

# JFTC to convene meeting of the Study Group Concerning Public Procurement and Competition Policy

May 28, 2003

Fair Trade Commission

## 1 Outline

Against a backdrop of frequently occurring scandals involving public works construction, the Act for Promoting Proper Tendering and Contracting for Public Works was enforced in April 2001. Although the law is being used by national and local public entities, it has been noted that the enactment of the law is not necessarily linked to curtailment of unfair conduct such as bid rigging, and that in some cases the law is not being thoroughly applied. Looking at the status of enforcement actions of the Commission against bid rigging cases, it is also difficult to claim there has been marked decrease since the law went into force, and the share of bid rigging incidents as a percentage of the total number of legal actions remains high. Furthermore, with regard to proper public procurement including orders for public construction, the problems concerning accounting systems and their operation, including the fact that the present competitive bidding system unduly emphasizes evaluations based on price, for example, also have been pointed out as a fundamental issue.

On the other hand, cases where studies and measures concerning bid rigging have been conducted independently have also emerged, centered on purchasing organizations that are aggressive about preventing bid rigging.

From the standpoint of continuing to consider factors such as the progress of efforts concerning such public procurement, achieving a more competitive public procurement environment and effectively preventing bid rigging, the Japan Fair Trade Commission will convene a meeting of the Study Group Concerning Public Procurement and Competition Policy to elucidate fundamental and specific issues concerning public procurement and to propose solutions.

## 2 Principal study topics

### (1) Ensuring the effectiveness of tender and contract “competition”

- A Promotion of flexible tender and contract procedures suited to the details of work orders issued

- (a) Elimination of formal competitive bidding
  - (b) Diversification of procedures for selecting parties to contracts that emphasize price
  - (c) Procedures for placing orders that support purchasers' planning and management capabilities
- B Increasing tender and contract competitiveness
  - (a) Elimination of purchaser arbitrariness
  - (b) Proper use of joint venture and allocation orders
  - (c) Approaches to competition supervision at purchasers
- (2) Strict actions as purchasers against bid rigging
  - A Improvement in bid rigging surveillance systems and ensuring appropriate studies
  - B Measures to be adopted against tender bid rigging on the purchaser side
  - C Approaches to collaboration and cooperation between purchasers and the Fair Trade Commission

### 3 Schedule

The first meeting of the Study Group will be held on June 3, 2003. The group will prepare an interim report that it will release publicly in autumn of this year.