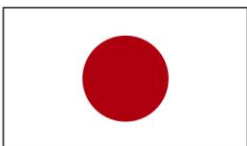




European  
Commission

# Guide for EU Suppliers on Government Procurement in Japan

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## I. Purpose and Scope of the Guide

This guide was designed to assist companies in the European Union ("**EU suppliers**") that seek to supply work, goods, or services to public entities in Japan through public procurement, or similar processes, following the entry into force of the EU-Japan Economic Partnership Agreement ("**EU-Japan EPA**" or "**the EPA**"), as provided therein.

The guide is organised as follows:

**Section II** explains the main changes in the scope of the government procurement activities introduced by the EU-Japan EPA.

**Section III** provides an overview of the strengthened transparency related rules, along with the rules that are applied to procurements subject to the EU-Japan EPA.

**Annex 1: Overview of Government procurement in EU-Japan EPA**

gives a detailed overview of the scope of the government procurement for goods and services opened to EU suppliers under the EU-Japan EPA. Available in separate document.

**Annex 2: Government Procurement Complaint Procedure**

provides an overview of the domestic review procedures available in Japan regarding government procurement.

**Annex 3: List of Core Cities**

lists sixty Core Cities of Japan as of 31 July 2020.

**Annex 4: Classification of Grades of Goods and Services Suppliers by Type of Qualification and Range of Target Prices in the Unified Supplier Qualification System (*touitsu shikaku shinsa*)**

provides the classification of grades of goods and services suppliers and criteria to determine grades in the Unified Supplier Qualification System.

## II. Additional market access opportunities for EU suppliers under the EU-Japan EPA

### 1 Overview

This section provides an overview of the main changes in the public procurement of goods and services following the entry into force of the EU-Japan EPA.

The EU-Japan EPA came into effect on 1 February 2019. The government procurement chapter of the EPA incorporates the rules stipulated in the World Trade Organisation Agreement on Government Procurement (the "GPA")<sup>1</sup> and further sets out new rules in order to ensure effective market access of EU suppliers to the Japanese government procurement market by:

- (i) **Expanding the scope of goods and services open to EU suppliers;**
- (ii) **Widening the base of entities** which procure such goods and services; and
- (iii) **Strengthening the transparency rules**, which maximises opportunities for EU suppliers to participate in public tenders in Japan.

The GPA covers government procurement conducted by: (i) **central government entities**<sup>2</sup>, (ii) **sub-central government entities**, which include 47 **prefectures**<sup>3</sup> and 20 **designated cities**<sup>4,5</sup> and (iii) other entities,<sup>6</sup> including **railway companies** and **Independent Administrative Agencies**.<sup>7</sup>

In addition to the sub-central government entities and other entities covered by the GPA, the

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<sup>1</sup> More information [here](#).

<sup>2</sup> Central government entities are listed in Japan's Annex 1 to Appendix I to the GPA, which is available [here](#).

<sup>3</sup> Prefectures are the first level of jurisdictional and administrative division in Japan, and are titled either "To", "Do", "Fu" or "Ken".

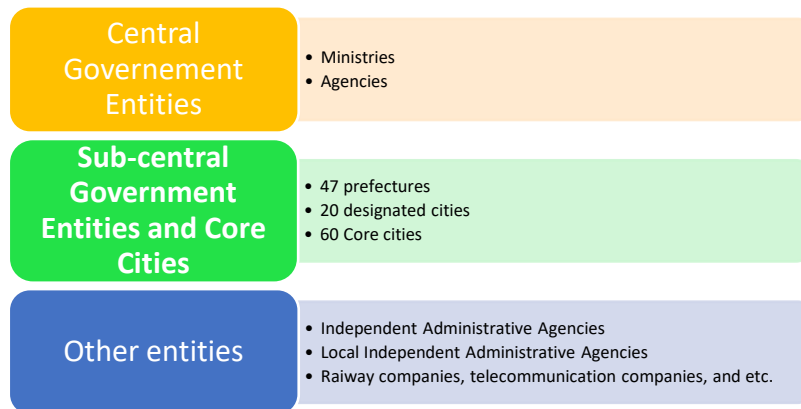
<sup>4</sup> Designated Cities ("Shiteitoshi") are cities with a population over 500,000, and designated individually by cabinet order, as defined in Article 252-19 of the Local Autonomy Law (Law No. 67 of 1947) of Japan. There are currently 20 Designated Cities in Japan.

<sup>5</sup> Sub-central government entities (prefectures and designated cities), except for Kumamoto-shi, are listed in Japan's Annex 2 to Appendix I to the GPA, which is available [here](#).

<sup>6</sup> The full list of entities other than central and sub-central government entities is included in Japan's Annex 3 to Appendix I to the GPA, which is available [here](#).

<sup>7</sup> Independent Administrative Agencies are organizations, overseen by competent central government ministries, which execute certain government functions but are separate and independent from the competent ministries.

EU-Japan EPA covers procurement conducted by **Core Cities**,<sup>8</sup> **89 Local Independent Administrative Agencies**,<sup>9</sup> supervised by local governments and **6 additional Independent Administrative Agencies**,<sup>10</sup> supervised by competent administrative bodies, as further explained in **Section II.4** of this Guide.



The thresholds<sup>11</sup> applicable to the EU-Japan EPA are the same as in the GPA, except for the threshold applicable to the procurement of goods and certain services by certain entities listed in Annex 3 to Appendix I to the GPA, which have been lowered compared to the GPA to ensure wider access for EU suppliers.<sup>12</sup> The typical thresholds applicable to procurement contracts of goods and services are set out in the following Table 1. However, for further details and information on the applicable thresholds, see **Annex 1** of this Guide: **Overview of Government procurement in EU-Japan EPA**.

<sup>8</sup> Core Cities are cities with a population over 200,000, and designated individually by cabinet orders, as defined by paragraph 1 of Article 252-22 of the Local Autonomy Law (Law No. 67 of 1947) of Japan. As of 31 May 2020, there are currently 60 Core Cities in Japan, a complete list of which is available at Annex 3 of this Guide.

<sup>9</sup> The full list of the 89 Local Independent Administrative Agencies in existence as of 1 February 2018 can be found in Annex 10, Part 2, Section B, Paragraph 1(b) of the EU-Japan EPA.

<sup>10</sup> The 6 additional Independent Administrative Agencies are: (1) Agriculture, Forestry and Fisheries Credit Foundation; (2) Information-technology Promotion Agency; (3) Japan Community Health Care Organization; (4) National Agency for Automotive Safety and Victims' Aid; (5) Organization for Environment Improvement Around International Airports; and (6) Pharmaceutical and Medical Devices Agency, as listed in Annex 10, Part 2, Section B, Paragraph 3(b) of the EU-Japan EPA.

<sup>11</sup> The EU-Japan EPA applies only to procurement of goods and services of a value equal to or exceeding certain specified financial value thresholds. The thresholds are expressed in IMF Special Drawing Rights (SDR) and the corresponding national currency equivalent.

<sup>12</sup> See the threshold for procurement of "goods" and "other services" for "entities in Group B" in Annex 1 of this Guide: Overview of Government Procurement in EU-Japan EPA.

**Table 1 Japan's thresholds applicable to procurement contracts of goods and services**

	Value in Special Drawing Rights ('SDR')	JPY Value*
<b>I. Central government entities</b>		
1 Goods	100,000	15,000,000
2 Construction services	4,500,000	690,000,000
3 Architectural, engineering and other technical services	450,000	69,000,000
4 Other services	100,000	15,000,000
<b>II. Sub-central government entities</b> (All prefectural governments entitled "To", "Do", "Fu" and "Ken", and all designated cities entitled "Shitei-toshi")		
1 Goods	200,000	30,000,000
2 Construction services	15,000,000	2,300,000,000
3 Architectural, engineering and other technical services	1,500,000	230,000,000
4 Other services	200,000	30,000,000
<b>III Other Entities</b>		
1 Goods for entities listed in Appendix I Annex 3 Group A	130,000	19,000,000
2 Goods for entities listed in Appendix I Annex 3 Group B	100,000	15,000,000
3 Construction services for entities listed in Appendix I Annex 3 Group A of the GPA except for the Japan Post	15,000,000	2,300,000,000
4 Construction services for entities listed in Appendix I Annex 3 Group B of the GPA and the Japan Post	4,500,000	690,000,000
3 Architectural, engineering and other technical services	450,000	69,000,000
4 Other services for entities listed in Appendix I Annex 3 Group A	130,000	19,000,000
5 Other services for entities listed in Appendix I Annex 3 Group B	100,000	15,000,000

\* Threshold levels above apply to the period from 1 April 2020 until 31 March 2022. Thresholds and their corresponding JPY values are defined by the government and updated every two years.<sup>13</sup>

<sup>13</sup> The thresholds and their corresponding JPY values applicable between 1 April 2020 and 31 March 2022 are available [here](#) (only in Japanese).

With regard to construction services, the government procurement market for EU suppliers has expanded under the EU-Japan EPA, as explained in **Sections II.3 and II.4** and now includes new procurement by new entities (e.g. Local Independent Administrative Agencies), as well as new construction services related to the operational safety of railway or construction services related to the production, transport or distribution of electricity by sub-central government entities.

## 2 Further market access opportunities opened up by the EPA

Annex 10, Part 2, Section B of the EU-Japan EPA lists the scope of goods and services subject to procurement by certain entities subject to the EU-Japan EPA. Following the entry into force of the EU-Japan EPA, EU suppliers now have enhanced business opportunities to supply goods and services procured by various entities in Japan, in addition to what is provided for in the GPA.

The main sectors newly opened to EU suppliers include: goods and services related to **the operational safety of transportation (railway equipment and infrastructure)**; goods and services related to **electricity distribution**; goods and services procured by **Local Independent Administrative Agencies** (i.e. **local hospitals and academic institutions**); and goods and services procured by **Core Cities** (certain exceptions apply, as explained further in this Guide).

## 3 Expanded scope of procured goods and services

The detailed scope of the procurement of goods and services covered by the EU-Japan EPA can be found in the "**Overview of Government procurement in EU-Japan EPA**" (**Annex 1 to this Guide**) which lists by entity type the goods and services that can be procured subject to the provisions of the EU-Japan EPA. The Procurement Guide Chart also specifies the sectors that are newly covered by the EU-Japan EPA.

### (1) Procurement of goods and services related to the operational safety of transportation

The EU-Japan EPA opens the procurement of **goods and services covered by the Operational Safety of Transportation Clause in the GPA** to EU suppliers with effect from 1 February 2020.<sup>14</sup>

This means that the EU suppliers have access to the Japanese market of railway equipment

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<sup>14</sup> Annex 10, Part 2, Section B, Paragraph 4 of the EU-Japan EPA.



and infrastructure, which was previously protected by the so-called Operational Safety Clause under Japan's Annexes included in Appendix I to the GPA, which effectively did not allow foreign supplier participation in procurement procedures.

This new commitment applies to tenders by (i) **sub-central government entities** (i.e., **prefectures and designated cities**); and (ii) certain non-governmental entities, listed below:

- (i) **Hokkaido Railway Company**<sup>15</sup>
- (ii) **Japan Freight Railway Company**<sup>16</sup>
- (iii) **Japan Railway Construction, Transport and Technology Agency**<sup>17</sup>
- (iv) **Shikoku Railway Company**<sup>18</sup>
- (v) **Tokyo Metro Co., Ltd.**<sup>19</sup>

The thresholds for such procurement of railway equipment and infrastructure remain the same for the sub-central government entities listed in Japan's Annex 2 to Appendix I to the GPA (see Section II of Table 1 Japan's thresholds applicable to procurement contracts of goods and services in **Section II.1** of this Guide), while the thresholds for the procurement of goods and services (other than construction services and architectural, engineering and other technical services) by the five entities referred to in the paragraph above are 400,000 SDR (61,000,000 JPY<sup>20</sup>).

## (2) Procurement related to the production, transport, or distribution of electricity by the sub-central government entities

Under the GPA, Japan excludes procurement related to production, transportation and distribution of electricity by sub-central government entities. In contrast, the EU-Japan EPA opened up **procurement of goods and services related to the production, transport, or distribution of electricity operated by the sub-central government entities** to EU

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<sup>15</sup> More information [here](#).

<sup>16</sup> More information [here](#).

<sup>17</sup> More information [here](#).

<sup>18</sup> More information [here](#).

<sup>19</sup> More information [here](#).

<sup>20</sup> The thresholds, and their corresponding JPY values, applicable between 1 April 2020 and 31 March 2022, are available at: [Hokkaido Railway's website](#) (only in Japanese); [Japan Freight Railway's website](#) (only in Japanese); [Japan Railway Construction and Technology Agency's website](#) (only in Japanese); [Shikoku Railway](#) (only in Japanese); [Tokyo Metro's website](#): (only in Japanese).

suppliers<sup>21</sup> while maintaining the same thresholds applicable for other goods and services procured by sub-central government entities (see Table 1 in **Section II.1** of this Guide).

However, it should be noted that the **procurement of goods or services related to the electricity businesses that are operated by Core Cities has NOT been opened to EU suppliers.**

For reference purposes, the list of sub-central government entities that produce, transport or distribute electricity as of 1 February 2018 is as follows:

- 1) Hokkaido
- 2) Iwate-ken
- 3) Akita-ken
- 4) Yamagata-ken
- 5) Tochigi-ken
- 6) Gunma-ken
- 7) Tokyo-to
- 8) Kanagawa-ken
- 9) Niigata-ken
- 10) Toyama-ken
- 11) Yamanashi-ken
- 12) Nagano-ken
- 13) Mie-ken
- 14) Kyoto-fu
- 15) Hyogo-ken
- 16) Tottori-ken
- 17) Shimane-ken
- 18) Okayama-ken
- 19) Yamaguchi-ken
- 20) Tokushima-ken
- 21) Ehime-ken
- 22) Kochi-ken
- 23) Fukuoka-ken
- 24) Kumamoto-ken
- 25) Oita-ken
- 26) Miyazaki-ken
- 27) Yokohama-shi
- 28) Kitakyushu-shi

In addition to the above list, procurement related to the production, transportation and distribution of electricity by Kumamoto-shi is also open to EU bidders.

### (3) Additional service categories that are open to EU suppliers under the EU-Japan EPA

The EU-Japan EPA also opens access to additional service categories procured by central government entities and sub-central government entities (i.e. prefectures and designated

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<sup>21</sup> Annex 10, Part 2, Section B, Subparagraph 1(c) of the EU-Japan EPA.

cities) which were excluded from the scope of the GPA, such as telecommunications related services for central government entities and leasing or rental services concerning agricultural machinery and equipment which does not require an operator for sub-central government entities.<sup>22</sup>

More specifically, the EU-Japan EPA opened EU suppliers' access to the following services, which are identified in accordance with the United Nations Central Product Classification (CPC)<sup>23</sup>:

(i) for **central government entities**:

**754 Telecommunications related services**  
**812 Insurance (including reinsurance) and pension fund services, except compulsory social security services**  
**87201 Executive search services**  
**87202 Placement services for office support personnel and other workers**  
**87204 Supply services of domestic help personnel**  
**87205 Supply services of other commercial or industrial workers**  
**87206 Supply services of nursing personnel**  
**87209 Supply services of other personnel**  
**87501 Portrait photography services**  
**87502 Advertising and related photography services**  
**87503 Action photography services**  
**87505 Photography processing services**  
**87506 Motion picture processing services not related to the motion picture and television industries**  
**87507 Restoration, copying and retouching services of photography**  
**87509 Other photographic services**  
**87901 Credit reporting services**  
**87902 Collection agency services**  
**87903 Telephone answering services**  
**87905 Translation and interpretation services**  
**87906 Mailing list compilation and mailing services**  
**87907 Specialty design services**

(ii) for **sub-central government entities**:

**643 Beverage serving services**  
**83106**  
**to 83108 Leasing or rental services concerning agricultural machinery and equipment without operator**  
**83203 Leasing or rental services concerning furniture and other household appliances**  
**83204 Leasing or rental services concerning pleasure and leisure equipment**  
**83209 Leasing or rental services concerning other personal or household goods**  
**86501 General management consulting services**  
**86502 Financial management consulting services (except business tax)**  
**86503 Marketing management consulting services**

<sup>22</sup> Annex 10, Part 2, Section B, Subparagraph 5 of the EU-Japan EPA.

<sup>23</sup> More information [here](#).

86504 Human resources management consulting services  
86505 Production management consulting services  
86509 Other management consulting services

#### 4 A larger number of procuring entities under the EPA

##### (1) Procurement of goods and services by six more Independent Administrative Agencies

Under the EU-Japan EPA,<sup>24</sup> EU suppliers also gained access to the procurement of goods and services specified in Japan's Annexes 4 to 6 to Appendix I to the GPA<sup>25</sup> by the six Independent Administrative Agencies listed below, which in contrast are not covered by the GPA provisions:

- (i) **Agriculture, Forestry and Fisheries Credit Foundations**
- (ii) **Information-technology Promotion Agency**
- (iii) **Japan Community Health Care Organization**
- (iv) **National Agency for Automotive Safety and Victims' Aid**
- (v) **Organization for Environment Improvement around International Airports**
- (vi) **Pharmaceutical and Medical Devices Agency**

##### (2) Procurement of goods and services by 89 Local Independent Administrative Agencies that are hospitals and academic institutions

The EU-Japan EPA has given EU suppliers access to the procurement of goods and services specified in Japan's Annexes 4 to 6 to Appendix I to the GPA<sup>26</sup> by 89 listed **Local Independent Administrative Agencies** that are hospitals and academic institutions, which are not covered by the GPA.<sup>27</sup>

##### (3) Procurement by Core Cities

The EU-Japan EPA states that "with regard to the procurements in the process of open tendering by Core Cities of Japan, suppliers of the European Union shall be accorded treatment no less favourable than that accorded to locally established suppliers, including, if and where such exist, access to any review procedures available to locally established suppliers."<sup>28</sup>

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<sup>24</sup> Annex 10, Part 2, Section B, Subparagraph 3(b) of the EU-Japan EPA.

<sup>25</sup> Available [here](#).

<sup>26</sup> Available [here](#).

<sup>27</sup> Annex 10, Part 2, Section B, Subparagraph 1(b) of the EU-Japan EPA.

<sup>28</sup> Annex 10, Part 2, Section B, Paragraph 2 of the EU-Japan EPA.

In order to implement this new obligation, Item iv (b) of Article 2 of the Cabinet Order regarding the procedure for the procurement by local governments<sup>29</sup> was amended to widen the scope of its application to include the services stipulated in Japan's Annex 5 to Appendix I to the GPA which are procured by Core Cities.<sup>30</sup>

Therefore, **Core Cities must follow the tendering process set out in the EU-Japan EPA when procuring services stipulated in Japan's Annex 5 to Appendix I to the GPA.**<sup>31</sup> However, it should be noted that the **procurement of construction services by Core Cities is NOT open to EU-suppliers** under the EU-Japan EPA.<sup>32</sup>

In addition, procurement of **goods and services covered by the Operational Safety of Transportation Clause in the GPA and tendered by Core Cities is also open** to EU suppliers. To this end, the current Cabinet Order regarding the procedure for procurement by local governments<sup>33</sup> was amended. Note that **procurement of goods and services regarding electricity distribution by Core Cities is NOT open** to EU suppliers as the EU-Japan EPA obligations do not apply to Core Cities for this category of services.

As a result of the amendment of the relevant Cabinet Order<sup>34</sup> regarding procurement procedures, when Core Cities set forth the qualifications for bidders with respect to the location of their establishment, EU suppliers must be treated as qualified bidders, regardless of whether they fulfil such qualifications or not, unless the procurement is pursued by Core Cities of Japan as part of a policy to encourage local small and medium-sized enterprises to participate in procurement procedures.

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<sup>29</sup> The Cabinet Order regarding the procedure for procurement by local governments (Act No. 372 of 1995) is available [here](#) (Japanese only).

<sup>30</sup> The full list of Core Cities of Japan as of 31 July 2020 is available in Annex 3 of this Guide.

<sup>31</sup> Available [here](#).

<sup>32</sup> Appendix 10, Section B, Paragraph 2 (d) of the EU-Japan EPA.

<sup>33</sup> Article 3, Item 3 of this Order is removed. This amendment came into force on February 1, 2020. Available [here](#). (Japanese only).

<sup>34</sup> Article 5 of the revised Cabinet Order regarding the procedure for procurement by local governments (Act No. 372 of 1995). The revised Cabinet Order is available [here](#) (Japanese only).

### III. Participation in the tendering process

#### 1 Overview

##### (1) Procurement procedures under the GPA and the EU-Japan EPA

The EU-Japan EPA incorporates the rules and procedures provided for in the GPA, as well as creates several additional rules. Therefore, the procurement procedures under the EU-Japan EPA follow the rules contained in the GPA.

In addition, the EU-Japan EPA has introduced some reinforced transparency rules including: making information about public tenders more easily accessible (a single point of access for procurement information), fairer assessments of EU companies' technical abilities and experience when they bid for public tenders in Japan, and setting new standards for the remedies available to bidding companies if they think they have been treated unfairly.

The procurement procedures described below apply to all procurement processes subject to the EU-Japan EPA.

##### (2) Supplier qualification

In Japan, government entities require their suppliers to qualify in advance in order to be allowed to participate in a tender procedure. While the qualifications required for procurement by central governments are covered by the **Unified Supplier Qualification System (*touitsu shikaku shinsa*)**, all other procuring entities have individual separate qualification and application procedures.

The qualification criteria required to participate in a tender and the method of applying for supplier qualification are provided on the webpage of the procuring entity prior to notification of the tender and are also mentioned in the tender notice itself. Many procuring entities set certain application periods for suppliers but there are also procuring entities which have separate application procedures outside these periods.

A detailed description of the application process is given in **Section III.4** of this Guide.

##### (3) Types of tendering procedures

Japan's entities subject to the EU-Japan EPA use the following types of tender procedures in the case of EPA regulated tenders.

**Open Competitive Tender (*ippan kyousou nyuusatsu*)**

The open competitive tendering procedure is the basic bidding procedure. In this procedure, a procuring entity publishes, in the official gazette (*Kanpo*) or its equivalent(s) at the local level, and also on the webpages described in **Section III.2(1)**, a notice to invite qualified suppliers to participate in the tendering procedures.

The contract is awarded to the tenderer who makes the best offer. What is considered the best offer varies from tender to tender, including the best price offer (lowest price), the best value offer, and the overall greatest value ("OVG") method (*sougouhyouka rakusatsu houshiki*), in which each supplier is scored based on their proposed price, performance, function and technologies, and the procurement entity selects the highest value bidder according to the given scores. Under the OVG Method, potential suppliers may be asked to submit their implementation plans before they are allowed to access the technical terms of proposals and participate in the tender. The OVG Method is mandatory in procuring computer products and services, telecommunication products and services, and medical technology products, and is used in most procurements for construction work.

**Selective Tendering Procedure (*shimei kyousou nyuusatsu*)**

The selective tendering procedure may be used: (i) when only a small number of suppliers can participate in the tendering procedures due to the nature or purpose of the contract, or (ii) when it is considered unfair to conduct an open tendering procedure; e.g., when there is a need to prevent a dishonest person from participating in the tendering or when inspection of the goods or services procured is extremely difficult due to the exceptional nature or purpose of the contract; and/or when the estimated price of the goods or services to be procured is low.

In the selective tendering procedure, a procuring entity designates, from among qualified suppliers, those considered capable of implementing the contract, and invites those suppliers to participate in the tendering procedure. The contract is awarded to the tendering party who makes the best offer. In a case where a notice for tender is published in the official gazette (*Kanpo*) or its equivalent(s) at the local level, and/or on the webpages, suppliers who have not been designated but wish to participate in the tendering procedure can do so, on the condition that they complete the procedure for screening of qualifications to participate in tendering process, as described in **Section III.4(1)** of this Guide.

It should be noted that in the EU-Japan EPA, Japan has committed to ensuring that the number of suppliers permitted to submit a tender will be sufficient to ensure competition without affecting the operational efficiency of the procurement system, and thus not to

limit the competition to a small number of suppliers.

**Limited (Single) Tendering Procedure (zuiikeiyaku (gentei nyuusatsu))**

In the limited tendering procedure, the government entity designates the number of eligible suppliers who are deemed able to provide the product or service request and invites them to enter the competition. The contract is awarded without competitive tendering (i.e. open or selective tendering procedures). The limited tendering procedure is an exception, and is used only under the conditions stated in the GPA, such as the absence of tenderers responding to a public notice, or a need to protect exclusive rights, like patents, which do not permit competition.

With regard to the Limited Tendering Procedure, there are no additional rules under the EU-Japan EPA in addition to the rules contained in the GPA

**(4) Overview of the tendering procedures**

EU suppliers interested in participating in government procurement tenders can follow the 6 steps in the tendering process described in Chart 1 as follows:



**Chart 1: TENDERING PROCESS FLOW CHART**



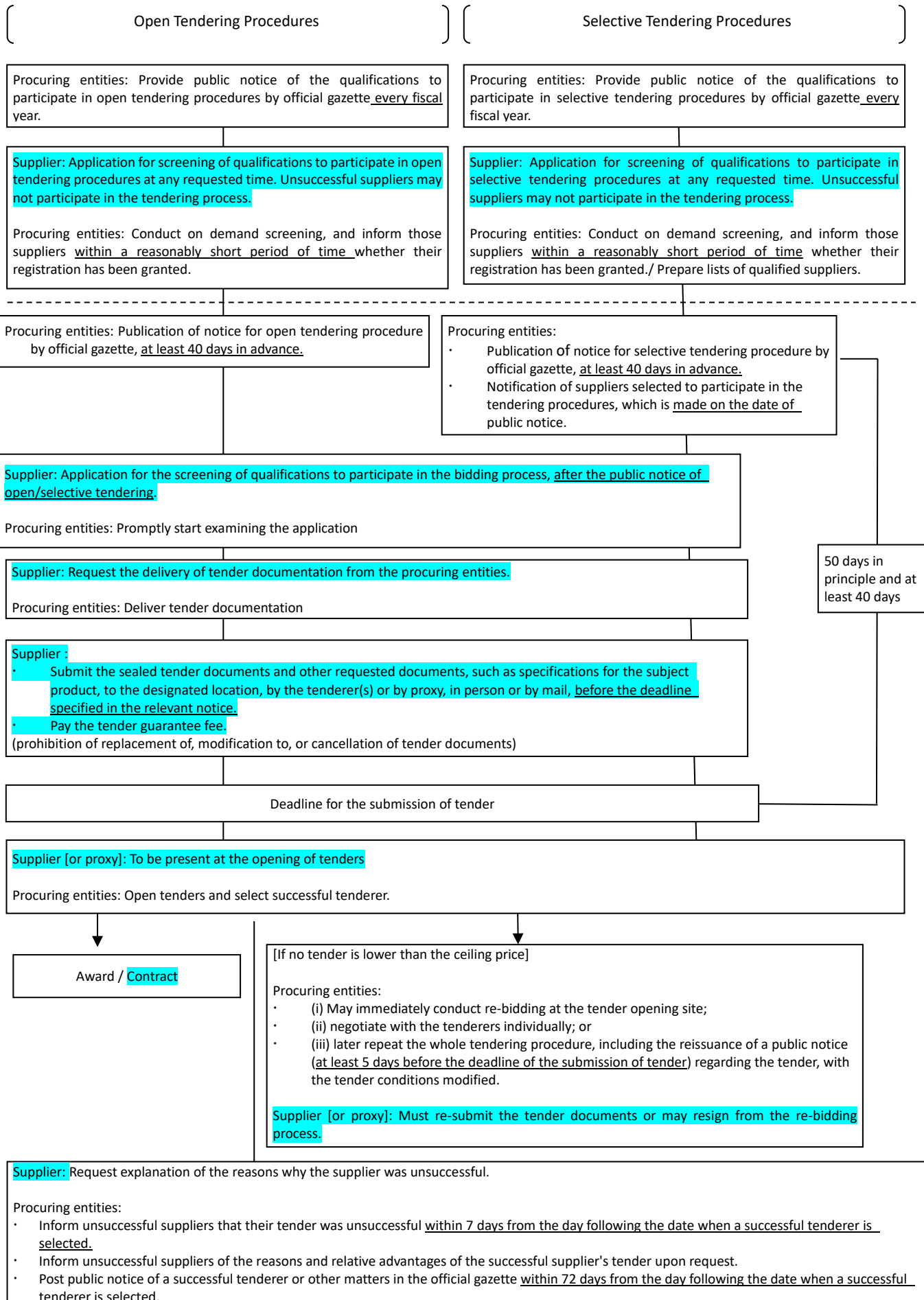
However, it should be noted that under Japanese law, other variations of procurement procedures may be used, particularly in the case of construction services due to their scale and complexity.<sup>35</sup> Since the EU-Japan EPA did not address any of these other variations on procurement procedures that could be used for construction services, and the tendering procedures described in this section also apply to such variations, this Guide will focus on the basic procedures in an open and selective tendering process, as required under the EU-Japan EPA.

The following Chart 2 provides an overview of the process and the relevant procedures for open tendering and selective tendering subject to the GPA and the EU-Japan EPA.

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<sup>35</sup> Such variations include: Implementation Plan Evaluation Type Open Tendering, Public Invitation Designated Competitive Bidding Type Selective Tendering, Project Interest Registration Designated Competitive Bidding Type Selective Tendering, Technical Proposal Integrated Evaluation Systems, and Value Engineering (VE) System. Other variations on procurement processes sometimes used for construction services [here](#).

**CHART 2: Tender Process and Procedures under the GPA and the EU Japan EPA**



## 2 Step 1: Where to find procurement notices

### (1) Publication of notices

The EU-Japan EPA created a new requirement whereby notices of intended *OR* planned procurement must be directly accessible by electronic means, free of charge, through a single point of access. It was only through the EPA that Japan agreed to make notices of intended or planned procurement, not only by central government entities but also by other procuring entities (except for Core Cities) subject to the EPA, available through a single electronic portal.

In order to comply with this obligation, **JETRO has been designated as the single point of access. Public notices of intended procurement** (searchable under the term "Notice of procurement") **by all procuring entities subject to the EPA (except for Core Cities), including the central government, Independent Administrative Agencies, and other entities such as railway companies,**<sup>36</sup> **prefectures, designated cities and Local Independent Administrative Agencies,**<sup>37</sup> **can be consulted on JETRO's website.**<sup>38</sup>

Notices of planned procurement by the central government, Independent Administrative Agencies, and other entities, such as railway companies,<sup>39</sup> are also published and searchable on the JETRO website. **These notices are published in Japanese. English summaries of most notices are also provided, including English summaries of individual tender notices.**<sup>40</sup> However, it should be noted that only the following information is provided in the English summary of the public notices:

- (i) Name and volume of goods or services to be procured
- (ii) Time limit for submitting the tender
- (iii) Application period for the qualification screening process
- (iv) Name of the division and contact officer in charge of the procurement procedure and the location of the division in charge of the procurement

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<sup>36</sup> Available [here](#).

<sup>37</sup> Available [here](#).

<sup>38</sup> For further information see [JETRO's website](#).

<sup>39</sup> Available [here](#).

<sup>40</sup> For a list of the types of notices for which English summaries are available, see [JETRO website](#).

The information on the JETRO website is taken from the notices published by the various government entities in the Official Gazette (*Kanpo*) published by the National Printing Bureau,<sup>41</sup> which is accessible digitally in Japanese only, and is not searchable. It should also be noted that the JETRO database does NOT list tenders below the GPA/EPA thresholds.

**Notices of planned procurement by prefectures, designated cities, and Local Independent Administrative Agencies are currently NOT published on the JETRO website. This information can be found on the website of the procuring entity giving notice of the tender.**

The **Government Procurement Information Portal Website**,<sup>42</sup> operated by the EU-Japan Centre for Industrial Cooperation, also provides tender notice information collected from the websites of national and independent administrative agencies and local government agencies, as well as other procuring entities. Therefore, EU suppliers are encouraged to consult both this Portal and the information published on the JETRO website, which has been designated as the single access point.

Detailed inquiries relating to procurement activities should be directed to the government ministry or agency that issued the relevant notice.<sup>43</sup>

## (2) Notices of intended procurement

Public notices for open tendering include the information listed in Article VII of the GPA, as follows:

- (i) the name and address of the procuring entity and other information necessary to contact the procuring entity and obtain all relevant documents relating to the procurement, and their cost and terms of payment, if any;
- (ii) a description of the procurement, including the nature and the quantity of the goods or services to be procured or, where the quantity is not known, the estimated quantity;
- (iii) for recurring contracts, an estimate, if possible, of the timing of subsequent notices of intended procurement;
- (iv) a description of any options;
- (v) the time-frame for delivery of goods or services or the duration of the contract;

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<sup>41</sup> [The Official Gazette of Japan](#) (Japanese only).

<sup>42</sup> EU-Japan Centre for Industrial Cooperation [Government Procurement Information Website](#).

<sup>43</sup> "Contact Points on Government Procurement" available [here](#).

- (vi) the procurement method that will be used and whether it will involve negotiation or electronic auction;
- (vii) where applicable, the address and any final date for the submission of requests for participation in the procurement;
- (viii) the address and the final date for the submission of tenders;
- (ix) the language or languages in which tenders or requests for participation may be submitted, if they may be submitted in a language other than an official language of the Party of the procuring entity;
- (x) a list and brief description of any conditions for participation of suppliers, including any requirements for specific documents or certifications to be provided by suppliers in connection therewith, unless such requirements are included in tender documentation that is made available to all interested suppliers at the same time as the notice of intended procurement;
- (xi) where a procuring entity intends to select a limited number of qualified suppliers to be invited to tender, the criteria that will be used to select them and, where applicable, any limitation on the number of suppliers that will be permitted to tender; and
- (xii) an indication that the procurement is covered by the GPA.

Although the information must be provided under both the GPA and the EU-Japan EPA, the details are often provided only in Japanese. Therefore, EU suppliers will need to be able to read Japanese, or request assistance from entities with procurement experience in Japan, as explained in **Section III.11** of this Guide, in order to fully understand the details of the procurement.

With regard to notices of intended procurement in a selective tendering process, the contracting officers of the procuring entity must select, preferably, ten or more persons to participate in the tender. Selected bidders must be notified of the following:

- In the case of recurring contracts, the nature and quantity of the goods or services to be procured under all the remaining contracts in the series of recurring contracts, the estimated date of the subsequent tender notices, and the date of the notice to invite to the first tender; and
- Language to be used in the procurement contract process.

### (3) Notices of Planned Procurement

Under the GPA, procuring entities are encouraged to publish notices of planned procurement in the appropriate paper or electronic medium (see **Section III.2** of this Guide for details about publication of such notices).

### 3 Step 2: Obtaining tender information

#### (1) Delivery of tender documentation

**Prospective suppliers can obtain the tender documentation from the relevant procuring entity.** It should be noted that while some procuring entities publish the tender documentation on their websites or provide it by mail to interested suppliers upon request, certain procuring entities may require suppliers to obtain such documentation from their offices in person, while other procuring entities may hand out the tender documentation only at the bid briefing meetings.

In general, the documentation contains the following information:

- (i) **Description of the goods or services to be procured** (e.g., nature, quantity, quality, and specifications of goods or services to be procured);
- (ii) **Qualifications related to the business and technical capabilities required of tenderers** (e.g., ability to implement contracts, research and development capabilities, after-service systems, licenses required for business);
- (iii) **Obligations of tenderers** (e.g., explanation of goods or services to be delivered, consultation, delivery deadline, provision of information, submission of specifications of goods or services, submission of a standards inspection certificate, and cooperation with supervision and inspection);
- (iv) **Information for tenderers** (e.g., contact points);
- (v) **Criteria for awarding the contract** (e.g., tendered prices); and
- (vi) **Basic contract provisions** (e.g., delivery date, delivery method, settlement method, and other requirements for implementing contracts).

#### (2) Participate in bid briefing meetings and communicate with procuring entities

In bids involving the procurement of complex goods or services, procuring entities may conduct bid briefing meetings, in order to provide details of the tender, usually within days after the invitation to tender. These meetings are a good opportunity for participants to ask questions about the tender, although questions can be asked also outside such meetings.

It should be noted that the information about whether an explanatory meeting will be organized is usually **NOT listed** in the English summary of the tender notice, therefore suppliers are encouraged to examine the tender documentation thoroughly.

**In some cases, it may be mandatory to participate in the bid briefing meetings in order**

**to participate in the tender**, and other procuring entities may hand out the tender documentation only at the bid briefing meetings.

These meetings also allow suppliers to find out the number and the type of other suppliers interested in the respective tender. Therefore, **it is highly recommended that suppliers attend bid briefing meetings if they are held.**

Suppliers should also **contact and make enquiries with the procuring entities**, if necessary. The tender notices, tender documents or the information on the website of the procuring entities mention the modalities in which a supplier can contact the procuring entity for further information about the tender. Some procuring entities accept questions by phone or e-mail. In practice, an interested supplier is, at least, given access to the answers to the questions asked by the others, if it requests.

#### 4 Step 3 – Part 1: Application for Supplier Qualification

##### (1) Public notice of qualifications of suppliers

The qualifications for suppliers to participate in open and selective tenders are listed in a public notice specifying the following, as explained in **Section III.1(2)** of this Guide:

- (i) procedures of the screening process;
- (ii) deadline and modalities of the application for the screening process;
- (iii) the types of goods or services to be procured;
- (iv) the validity period and renewal procedures for the qualification.

##### (2) On-demand screening of qualifications for suppliers to participate in tendering procedures under the GPA

**Suppliers who seek to participate in an open or selective tendering process must apply for screening of their qualifications in order to be able to participate in the tendering process**, when the aforementioned qualifications for participating in the tendering process have been established and a notice has been made. This application may be completed at any requested time, until the deadline specified in the notification. **Note that**, if the procuring entities keep a list of qualified suppliers, **the potential suppliers can apply for the screening of their qualifications on demand before the notifications of tenders are published (Step 1)**. The potential suppliers may also request access to such list of qualified suppliers from the procuring entities. Such qualifications may include the **Unified Supplier Qualification System (*touitsu shikaku shinsa*)** by the central



governments, as explained in **Section III.5(2)** of this Guide.

The procuring entities will determine whether the suppliers meet the qualifications, and the **eligible suppliers will be registered on a list**.

Suppliers are informed of whether they have met the qualifications. In addition, if a supplier who has not been successful in the screening process so requests, procuring entities must provide their decision to the supplier in written form.

If a supplier that is not included on the pre-selected list of qualified suppliers submits a request for participation in a tender after the public notice of open/selective tendering, the procuring entities must promptly start examining the request to determine whether the supplier is qualified to participate in the tendering process. However, it should be noted that the contract can only be awarded if the bidder is a qualified supplier. Although the supplier may request that the procuring entity assesses its qualifications after the public notice of open/selective tendering and upon submission of a tendering application, there is no guarantee that the bidder will be considered qualified by the end of the tendering process. So, practically speaking, a supplier must be registered as a qualified supplier prior to a specific tender process.

## 5 Step 3 – Part 2: Conditions for participation and Qualification of Suppliers

The EU-Japan EPA incorporates the rules and procedures provided for in the GPA, as well as creates several additional rules. Therefore, this Guide explains the conditions for participation and qualification of suppliers that are common to the EU-Japan EPA and the GPA. **Section III.5(3)** highlights the additional set of rules created in the EU-Japan EPA.

### (1) Conditions for participation under the EU-Japan EPA and the GPA

Suppliers who qualify under the following items are not permitted to participate in open or selective tendering procedures:

- (i) a person who is incapable of concluding the relevant contract;
- (ii) a person who received an order for commencement of bankruptcy proceedings, where that person's rights have not been restored; and
- (iii) a person related to organized crime group members.

In addition, the procuring entities may exclude a supplier from participating in Open Tenders for a period of not more than three years, if the supplier falls under any of the

following categories:

- (i) if the person has intentionally carried out construction, manufacturing, or any other service in a careless manner or acted fraudulently with regard to the quality or volume of an object in the course of performing a contract;
- (ii) if the person has obstructed the fair implementation of a tender, hindered a fair price from being reached, or colluded with others to obtain an unlawful profit;
- (iii) if the person has obstructed a successful bidder from entering into a contract or obstructed a party to a contract from performing the contract;
- (iv) if the person has obstructed an official from performing the official's duties with regard to a supervision or inspection;
- (v) if, without a justifiable reason, the person has not performed a contract;
- (vi) if, under a contract, the price is to be fixed after the signing of the contract, and the person has intentionally claimed an excessive amount as such a price based on false facts;
- (vii) if the person has employed a proxy, manager, or other employee who is not eligible to participate in an open tender pursuant to this paragraph (not including this item) in the conclusion or performance of a contract.

## (2) Qualification of suppliers

In addition, each procuring entity may require suppliers to be qualified by the individual relevant procuring entities and to be registered on the permanent lists of qualified suppliers kept by each procuring entity, in order to participate in the open and selective tendering procedures (see above **Section III.4(2)** of this Guide).

**Each procurement agency is allowed to specify the qualifications that suppliers must have in order to participate in the competitive tendering procedures**, and may review the suppliers' ability to implement contracts, including the scale of their business activities (i.e., number of employees, amount of capital etc.) and their past business performance (i.e., construction, manufacturing and sales performance, etc.), in accordance with the price, etc., of the contract.

**The detailed information on the qualifications, the procedures for registration on the procuring entities list, how long it would take for the suppliers to obtain the qualifications, the validity period and renewal procedures for qualification, etc., are determined by each procuring entity, and may differ for each project procured, so it is important that suppliers read the procurement notices carefully.**

However, in the case of procurement of construction works, particular qualification systems exist.

National government institutions and organizations falling directly under their jurisdiction utilize the so-called **Unified Supplier Qualification System (*touitsu shikaku shinsa*)** for the procurement of certain goods and services and certain construction services that can be procured without the complex assessment of suppliers' qualifications or procedures. The Unified Supplier Qualification (accessible on the ***Chotatsu Portal website***<sup>44</sup>) is a system which allows prospective suppliers to apply free of charge for qualification with one of the tender participating institutions in order to be eligible to participate in a government tender. Under the Unified Supplier Qualification System, suppliers are rated based on their (i) average annual production or sales value for the past two years, (ii) value of equity capital, (iii) current ratio, and (iv) number of years in operation. This grade corresponds to the range of the target price of the contract,<sup>45</sup> but the ministry or agency that executes the tender may specify several grades, including grades that do not correspond to the target price of the tender.<sup>46</sup> The highest grade is "A," which corresponds to a target price of 30 million yen or more.<sup>47</sup> For example, the majority of EU SMEs qualify as either "C" or "D".<sup>48</sup> For further details and thresholds of the grades, see **Annex 4: Classification of Grades of Goods and Services Suppliers by Type of Qualification and Range of Target Prices in the Unified Supplier Qualification System**. Prequalified Persons are listed on a published register, along with their respective grades.

The processing of suppliers' application usually takes **2 weeks**. Prospective suppliers can apply at any of the government participating entities, and the qualification received is valid for a large number of national and regional government entities and their affiliated organizations.<sup>49</sup> The qualification is valid for a maximum period of three years, depending on the time when the application is submitted. Suppliers must re-apply for the Unified Supplier Qualification after the expiration date, and the qualification is not automatically renewed.<sup>50</sup>

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<sup>44</sup> *Chotatsu Portal website* available [here](#) (Japanese only).

<sup>45</sup> Public Notice on Prequalification of Participants, dated 31 March 2020, available [here](#).

<sup>46</sup> For example, in cases where the ministries and agencies that execute the specific tender set a target price of 30 million yen or more, which corresponds to grade "A," they may invite prequalified Persons of grade "B" to participate in that tender, when they expect few Persons graded "A" to participate in that tender.

<sup>47</sup> Information on Prequalified Persons and their grades is available [here](#).

<sup>48</sup> Lyckle Griek, *Government Procurement in Japan Obstacles and Opportunities for European SMEs*, available [here](#), pp. 15-16.

<sup>49</sup> The list of relevant procuring entities, valid until April 2021, is available [here](#) (Japanese only).

<sup>50</sup> EU-Japan Centre for Industrial Cooperation available [here](#). See also, EU-Japan Centre for Industrial Cooperation, *Obtaining Unified Supplier Qualification (touitsu shikaku shinsa) - A practical Guide*. Available [here](#).

Suppliers who are interested in participating in construction work-related tenders by government entities must obtain a Construction License under the **Construction License System** in order to carry on a construction business in Japan, regardless of public or private works.<sup>51</sup> In order to apply for a License, an applicant must submit a **Construction Business License Application Form** and the attachment(s) to the **Ministry of Land, Infrastructure, Transport and Tourism ("MLIT")**. A Construction License is issued for a **five-year period** and must be renewed every five years.

Prospective suppliers of construction works must also undertake a **Business Evaluation (*Keishin*)**, established under the Construction Business Act (Art. 27-23), in order to be qualified by the procuring entity concerned. The *Keishin* evaluates construction companies in terms of management scale, technical capability, and social responsibility. The actual evaluation is carried out by a number of third-party organizations designated by MLIT which charge a commission for this service.<sup>52</sup> The designated organizations do not offer information in English. The *Keishin* is not a unified qualification, but each procuring entity assesses the qualifications of potential suppliers, and potential suppliers must apply with each government entity separately. The *Keishin* needs to be taken annually and involves a substantial amount of paperwork, as well as external costs.<sup>53</sup>

Other requirements set out by procuring entities may include obtaining licenses for distributing or manufacturing specified goods or services under Japanese laws and regulations. For example, prospective distributors of medical equipment must register with the Government according to the Pharmaceuticals Law.

In a few categories, certain standards must be met to ensure the quality of the goods /services provided. One example is adherence to technical specifications such as the Japan Industrial Standards ("JIS"),<sup>54</sup> although this is non-mandatory. As distributors and manufacturers are sometimes required to meet these specifications, it is important to pay attention to the parts in procurement notices that provide this information .

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<sup>51</sup> For more information on, and application forms for, the Construction License System see the MLIT website [here](#) (English); or [here](#) (Japanese).

<sup>52</sup> The list of designated third-party organization is available at the [MLIT website](#). The amount of commission differs from organization to organization, however, is normally around JPY 13,000 as of 31 July 2020.

<sup>53</sup> For more information on, and application forms for, *Keishin* see the MLIT website. Available [here](#) (English); or [here](#) (Japanese).

<sup>54</sup> Information on JIS can be found on the Japanese Industrial Standards Committee website: Available [here](#) (English); or [here](#) (Japanese).

### (3) Conditions and Qualification of Suppliers eased under the EU-Japan EPA

The EU-Japan EPA additionally requires that "a procuring entity of a Party shall not exclude a supplier established in the other Party from participating in a tendering procedure on the basis of a legal requirement according to which the supplier must be: (a) a natural person; or (b) a legal person."<sup>55</sup>

The EU-Japan EPA further provides that while a procuring entity of a Party may require relevant prior experience where essential to meet the requirements of the procurement, that procuring entity shall NOT impose the condition that such prior experience must have been acquired within the territory of that Party.<sup>56</sup> It should be noted that such equal treatment of prior experience applies (only) to procurement meeting the conditions set forth in the government procurement chapter of the EU-Japan EPA. The requirement to limit prior experience to experience gained in Japan was an issue for EU suppliers' market access before the entry into force of the EU-Japan EPA.

With regard to technical specifications, both Japan and the EU have committed to ensure that if procuring entities apply environment-friendly specifications, such specifications should be: (a) appropriate to the characteristics of the supplies or services required; (b) objectively verifiable and non-discriminatory; and (c) accessible to all parties interested under Article 10.8 of the EU-Japan EPA.

Procuring entities may also require suppliers to submit test reports or certificates issued by a conformity assessment body (or the like), when evaluating the qualifications of suppliers. The EU-Japan EPA provides that procuring entities of both Parties accept the results of conformity assessment procedures that are conducted by the registered conformity assessment bodies of the other Party, in accordance with the Agreement on Mutual Recognition between the European Community and Japan.<sup>57</sup> Therefore, procuring entities in both the EU and Japan must reciprocally accept test reports and certificates issued by the registered conformity assessment bodies in the other Party. This enables EU suppliers to smoothly submit their test reports or certificates to the procuring entities in Japan, without having to go through a special conformity assessment process in Japan.

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<sup>55</sup> Paragraph 1 of Article 10.5 of the EU-Japan EPA.

<sup>56</sup> Paragraph 2 of Article 10.5 of the EU-Japan EPA.

<sup>57</sup> Paragraph 2 of Article 10.9 of the EU-Japan EPA.

In addition, with respect to procurement of construction services, the EU-Japan EPA provides for equal treatment of EU suppliers when "a supplier established in the European Union is required to undergo a **Business Evaluation**" (*Keieijikoshinsa*; or *Keishin* as mentioned above) to qualify for participation in construction work-related tenders in Japan.<sup>58</sup> The EU-Japan EPA specifically requires Japanese procuring entities to ensure that the *Keishin* (i.e. a numerical score) assessment will take place in a non-discriminatory manner, and will consider accomplishments made outside Japan as equivalent to those made in Japan. Indicators may include:

- (i) Number of technical staff
- (ii) Labour welfare condition (social insurance)
- (iii) Number of years in the construction business
- (iv) Accounting practices in the construction business
- (v) R&D expenditures
- (vi) ISO certification
- (vii) Employment and training of young engineers and trained workers
- (viii) Amount of sales for completed construction work
- (ix) Amount of sales for completed construction work as prime contractor

Japanese procuring entities must also take due account of business performance indicators realized outside Japan, which may include:

- (i) Amount of the equity capital
- (ii) Amount of Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITDA)
- (iii) Net interest expense to sales ratio
- (iv) Liabilities turnover period
- (v) Gross profit on sale/gross capital ratio
- (vi) Recurring profit/sales amount ratio
- (vii) Equity capital/fixed asset ratio
- (viii) Equity ratio
- (ix) Cash flow from operating activities, and
- (x) Amount of accumulated earnings

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<sup>58</sup> Paragraph 2 of Article 10.6 of the EU-Japan EPA.

## 6 Step 4: Submission of tenders

### (1) Tender submission process

**Sealed tender documents must be submitted to the designated location before the deadline specified in the relevant notice.** Suppliers have at least **40 days** after publication of notices to prepare the tender documents. Specifications for products to be procured may be required to be submitted together with the tenders in some cases (such requirements are clarified in the relevant public notices). **Tender documents should be submitted by the tenderers or by a proxy, in person or by mail.** Some procuring entities accept the submission of tender documents electronically by email or by uploading files to the websites of the procuring entities.

**Tender documents, once submitted, must not be replaced, modified, or cancelled.**

### (2) Payment of tender guarantee fee

Although the law stipulates that tenderers are required to pay 5% or more of their estimated contract prices as guarantee fees, it is often the case that payment of the fees is waived, as those participating in the competitive tendering procedures are, in most cases, qualified suppliers.

## 7 Step 5: Opening of tenders

### (1) Opening tenders (in the presence of tenderers)

Tenders are opened at the time and place specified in the public notice, **in the presence of tenderers or their proxies. Should no tenderers or their proxies be present, staff of the procuring entity who are not involved in the tendering procedures are required to act as witnesses.**

The tenders submitted by unqualified suppliers or those violating the tender requirements are declared invalid and omitted from the tendering procedures. In this case, the tenderers in question are informed of the rejection of their bids.

### (2) Determination of a successful tenderer

As a general rule, a contract is awarded to the tenderer who submitted the tender with the lowest price (for other selection methods, see **Section III.1(3)** of this Guide), provided

that the price does not exceed the ceiling price established in advance by the procuring entity, and taking into account criteria such as the actual price of similar transactions, supply-demand balance, the complexity of the procurement, the quantity to be procured, and time allowed for the delivery.

If no tender is lower than the ceiling price after several submissions, the tendering procedure will cease. In this case, the procuring agency follows one of the following procedures: (i) immediately launch a re-bidding process at the tender opening site; (ii) negotiate with the tenderers individually, without modifying the tender conditions, to award the contract to a tenderer offering a price lower than the ceiling price; or (iii) repeat the whole tendering procedure, including the reissuance of a public notice regarding the tender, with the tender conditions modified.

## 8 **Step 6: Award/Contract and notices of successful and unsuccessful tenderers**

After the tender award, **the procuring entity and the supplier will enter into an agreement.** The contracting procedure may vary based on the procuring entity and type of goods or services purchased. A draft contract is often part of the tender documentation package given to prospective suppliers.

In principle, renegotiation of contracts is not possible, and is permitted only if circumstances necessitate changes; even then, the contract provisions must remain within the basic terms of the original tender.

In addition, each procuring agency informs tenderers of the decision to award the contract in writing. Each agency also publishes a notice stating the content of the contract, the date of award, the name and address of the winning tenderer, and the winning price.

**Non-selected tenderers are also informed that their tender was unsuccessful** within 7 days from the day following the date when a successful tenderer is selected. **Unsuccessful suppliers may also request procuring entities to disclose the reasons for selecting the successful tenderer and the relative advantages of the successful bid.**



## 9 Review Procedure

As provided for in the GPA, Japan has review procedures in place in the event of a complaint from a supplier regarding a tender procedure. The EPA addresses some specific concerns of European suppliers with respect to these procedures. EU suppliers may file a complaint regarding the procurement process with the **Office for Government Procurement Challenge System (CHANS)**, which has been established for the domestic review of large contracts. **Annex 2** "Government Procurement Complaint Procedure" to this guide describes in detail the complaint procedures related to the tendering process and the additional elements provided for in the EU-Japan EPA in this respect.

## 10 Electronic bidding systems

Some procuring entities have introduced electronic bidding systems which allow suppliers to obtain tender documents, ask questions, and submit tenders electronically, depending on the system of the procuring entity.

The electronic procurement procedure for central government entities is available on the GEPS portal.<sup>59</sup>

Regional and local government entities each have developed their own platforms.<sup>60</sup>

It should be noted, however, that in order to use electronic bidding systems, the suppliers must obtain a digital ID, which requires a domicile within Japan or a company registration in Japan.

## 11 Support from Trading Houses and other entities

Since the tendering process outlined above often presents complexities to non-Japanese suppliers, EU suppliers may find it easier to tie up with a local partner, often a trading house, in order to jointly participate in procurement tenders.

Trading houses (*sogo shousha*)<sup>61</sup> are Japanese companies which handle a wide range of products and materials, and traditionally engaged in trade logistics, plant development

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<sup>59</sup> More information [here](#).

<sup>60</sup> A platform called CALS/EC is fairly widely used for electronic bidding procedures for public works contracts at the regional and local level. The CALS/EC website can be found [here](#) (English); or [here](#) (Japanese)

<sup>61</sup> See the website of JFTC for more information on trading houses (*sogo shousha*). Available [here](#)

and other services. Their business domains extend from the development and procurement of raw materials to manufacturing and processing, logistics, sales and after services. Since foreign suppliers may be unfamiliar with procurement procedures in Japan and as tender documents and information are often provided only in Japanese, non-Japanese prospective bidders often form a joint venture, consortium or a partnership with local trading houses to participate in tenders. Trading houses can prove instrumental in collecting information on the tender, attending bid briefing meetings, communicating directly with procuring entities, or finding third party companies which could perform after services in lieu of the winning suppliers.

EU suppliers may also seek additional assistance from other entities, such as local law firms, or local Japanese companies specialized in providing tender assistance in for example obtaining supplier qualification, arranging Japanese translation of the documents suppliers must submit to obtain the qualification, or submitting the application, etc.<sup>62</sup>

#### **IV. Conclusion**

As outlined above, there are various steps and documents that guide and govern procurement procedures in Japan, which makes it imperative for EU suppliers to draft the tender documentation carefully and seek (local) support when necessary, so as to improve their chances of winning the project. With the entry into force of the EU-Japan EPA, greater market access is given to EU suppliers interested in procuring projects in Japan thanks to the expanded scope of goods and services open to EU suppliers and stronger transparency rules.

#### **V. Annexes**

- 1 Annex 1: Overview of Government procurement in EU-Japan EPA (see separate document)
- 2 Annex 2: Government Procurement Complaint Procedure
- 3 Annex 3: List of Core Cities
- 4 Annex 4: Classification of Grades of Goods and Services Suppliers by Type of Qualification and Range of Target Prices in the Unified Supplier Qualification System (touitsu shikaku shinsa)

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<sup>62</sup> In this regard, the EU-Japan Centre for Industrial Cooperation has set up a Japan Tax & Public Procurement Helpdesk with the aim of monitoring/reporting on barriers to EU suppliers interested in activities in the Japanese market <<https://www.eu-japan.eu/japan-tax-public-procurement-helpdesk>>.

## Annex 2: Government Procurement Complaint Procedure under the EPA

### 1 Introduction

Upon suspicion of a breach of the provisions of the Government Procurement Agreement (the "**GPA**") or the EU-Japan EPA, suppliers may file a complaint with the Government Procurement Review Board (the "**GPRB**"), under the "Government Procurement Challenge System" (the "**CHANS**"). Although this system has already been in place under the GPA, the EU-Japan EPA sets out several additional rules regarding domestic review procedures.

New rules put forth in the EU-Japan EPA offer EU businesses more opportunities to compete on an equal footing with their local counterparts. Concretely, the EU-Japan EPA provisions in this area:

- ensure the independence and impartiality of review body members;
- give the possibility to postpone the tender decision in the case of a challenge until a decision of the review body has been taken;
- set corrective actions to be taken where a review body has determined that there has been a breach or a failure in the procurement process.

### 2 Government Procurement complaint system

Under the **CHANS**, suppliers may file a claim against central government organizations, independent administrative agencies, and other bodies listed in Appendix I, Annexes 1 and 3 to the GPA.<sup>63</sup> Complaints may be filed regarding government procurement of goods and services valued at not less than 100,000 SDRs (15,000,000 yen, applicable rate from April 1, 2020 to March 31, 2022), and construction services valued at not less than 4,500,000 SDRs (690,000,000 yen, applicable rate from April 1, 2020 to March 31, 2022).<sup>64</sup>

The GPRB was established pursuant to the GPA as an impartial and independent review body with no interest in the outcome of the procurement; its members are free from external influence during the term of their appointments. The general procedure for filing

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<sup>63</sup> The details of CHANS procedures are available [here](#).

<sup>64</sup> The equivalent Japanese yen amount of each specific SDR figure applicable to public procurement is defined and renewed by the government every two years. The current amount is available [here](#) (in Japanese).

complaint is described below.<sup>65</sup>

On the other hand, sub-central government procuring entities (i.e., prefectures and designated cities), as listed in Appendix I, Annex 2 to the GPA, have their own complaint procedures, mainly related to public works tenders. In the case of complaints related to such tenders, suppliers must file a complaint with each relevant entity under its own respective review system(s). Detailed information on specific procedures for complaint review can be obtained through the official gazette ("*Kanpo*") and its equivalent(s) at the local level, or through other government procurement contact points.<sup>66</sup>

### 3 Who can file a complaint?

With regard to government procurement other than for public works, complaints may be filed by those who supplied or who were capable of supplying the goods or services when the procuring entity procured them. Suppliers who are able to claim for a CHANS review regarding public works are further stipulated in Article 2(1)ii and iii of the Review Procedure for Complaints Concerning Government Procurement.<sup>67</sup> Such suppliers eligible to claim a CHANS review regarding public works procurement contracts include suppliers who applied for the registration as eligible suppliers, eligible suppliers who participated in the tender, etc.

In addition, all parties with a specific individual interest in the procurement generating the complaint may participate in the complaint review procedure. Anyone wishing to participate should notify the executive office of such procedure using a Procurement Review Procedure Participation Request<sup>68</sup> within 5 days of the GPRB's public announcement of receipt of the complaint via the official gazette, the Internet, or other channels.

### 4 Filing of complaints

Complaints may be filed with the GPRB (the secretariat is: the Office for Government Procurement Challenge System, the Cabinet Office). Anyone wishing to file a complaint can submit the relevant information to the GPRB within 10 days after the time when the complainant acquired, or reasonably should have acquired, knowledge of the event that

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<sup>65</sup> An overview of the complaint review process is available [here](#).

<sup>66</sup> Contact points for sub-central government entities are available at Appendix 4 of "Suggestions for Accessing the Government Procurement Market of Japan" available [here](#).

<sup>67</sup> Review Procedure for Complaints Concerning Government Procurement available [here](#):

<sup>68</sup> Sample of the Procurement Review Procedure Participation Request is available [here](#).

caused the complaint.

Complaints should be received in the specified form<sup>69</sup> in person, by mail, or by any other means. It should be noted that all communication with the relevant public bodies in the process of government procurement complaint reviews is conducted only in Japanese, and the entire review process will be conducted in Japanese also.

When a complaint is submitted, the GPRB will decide within 10 working days of receiving the complaint whether to accept the complaint. If the complaint is accepted, the GPRB will immediately notify the complainant, the Council, and the procuring entity, and will publicly announce the complaint via the official gazette, the Internet, or other channels, and will call for the input of participants with an interest in the complaint. Procuring entities must submit a report to the GPRB.

Complainants or participants with objections to the report may request an opinion or review by the Board.

## **5 Representatives and assistants**

Complainants and related procuring entities are given opportunities to meet with the GPRB and present their views. They may request the participation of lawyers, technical specialists, or others in such meetings by submitting a Representative (Lawyer) Appointment Notice,<sup>70</sup> a Representative Appointment Approval Request,<sup>71</sup> and/or an Assistant Attendance Approval Request.<sup>72</sup>

## **6 Review Results and Proposals by the Government Procurement Review Board**

The GPRB will ultimately create a report detailing the results of its review within 90 days of receiving the complaint. Although 90 days is the normal review period, the complainant or procuring entity may request expedited processing. The review period may also depend on the type of government procurement at issue. The report shall include an explanation of the basis of the Board's conclusions, clearly indicate whether the complaint is recognized in whole or in part, and specify whether the procurement procedure involved any breach of the GPA, and/or other international agreements (including the EU-Japan

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<sup>69</sup> Sample Government Procurement Complaint Form is available [here](#).

<sup>70</sup> Sample Representative (Lawyer) Appointment Notice is available [here](#).

<sup>71</sup> Sample Representative Appointment Approval Request is available [here](#).

<sup>72</sup> Sample Assistant Attendance Approval Request is available [here](#).

EPA, collectively, "**GPA, etc.**"). If the GPRB concludes that measures defined in GPA, etc., have not been implemented in the procurement process, it will create a written proposal together with the report. As a general rule, the procuring entity must comply with the proposal issued by the GPRB in response to the complaint.

## 7 Additional tools made available under the EU-Japan EPA for Complaints regarding Government Procurement

Article 10.12 of the EU-Japan EPA establishes rules regarding domestic complaint review procedures that give EU suppliers more instruments to ensure fair competition, as follows:

**(i) Impartial Judgement:** In particular, with regard to ensuring the independence and impartiality of review body members, Article 10.12, Paragraph 1, subparagraph (b) of the EU-Japan EPA requires that "the members of the designated authority are not dismissed against their will while they are in office, unless their dismissal is required by the provisions governing the designated authority." Furthermore, Article 10.12, Paragraph 1, subparagraph (a) provides that the members of the designated authorities are independent, impartial and free from external influence during the term of appointment. Japan has amended the "Overview of Government Procurement Review Board Operation" and introduced Article 2(6), in order to incorporate the above-mentioned new requirements of the EU-Japan EPA.<sup>73</sup>

In addition, Article 10.12, Paragraph 1, subparagraph (c) of the EU-Japan EPA requires that "the President or at least one other member of the designated authority, have legal and professional qualifications equivalent to those necessary for judges". It should be noted that Japan has implemented this obligation by ensuring that the GPRB of the CHANS includes three lawyers as of July 2018.

**(ii) Suspension of Contract Conclusion:** Paragraph 3 of Article 10.12 of the EU-Japan EPA requires that when a complaint is made under the domestic review procedure, "each Party shall, **in principle**, ensure that a procuring entity shall not conclude the contract until that authority has made a decision or recommendation on the challenge with regard to interim measures, corrective action, or compensation for the loss or damages suffered." This requirement, although not always mandatory,<sup>74</sup> would allow for equal participation of

<sup>73</sup> Overview of Government Procurement Review Board Operation can be found [here](#) (English).

<sup>74</sup> The second sentence of Paragraph 3 of Article 10.12 of the EU-Japan EPA provides that each Party may provide that in unavoidable and duly justified circumstances, the contract can be concluded nevertheless, which is reflected on Paragraph 7 of Review Procedure for Complaints Concerning Government Procurement, available at <https://www5.cao.go.jp/access/english/pdf/reviewprocedure.pdf>.

suppliers who have filed complaints, as the tender would not be awarded, in principle, and would be postponed until the domestic review procedure board makes a decision on the complaint.

**(iii) Clarifications of possible remedies:** Paragraph 5 of Article 10.12 of the EU-Japan EPA clarifies the corrective actions, stipulated in Article 18, subparagraph 7(b) of the GPA, which may be taken by the domestic review body, when it has determined that there has been a breach or a failure in the procurement process, as follows:

- (a) the removal of discriminatory technical, economic, or financial specifications in the invitation to tender, the contract documents, or any other document relating to the tendering procedure and conduct of new procurement procedures;
- (b) the repetition of the procurement procedure without changing the conditions;
- (c) the setting-aside of the contract award decision and the adoption of a new contract award decision;
- (d) the termination of a contract or the declaration of its ineffectiveness; or
- (e) the adoption of other measures with the aim to remedy a breach of this Chapter [Chapter 10 on Government Procurement of the EU-Japan EPA], for example, an order to pay a particular sum until the breach has been effectively remedied.

This clarification under the EU-Japan EPA provides guidelines for the possible remedies available to suppliers who have filed a claim under the CHANS procedures, and hopefully will bring about more effective remedies which fairly address the concerns of EU suppliers.

## **8 The Status of Implementation of the EU-Japan EPA in relation to Challenge Systems of Sub-Central Governments**

As noted in Section 2 above, the challenge rules of prefectures and designated cities are decided at the respective authority levels. The competent ministries have issued notices or instructed the sub-central governments to revise their challenge rules to reflect the EU-Japan EPA relevant provisions. In order to ensure implementation of the rules under the EU-Japan EPA concerning challenge systems, two types of amendment should be made to the challenge rules of sub-central governments.

First, the rules regarding the complaint review procedure of a sub-central government must be amended in order to ensure that the review body reviews complaints about breaches of

procurement procedures set forth in the EU-Japan EPA, among other international agreements. Put differently, the rules for procurement procedures set forth in the EU-Japan EPA must be added as rules to be applied by the review body when deciding complaints filed for review ("**Applicable Rules**").

Second, the regulations regarding the organisation of the review body of a sub-central government must be amended to provide that "the members of [the designated authority (i.e., the review body) are not dismissed against their will while they are in office, unless their dismissal is required by the provisions governing the designated authority" as required under Article 10.12, Paragraph 1, subparagraph (b) of the EU-Japan EPA ("**Requirements to Safeguard Independence of Review Body Members**").

With regard to the addition of the EU-Japan EPA provisions as Applicable Rules, the rules regarding complaint review procedures of 64 sub-central governments either: (i) explicitly provide that the review body will review a complaint that the relevant procurement breaches the EU-Japan EPA; (ii) provide that the review body will review a complaint that the relevant procurement breaches the Cabinet Order regarding the procedure for procurement by local governments,<sup>75</sup> which incorporates the rules of the EU-Japan EPA, or (iii) provide that the review body will review a complaint that the relevant procurement breaches "the GPA and other international treaties", which includes the EU-Japan EPA. Amendment of the rules regarding complaint review procedures is not necessary in any of these three categories of cases.

However, the rules regarding complaint review procedures of the remaining three (3) prefectures and designated cities (Kochi-ken,<sup>76</sup> Niigata-shi,<sup>77</sup> Sagamihara-shi<sup>78</sup>) still provide simply that the review body will review complaints that the relevant procurement breaches the GPA. Therefore, an amendment to those rules is necessary to ensure compliance with the EU-Japan EPA. The current rules regarding complaint review procedures of the three sub-central governments must be amended as follows.

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<sup>75</sup> The Cabinet Order regarding the procedure for procurement by local governments (Act No. 372 of 1995) can be found [here](#) (Japanese Only).

<sup>76</sup> 高知県政府調達に係る苦情の処理手続要領 (*Kouchi-ken seifuchotatsu ni kakaru kujyo no shoritetsuzuiki youryou*) (2 September 1996 Notice No. 584) can be found [here](#) (Japanese only).

<sup>77</sup> 新潟市政府調達に関する苦情の処理手続要領 (*Nigata-shi seifuchotatsu ni kansuru kujyo no shoritetsuzuki youryo*) (16 April 2007, last amended on 1 April 2011) can be found [here](#) (Japanese only).

<sup>78</sup> 相模原市政府調達に関する苦情処理手続要綱 (*Sagamihara-shi seifuchotatsu ni kansuru kujyo no shoritetsuzuki youkou*) (1 April 2010, last amended on 1 April 2017) can be found [here](#) (Japanese only).



**Table 2: Rules of Procedures for Complaints Related to Kochi Prefecture’s Government Procurement**

Current	Proposed amendment
<p>Article 1 (Purpose)</p> <p>These Rules provide for necessary matters with respect to the processing of complaints related to procurement that are subject to the application of the Agreement on Government Procurement (the “Agreement”<sup>79</sup>).</p>	<p>Article 1 (Purpose)</p> <p>These Rules provide for necessary matters with respect to the processing of complaints related to procurement that are subject to the application of the Agreement on Government Procurement, <b><u>the Agreement between the European Union and Japan for an Economic Partnership, or other international agreements</u></b> (the “Agreement”).</p>

<sup>79</sup> Article 3.1 of the rules provides that “[a] supplier ... may file a complaint with the Committee if it determines that the procurement was carried out in violation of the provisions of **the Agreement**.” (emphasis added)

**Table 3: Rules of Procedures for Complaints Related to Niigata City's Government Procurement**

Current	Proposed amendment
<p>1 (Purpose)</p> <p>These Rules set forth necessary matters with respect to the procedures for complaints from a supplier (referring to a person who provided products or services or a person who was able to provide products or services when the procuring entities procured the products or the services; the same shall apply hereinafter) related to procurements made by the city's procuring entity (the mayor, water supply operation manager, and hospital operation manager, collectively, the "Procuring Entities") and that are subject to the Agreement on Government Procurement (Treaty No. 23 of 1995, the "Agreement"<sup>80</sup>).</p>	<p>1 (Purpose)</p> <p>These Rules set forth necessary matters with respect to the procedures for complaints from a supplier (referring to a person who provided products or services or a person who was able to provide products or services when the procuring entities procured the products or the services; the same shall apply hereinafter) related to procurements made by the city's procuring entity (the mayor, water supply operation manager, and hospital operation manager, collectively, the "Procuring Entities") and that are subject to the Agreement on Government Procurement (Treaty No. 23 of 1995, <del>the "Agreement"</del>), <u>the Agreement between the European Union and Japan for an Economic Partnership, or other international agreements (the "Agreement")</u>.</p>

**Table 4: Rules of Procedures for Complaints Related to Sagamihara City's Government Procurement**

Current	Proposed amendment
<p>Article 1 (Purpose)</p> <p>These Rules provide for necessary matters with respect to complaint processing procedures concerning procurement by the mayor that are subject to the Agreement on Government Procurement (Treaty No. 23 of 1995; the "Agreement"<sup>81</sup>)</p>	<p>Article 1 (Purpose)</p> <p>These Rules provide for necessary matters with respect to complaint processing procedures concerning procurement by the mayor that are subject to the Agreement on Government Procurement (Treaty No. 23 of 1995; <del>the "Agreement"</del>), <u>the Agreement between the European Union and Japan for an Economic Partnership, or other international agreements (the "Agreement")</u>.</p>

With regard to the Requirements to Safeguard Independence of Review Body Members set out in Art 10.12 Paragraph 1 (b) under the EU-Japan EPA, the regulations regarding the organisation of the complaint review body of twenty-five (25) prefectures and designated cities<sup>82</sup> have yet to incorporate such requirements. Therefore, an amendment to those regulations is necessary to ensure compliance with the EU-Japan EPA.

For example, the current "Outline Regulation for the Establishment of the Osaka Prefecture's Government Procurement Complaint Review Committee"<sup>83</sup> must be amended as follows.

<sup>80</sup> Article 3(1) of the Rules provides "[a] supplier may file a complaint with the Committee if it believes that the procurement was carried out in violation of the provisions of **the Agreement**." (emphasis added)

<sup>81</sup> Article 4.1 of the Rules provides "[a] person who provided the products or services or a person who was able to provide the products or services when the mayor procured the products or the services subject to the Agreement (a "Supplier") may file a complaint with the mayor if it determines that the procurement was carried out in violation of the provisions of **the Agreements**." (emphasis added)

<sup>82</sup> These twenty-five (25) prefectures and designated cities are Miyagi-ken, Yamagata-ken, Tokyo-to, Chiba-ken, Niigata-ken, Toyama-ken, Shiga-ken, Osaka-fu, Tottori-ken, Yamaguchi-ken, Miyazaki-ken, Kagoshima-ken, Okinawa-ken, Osaka-shi, Nagoya-shi, Kitakyushu-shi, Fukuoka-shi, Hiroshima-shi, Saitama-shi, Shizuoka-shi, Sakai-shi, Niigata-shi, Hamamatsu-shi, Sagamihara-shi, Kumamoto-shi.

<sup>83</sup> 大阪府政府調達苦情検討委員会設置要綱 (*Osaka-fu seifuchotatsu kujyo kentou iinkai settchi youkou*) (1 April 1996, last amended on 16 April 2014) can be found [here](#) (Japanese only).

**Table 5: Outline Regulation for the Establishment of the Osaka Prefecture's Government Procurement Complaint Review Committee**

Current	Proposed amendment
<p data-bbox="201 367 512 400">Article 3 (Organization)</p> <p data-bbox="201 443 783 515">(1) The fixed number of the Committee members shall be five.</p> <p data-bbox="201 557 783 745">(2) The Committee members shall be commissioned by the governor from among persons of an honourable character who have excellent insight into the bidding and contracting system of local governments.</p> <p data-bbox="201 788 783 976">(3) The term of office of a Committee member shall be two years. However, the term of office of a substitute Committee member shall be the remaining term of the predecessor.</p> <p data-bbox="201 1019 783 1171">(4) When the term of office of a Committee member expires, the Committee member shall continue to perform the duties until the successor is appointed.</p>	<p data-bbox="807 367 1118 400">Article 3 (Organization)</p> <p data-bbox="807 443 1390 515">(1) The fixed number of the Committee members shall be five.</p> <p data-bbox="807 557 1390 745">(2) The Committee members shall be commissioned by the governor from among persons of an honourable character who have excellent insight into the bidding and contracting system of local governments.</p> <p data-bbox="807 788 1390 976">(3) The term of office of a Committee member shall be two years. However, the term of office of a substitute Committee member shall be the remaining term of the predecessor.</p> <p data-bbox="807 1019 1390 1171">(4) When the term of office of a Committee member expires, the Committee member shall continue to perform the duties until the successor is appointed.</p> <p data-bbox="807 1214 1390 1402"><b><u>(5) Committee members shall not be dismissed against their will while they are in office by the chairperson of the Committee except in cases falling under any of the following items:</u></b></p> <p data-bbox="807 1444 1390 1559"><b><u>i. When having received a decision on the commencement of bankruptcy proceedings;</u></b></p> <p data-bbox="807 1601 1390 1715"><b><u>ii. When having been punished by imprisonment without work or severer sentence; or</u></b></p> <p data-bbox="807 1758 1390 2018"><b><u>iii. When, by the Committee, having been recognized to be incapable of fulfilling his or her duties because of a mental or physical disorder, or having been recognized to be committing a violation of obligation in the course of duties or other misconduct unbecoming to a Committee member.</u></b></p>

The following Table 6 provides an overview of the status of amendment of the relevant challenge rules based on the relevant provisions in the EU-Japan EPA by prefectures and designated cities.<sup>84</sup>

**Table 6: Amendment of challenge rules for the purpose of implementation of the government procurement related provisions in the EU-Japan EPA**

	<b>Prefectures and Designated cities</b>	<b>The rules regarding the complaint review procedures</b>	<b>The regulations regarding the organisation of the review body</b>
1	Hokkai-do	✓*	☆
2	Aomori-ken	✓	☆
3	Iwate-ken	✓	☆
4	Miyagi-ken	✓*	▲
5	Akita-ken	✓	☆
6	Yamagata-ken	✓**	▲
7	Fukushima-ken	✓	☆
8	Ibaraki-ken	✓	☆
9	Tochigi-ken	✓	☆
10	Gunma-ken	✓	☆
11	Saitama-ken	✓	☆
12	Chiba-ken	✓*	▲
13	Tokyo-to	✓*	▲
14	Kanagawa-ken	✓	☆
15	Niigata-ken	✓*	▲
16	Toyama-ken	✓*	▲
17	Ishikawa-ken	✓*	☆
18	Fukui-ken	✓	☆
19	Yamanashi-ken	✓	☆
20	Nagano-ken	✓	☆
21	Gifu-ken	✓**	☆
22	Shizuoka-ken	✓	☆
23	Aichi-ken	✓	☆
24	Mie-ken	✓	☆
25	Shiga-ken	✓	▲
26	Kyoto-fu	✓	☆
27	Osaka-fu	✓**	▲
28	Hyogo-ken	✓	☆
29	Nara-ken	✓**	☆
30	Wakayama-ken	✓	☆
31	Tottori-ken	✓*	▲
32	Shimane-ken	✓	☆
33	Okayama-ken	✓	☆
34	Hiroshima-ken	✓*	☆
35	Yamaguchi-ken	✓*	▲
36	Tokushima-ken	✓	☆
37	Kagawa-ken	✓	☆
38	Ehime-ken	✓	☆

<sup>84</sup> The analysis in this Guide of the relevant rules of the 67 sub-central entities was based on the most recent publicly available information. Where the relevant rules are not published, the information was obtained through inquiries directly to the relevant entity to get access to the most recent rules or to a copy of these rules.

	Prefectures and Designated cities	The rules regarding the complaint review procedures	The regulations regarding the organisation of the review body
39	Kochi-ken	X	☆
40	Fukuoka-ken	✓	☆
41	Saga-ken	✓	☆
42	Nagasaki-ken	✓	☆
43	Kumamoto-ken	✓	☆
44	Oita-ken	✓	☆
45	Miyazaki-ken	✓*	▲
46	Kagoshima-ken	✓*	▲
47	Okinawa-ken	✓*	▲
48	Osaka-shi	✓	▲
49	Nagoya-shi	✓**	▲
50	Kyoto-shi	✓*	☆
51	Yokohama-shi	✓*	☆
52	Kobe-shi	✓*	☆
53	Kitakyushu-shi	✓*	▲
54	Sapporo-shi	✓	☆
55	Kawasaki-shi	✓	☆
56	Fukuoka-shi	✓**	▲
57	Hiroshima-shi	✓*	▲
58	Sendai-shi	✓	☆
59	Chiba-shi	✓	☆
60	Saitama-shi	✓	▲
61	Shizuoka-shi	✓	▲
62	Sakai-shi	✓	▲
63	Niigata-shi	X	▲
64	Hamamatsu-shi	✓*	▲
65	Okayama-shi	✓	☆
66	Sagamihara-shi	X	▲
67	Kumamoto-shi	✓*	▲

Notes: This chart shows the status as of 31 May 2020. The challenge rules highlighted in RED need to be amended to ensure compliance with the EU-Japan EPA.

✓ = The EU-Japan EPA provisions are explicitly mentioned as “Applicable Rules” in the rules regarding complaint review procedures;

✓\* = The EU-Japan EPA is not explicitly mentioned, but the Cabinet Order regarding the procedure for procurement by local governments, which reflects the rules in the EU-Japan EPA, is mentioned as “Applicable Rules” in the rules regarding complaint review procedures;

✓\*\* = The EU-Japan EPA is not explicitly mentioned, but “the GPA and other international treaties” is mentioned as “Applicable Rules” in the rules regarding complaint review procedures, which includes the EU-Japan EPA;

X = Only the GPA is mentioned as “applicable rules” in the rules regarding complaint review procedures.

☆ = The Requirements to Safeguard Independence of Review Body Members under Article 10.12, Paragraph 1, subparagraph (b) of the EU-Japan EPA have been reflected in the regulations regarding the organisation of the review body.

▲ = The Requirements to Safeguard Independence of Review Body Members under Article 10.12, Paragraph 1, subparagraph (b) of the EU-Japan EPA have **NOT** been reflected in the regulations regarding the organisation of the review body.

### Annex 3: List of Core Cities

Core cities are cities with a population over 200,000, and designated individually by cabinet orders, as defined by paragraph 1 of Article 252-22 of the Local Autonomy Law (Law No. 67 of 1947) of Japan. The list of the 60 Core Cities as of 31 July 2020<sup>85</sup> is as follows:

1. Akashi-shi
2. Akita-shi
3. Amagasaki-shi
4. Aomori-shi
5. Asahikawa-shi
6. Fukui-shi
7. Fukushima-shi
8. Fukuyama-shi
9. Funabashi-shi
10. Gifu-shi
11. Hachinohe-shi
12. Hachiōji-shi
13. Hakodate-shi
14. Higashiōsaka-shi
15. Himeji-shi
16. Hirakata-shi
17. Iwaki-shi
18. Kagoshima-shi
19. Kanazawa-shi
20. Kashiwa-shi
21. Kawagoe-shi
22. Kawaguchi-shi
23. Kōchi-shi
24. Kōfu-shi
25. Kōriyama-shi
26. Koshigaya-shi
27. Kurashiki-shi
28. Kure-shi
29. Kurume-shi
30. Maebashi-shi
31. Matsue-shi
32. Matsuyama-shi
33. Mito-shi
34. Miyazaki-shi
35. Morioka-shi
36. Nagano-shi
37. Nagasaki-shi
38. Naha-shi
39. Nara-shi
40. Neyagawa-shi
41. Nishinomiya-shi
42. Ōita-shi

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<sup>85</sup> The list of the Core Cities can be found on the website of the Ministry of Internal Affairs and Communications, available [here](#) (In Japanese only).

43. Okazaki-shi
44. Ōtsu-shi
45. Sasebo-shi
46. Shimonoseki-shi
47. Suita-shi
48. Takamatsu-shi
49. Takasaki-shi
50. Takatsuki-shi
51. Tottori-shi
52. Toyama-shi
53. Toyohashi-shi
54. Toyonaka-shi
55. Toyota-shi
56. Utsunomiya-shi
57. Wakayama-shi
58. Yamagata-shi
59. Yao-shi
60. Yokosuka-shi



## Annex 4: Classification of Grades of Goods and Services Suppliers by Type of Qualification and Range of Target Prices in the Unified Supplier Qualification System (toutsu shikaku shinsa)<sup>86</sup>

### I Classification of Grades by Type of Qualification and Range of Target Prices

#### (1) Manufacturing of Goods

Granted Points	Grade	Range of Target Prices
90 points or greater	A	30 million yen or greater
80 points to less than 90 points	B	20 million yen to less than 30 million yen
55 points to less than 80 points	C	4 million yen to less than 20 million yen
Less than 55 points	D	Less than 4 million yen

NOTE: In the case of vessels, the above table will be separately provided in a manner publicly notified by each ministry and agency, as necessary.

NOTE: In the case of logging in the national forestry business, the above table will be separately provided in a manner publicly notified by the Forestry Agency, as necessary.

#### (2) Sales of Goods, Provision of Services, etc.

Granted Points	Grade	Range of Target Prices
90 points or greater	A	30 million yen or greater
80 points to less than 90 points	B	15 million yen to less than 30 million yen
55 points to less than 80 points	C	3 million yen to less than 15 million yen
Less than 55 points	D	Less than 3 million yen

NOTE: In the case of vessels and vessel maintenance, the above table will be separately provided in a manner publicly notified by each ministry and agency, as necessary.

NOTE: In the case of afforestation in the national forestry business, the above table will be separately provided in a manner publicly notified by the Forestry Agency, as necessary.

#### (3) Purchase of Goods

Granted Points	Grade	Range of Target Prices
70 points or greater	A	10 million yen or greater
50 points to less than 70 points	B	2 million yen to less than 10 million yen
Less than 50 points	C	Less than 2 million yen

In actual procurement based on the unified qualifications, flexible participation in a tender may be permitted to enable other grades to participate in the tender in order to ensure proper competitiveness.

<sup>86</sup> Available on the webpage of [Unified Supplier Qualification System \(toutsu shikaku shinsa\)](#) (Japanese only).

## II Points Calculation

Points granted for a goods or services supplier are calculated by aggregating the points granted for each item according to the thresholds set out in the below tables.

Item	Granted Points (Manufacturing of Goods)					
(i) Annual average volume of production/sales (average of the previous two years' results)	≥ 20 billion yen ~	≥ 10 billion yen ~ < 20 billion yen	≥ 5 billion yen ~ < 10 billion Yen	≥ 2.5 billion yen ~ < 5 billion yen	≥ 1 billion yen ~ < 2.5 billion yen	≥ 500 million yen ~ < 1 billion yen
	60 points	55 points	50 points	45 points	40 points	35 points
	≥ 250 million yen ~ < 500 million yen	≥ 100 million yen ~ < 250 million yen	≥ 50 million yen ~ < 100 million yen	≥ 25 million yen ~ < 50 million yen	~ < 25 million yen	
	30 points	25 points	20 points	15 points	10 points	
(ii) Total amount of equity capital	≥ 1 billion yen ~	≥ 100 million yen ~ < 1 billion yen	≥ 10 million yen ~ < 100 million yen	≥ 1 million yen ~ < 10 million yen	~ < 1 million yen	
	10 points	8 points	6 points	4 points	2 points	
(iii) Current ratio	≥ 140% ~	≥ 120% ~ < 140%	≥ 100% ~ < 120%	~ < 100%		
	10 points	8 points	6 points	4 points		
(iv) Operating years	≥ 20 years ~	≥ 10 years ~ < 20 years	~ < 10 years			
	5 points	4 points	3 points			
(v) Value of equipment	≥ 1 billion yen	≥ 100 million yen ~ < 1 billion yen	≥ 50 million yen ~ < 100 million yen	≥ 10 million yen ~ < 50 million yen	~ < 10 million yen	
	15 points	12 points	9 points	6 points	3 points	

Total (maximum) 100 points

Item	Granted Points (Sales of Goods, Provision of Services, Purchase of Goods)					
(i) Annual average volume of production/sales (average volume of the previous two years' results)	≥ 20 billion yen ~	≥ 10 billion yen ~ < 20 billion yen	≥ 5 billion yen ~ < 10 billion yen	≥ 2.5 billion yen ~ < 5 billion yen	≥ 1 billion yen ~ < 2.5 billion yen	≥ 500 million yen ~ < 1 billion yen
	65 points	60 points	55 points	50 points	45 points	40 points
	≥ 250 million yen ~ < 500 million yen	≥ 100 million yen ~ < 250 million yen	≥ 50 million yen ~ < 100 million yen	≥ 25 million yen ~ < 50 million yen	~ < 25 million yen	
	35 points	30 points	25 points	20 points	15 points	
(ii) Total amount of equity capital	≥ 1 billion yen ~	≥ 100 million yen ~ < 1 billion yen	≥ 10 million yen ~ < 100 million yen	≥ 1 million yen ~ < 10 million yen	~ < 1 million yen	
	15 points	12 points	9 points	6 points	3 points	
(iii) Current ratio	≥ 140% ~	≥ 120% ~ < 140%	≥ 100% ~ < 120%	~ < 100%		
	10 points	8 points	6 points	4 points		
(iv) Operating years	≥ 20 years ~	≥ 10 years ~ < 20 years	~ < 10 years			
	10 points	8 points	6 points			

Total (maximum) 100 points

## VI. List of links with information on Government procurement

### 1 Overview on Government Procurement in Japan

(1) English

<https://www.jetro.go.jp/en/database/procurement/procurement.html>

(2) Japanese

[https://www.jetro.go.jp/gov\\_procurement/gaiyo.html](https://www.jetro.go.jp/gov_procurement/gaiyo.html)

### 2 Public notices of intended procurement and planned procurement by central government and Independent Administrative agencies provided by JETRO

(1) English

[https://www.jetro.go.jp/en/database/procurement.html#tabnav\\_2](https://www.jetro.go.jp/en/database/procurement.html#tabnav_2)

(2) Japanese

[https://www.jetro.go.jp/gov\\_procurement/](https://www.jetro.go.jp/gov_procurement/)

### 3 Public notices of intended procurement and planned procurement by local governments, government-designated cities and Local Independent Administrative Agencies

(1) English

<https://www.jetro.go.jp/en/database/procurement/local.html>

(2) Japanese

[https://www.jetro.go.jp/gov\\_procurement/](https://www.jetro.go.jp/gov_procurement/)

### 4 Links to Core Cities and exceptional Cities

English only

<https://www.jetro.go.jp/en/database/procurement/links-local.html>

### 5 Further Information on JETRO's website

(1) English

<https://www.jetro.go.jp/en/database/procurement/attention.html>

(2) Japanese

[https://www.jetro.go.jp/gov\\_procurement/attention.html](https://www.jetro.go.jp/gov_procurement/attention.html)

### 6 Contact Points on Government Procurement

- (1) English  
<http://japan.kantei.go.jp/procurement/2010/ch/FY2010ContactsPoint.pdf>
  - (2) Japanese  
<https://www.kantei.go.jp/jp/kanbou/29tyoutatu/huzokusiryou/list.pdf>
- 7 Government Procurement Information provided by the Ministry of Foreign Affairs
- (1) English  
<https://www.mofa.go.jp/policy/economy/procurement/>
  - (2) Japanese  
<https://www.mofa.go.jp/mofaj/annai/shocho/chotatsu/index.html>
- 8 The Government Procurement Information Portal Website operated by the EU-Japan Centre for Industrial Cooperation
- English only  
<https://information1.gov-procurement.go.jp/en/>
- 9 Unified Supplier Qualification System (*touitsu shikaku shinsa*) application page via the *Chotatsu* Portal Webpage
- (1) *Chotatsu* Portal Main Webpage (Japanese only)  
<https://www.p-portal.go.jp/pps-web-biz/UZA01/OZA0101>
  - (2) Unified Supplier Qualification System (*touitsu shikaku shinsa*) application page (Japanese only)  
<https://www.p-portal.go.jp/pps-web-biz/UZA01/OZA0104>
- 10 For information on and application forms for *Keishin* see the website of the Ministry of Land, Infrastructure, Transport and Tourism
- (1) English  
[http://www.mlit.go.jp/sogoseisaku/1\\_6\\_hf\\_000050.html](http://www.mlit.go.jp/sogoseisaku/1_6_hf_000050.html)
  - (2) Japanese  
[https://www.mlit.go.jp/totikensangyo/const/1\\_6\\_bt\\_000161.html](https://www.mlit.go.jp/totikensangyo/const/1_6_bt_000161.html)

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