

Cease and Desist Order and Surcharge Payment Order against Participants
in Bidding for Sewer Pipe Constructions ordered by the City of Kawasaki
(Tentative Translation)

9 April, 2010

Japan Fair Trade Commission

The Japan Fair Trade Commission (JFTC), under the provisions of the Antimonopoly Act (AMA), has investigated participants in the bidding for sewer pipe constructions ordered by the City of Kawasaki and found that they were in violation of Article 3 (prohibition of unreasonable restraint of trade) of the AMA. Accordingly, the JFTC today issued cease and desist orders pursuant to Paragraph 2, Article 7 of the AMA and surcharge payment orders pursuant to Paragraph 1, Article 7-2 of the AMA as detailed below.

1 The number of companies involved in violation and companies subject to the cease and desist orders and to the surcharge payment orders, and the amount of the surcharge.

Number of companies involved in the violation	Number of companies subject to the cease and desist orders	Number of companies subject to the surcharge payment orders	Total amount of surcharge
24 companies	23 companies	20 companies	130,720,000 yen

2 Outline of the violation

The 24 companies agreed to take the following action, on or after March 12, 2008 (Note 1) at the latest, to prevent decline of order prices for certain sewer pipe constructions ordered by the City of Kawasaki through the means of general competitive bidding (Note 2) (hereinafter referred to as “Kawasaki City sewer pipe constructions”).

(1) The company or the specific joint venture who wants to receive the order (hereinafter referred to as the “Applicant”) represents that they want to receive the order to other participants in the bid and:

a. If there is only one Applicant, the Applicant will be appointed as the company or the specific joint venture to receive the order (hereinafter referred as the

“designated successful bidder”).

- b. If there are several Applicants, the designated successful bidder will be appointed through consultation among the Applicants in light of the location of the construction, the continuity of the past construction record and so on.
- (2) The bid price is decided by the designated successful bidder and companies other than the designated successful bidder shall work together, through bidding higher price than the price decided or declining to participate in the bid, so that the designated successful bidder can receive the order at the price decided.

Through the agreement, the 24 companies substantially restrained competition in the field of trade of Kawasaki City sewer pipe constructions contrary to the public interest by appointing the designated successful bidder and managing to have the designated successful bidder receive the order.

(Note1) One company joined in the agreement no later than May 19, 2008 and one company joined in it after May 23, 2008 at the latest.

(Note2) Only companies that locate in the City of Kawasaki and are rated as classification “A” by the City of Kawasaki with regard to sewer pipe constructions, and specific joint venture whose representative is the company are allowed to participate in the bid of the certain sewer pipe constructions.

3 Outline of the cease and desist order

- (1) The 23 companies shall respectively adopt a resolution at their Board of Directors confirming that
 - they have terminated the action in item 2 above,
 - they will not appoint the designated successful bidder for Kawasaki City sewer pipe constructions through mutual consultation nor with any other companies, and each of them will independently carry out its business to receive orders in the future.
- (2) The 23 companies shall respectively notify the measures taken in accordance with item (1) above to the other 22 companies and to the City of Kawasaki, and shall have such measures thoroughly disseminated to their employees.
- (3) The 23 companies respectively shall not appoint the designated successful bidder for Kawasaki City sewer pipe constructions through mutual consultation nor in collaboration with any other companies in the future.

4 Outline of the surcharge payment order

- (1) The 20 companies shall respectively pay the amount by July 12, 2010 (130,720,000 yen in total).
- (2) In the case that a company had previously received a surcharge payment order which has become final and binding related to another case within 10 years retroactively from the starting date of this case investigation, 50% higher rate is applied to the sales amount of the company on or after the effective date of the 2005 AMA Amendment (January 4, 2006) in accordance with Paragraph 7, Article 7-2 of the AMA.