (2,602,990,000 yen in total).

< II > Demand to the Minister of Land, Infrastructure, Transport and Tourism for Improvement Measures

1. Outline of the Involvement in Bid Rigging

In case of the violation described in 2 (1) A in < I >, it is found that unpublished information was provided by the general manager or deputy manager of Development Administration Dept., Hokkaido Regional Development Bureau, MLIT to the president of Hokkyo Renrakusha Kanri^(Note 11) and by the chief or development expert of the Office Management Team, General Affairs Section of the same department to the senior managing director of Hokkyo Renrakusha Kanri in the way that, at least for the bidding of specific vehicle management jobs conducted from FY2002 to FY2006^(Note 12) among those ordered by Hokkaido Regional Development Bureau, the names of the designated entrepreneurs for the applicable bidding or the names of the development construction department having the office where the applicable bidding was planned or the names of the applicable offices were provided before the designation notice for the designated competitive bidding for the applicable vehicle management jobs, every year.

(Note 11) Refers to the retiree from Hokkaido Development Bureau of the former Hokkaido Development Agency, who worked at the office of the representative director and president in Hokkyo Renrakusha Kanri until June 2, 2006.

(Note 12) Vehicle management jobs were ordered by means of discretionary contract based on collected estimations at all offices in and before FY 2001. Some offices ordered vehicle management jobs by designated competitive bidding in FY2002 and, after that, an increasing number of offices adopted the designated competitive bidding when placing orders. For vehicle management jobs in and after 2006, all the offices adopted the designated competitive bidding for placing orders.

2. Applicable Articles in the Act and Demand for Improvement Measure

The action described in 1 by a staff of MLIT falls under the provision of Item 3, Paragraph 5, Article 2 of the Act on Elimination and Prevention of Involvement in Bid Rigging, etc. (Disclosure of confidential information related to ordering). The action is found to be an involvement in bid rigging, etc. as specified in this Act.

Therefore, the JFTC issued a demand to the Minister of Land, Infrastructure, Transport and Tourism, in accordance with the provision of Paragraph 2, Article 3 of the same Act, to immediately undertake improvement measures required to assure the elimination of such involvement in bid rigging, etc. for the specific vehicle management jobs ordered by Hokkaido Regional Development Bureau so that any action similar to that described in 1 will not occur in the future. Further, the JFTC issued a demand, in accordance with the provision under Paragraph 6 of the same article, to be informed of the results of investigation made by the Minister in response to the above demand and contents of the improvement measures taken in accordance with the provision of Paragraph 4 under the same article.

Further, the JFTC gave a notice to the Board of Audit of Japan in order to doubly ensure that involvement in bid rigging, etc. will be prevented and eliminated.

< III > Request to the Ministry of Land, Infrastructure, Transport and Tourism

1. Outline of the Action Subject to the Request

It was found that, in the case of the violations described in 2(1)A in < I > and

violations in relation to the specific vehicle management jobs ordered by each regional development bureaus [1] to [4] and [8] in 2(1)B in < I >, retirees from MLIT, or the former Ministry of Construction, or the former Hokkaido Development Agency accepted by Hokkyo Renrakusha Kanri, Nihon Doro Koun, and Nihon Sogo Service among the addressees, were respectively involved in the applicable violations through exchanging information related to the bid price with other bidders thereby the applicable violation can be committed.

2. Outline of the Request

The JFTC requested MLIT to take measures required to prevent its staffs from taking actions similar to those described in 1 after their retirement, in the future, in relation to the vehicle management jobs ordered by MLIT through Hokkaido and other Regional Development Bureaus.

| No. | Entrepreneur, Principal Office Address | Cease and Desist Order and Surcharge Amount (Upper: Cease and Desist Order, Lower: Surcharge Amount (Unit: 10,000 yen)) | | | | | | | | | Total (Unit: 10,000 yen) |
|---|---|--|------------------------------|--|---|--|--|--|--|---|--------------------------------|
| | | Hokkaido Regional Development Bureau | Tohoku Regional Bureau | Kanto Regional Development Bureau | Hokuriku Regional Development Bureau | Chubu Regional Development Bureau | Kinki Regional Development Bureau | Chugoku Regional Development Bureau | Shikoku Regional Development Bureau | Kyushu Regional Development Bureau | |
| 1 | Nihon Doro Koun Inc. 6-3, Nishishinjuku 6-chome, Shinjuku-ku, Tokyo | | | | | | | | | | 9 cases |
| | | 8,423 | 15,935 | 27,392 | 15,890 | 28,945 | 20,803 | 11,816 | 12,795 | 21,307 | 163,306 |
| 2 | Hokkyo Renrakusha Kanri KK Central Sapporo Kita Bldg., 10-4, Kita-Juuchijonishi 2-chome, Kita-ku, Sapporo | | | | | | | | | | 1 case |
| | | 30,053 | | | | | | | | | 30,053 |
| 3 | Nihon Sogo Service KK 10-4, Nishigotanda 7-chome, Shinagawa-ku, Tokyo | | | | | | | | | | 9 cases |
| | | 874 | 7,724 | 2,978 | 1,604 | 2,840 | 1,729 | 1,964 | 1,764 | 6,272 | 27,749 |
| 4 | Daishinto Inc. 6-3, Chofugaoka 3-chome, Chofu-shi, Tokyo | | | | | | | | | | 7 cases |
| | | 6,319 | 1,174 | 3,689 | 845 | 508 | 7,688 | | | 422 | 20,645 |
| 5 | Musashi-Kohatsu Corporation Oaza Kizone 506, Yashio-shi, Saitama | | | | | | | | | | 1 case |
| | | | | 6,493 | | | | | | | 6,493 |
| 6 | Nikkei Service Corporation 17-10, Minami-senba 1-chome, Chuo-ku, Osaka-shi | | | | | | | | | | 1 case |
| | | | | | | | 4,113 | | | | 4,113 |
| 7 | Senon Limited 1-1, Nishishinjuku 2-chome, Shinjuku-ku, Tokyo | | | | | | | | | | 3 cases |
| | | | - | | | 2,506 | | | | - | 2,506 |
| 8 | Anzen Enterprise Corporation Inaba 916, Nagano-shi | | | | | | | | | | 1 case |
| | | | | 2,148 | | | | | | | 2,148 |
| 9 | Nishino Kensetsu Kanri Co., Ltd. Ryuo 1488-2, Kai-shi, Yamanashi | | | | | | | | | | 1 case |
| | | | | 1,651 | | | | | | | 1,651 |
| 10 | Aquatellus Corporation Shintoshin 5-2, Chuo-ku, Saitama-shi | | | | | | | | | | 1 case |
| | | | | | | | 1,635 | | | | 1,635 |
| 11 | Kanto Road Maintenance Corporation (Note 3) Asahi Bldg., 26-2, Ekiminamicho 2-chome, Oyama- shi, Tochigi | | | - | | | | | | | - |
| | | | | - | | | | | | | - |
| Number of Violating Entrepreneurs | | 4 companies | 4 companies | 7 companies | 3 companies | 4 companies | 5 companies | 2 companies | 2 companies | 4 companies | 35 companies |
| Number of Entrepreneurs Subject to Cease and Desist Order | | 4 companies | 4 companies | 6 companies | 3 companies | 4 companies | 5 companies | 2 companies | 2 companies | 4 companies | 34 companies |
| Number of Entrepreneurs Subject to Surcharge Payment Ord | | 4 companies | 3 companies | 6 companies | 3 companies | 4 companies | 5 companies | 2 companies | 2 companies | 3 companies | 32 companies |
| Surcharge Amount Total | | 45,669 | 24,833 | 44,351 | 18,339 | 34,799 | 35,968 | 13,780 | 14,559 | 28,001 | 260,299 |

(Note 1) " " in the table shows that the applicable entrepreneur is subject to a cease and desist order.

(Note 2) "-" in the table shows that the applicable entrepreneur is a violating party that is not subject to a cease and desist order or a surcharge payment order.

(Note 3) Kanto Road Maintenance Corporation had a resolution to dissolve the company on April 30, 2008 and stopped all its business activities.

Liquidation of the company was completed on July 29, 2008.