



Administrative Measures for the Government Procurement of Domestic Products

(Draft for Public Comment)

(Unofficial translation by the US-China Business Council)

Chapter I General Provisions

Article 1

These measures are formulated according to the Government Procurement Law of the People's Republic of China, in order to standardize government procurement activities and maintain market order.

Article 2

These measures apply to state organs at all levels, public institutions, and social organizations (hereinafter termed "purchasers") that use fiscal funds to purchase the commodity items that are listed in the legally determined centralized procurement catalogue or that exceed prescribed procurement thresholds.

Article 3

When purchasers buy commodities, they shall buy domestic products, except where otherwise provided by these measures.

Article 4

Any institution or individual shall not obstruct or limit domestic products from freely entering a government procurement market in a region or industry or use unfair conditions to offer differential or discriminatory treatment against domestic products.

Article 5

Financial departments of people's governments at all levels are responsible for the supervision of procurement for domestic products.

Relevant departments of governments at all levels shall carry out supervision duties for government procurement of domestic products according to law.

Chapter II Accreditation of Domestic Products

Article 6

Domestic products, as termed in these measures, are defined as final products manufactured within China's customs territory, with a proportion of domestic production cost exceeding 50 percent.

Article 7

The proportion of domestic production cost referred to in these measures shall be calculated according to the following formula:

$$\text{Proportion of domestic production cost} = \frac{(\text{Production cost of the final product} - \text{Value of materials of non-Chinese origin})}{\text{Production cost of the final product}} \times 100\%$$

Article 8

The production cost of the final product, as termed in these measures, is defined as the production cost of the final product used by suppliers to implement the government procurement contract.

Article 9

Materials of non-Chinese origin, as termed in these measures, are defined as raw materials or components imported and directly used in the manufacturing or assembly of a final product.

Any raw materials or components for which the source cannot be identified will be considered as materials of non-Chinese origin.

Article 10

The value of materials of non-Chinese origin is defined as the cost, insurance, and freight (CIF) value of such materials.

Article 11

The production cost of the final product and the value of materials of non-Chinese origin shall be calculated according to accounting principles in current national accounting standards.

Chapter III Procurement of Domestic Products

Article 12

The purchaser shall request suppliers to provide domestic products for government procurement activities.

Article 13

The purchaser shall clearly record in procurement documents (including negotiating documents, price inquiries and price offers, single-source price offers, and other documents as listed below) that the supplier shall submit the "Statement of Final Production Site" (hereafter shortened to the

“Statement”) and the “Letter of Commitment that the Final Product Reaches Domestic Production Cost Ratio” (hereafter shortened to “the Letter of Commitment”) issued by the manufacturing factory as part of the bidding and tendering documents.

Article 14

When procuring an integrated set of products, the purchaser shall require the supplier to provide the “Statement” and the “Letter of Commitment” when the price of a single component exceeds 20 percent of the total price.

Article 15

When domestic products cannot be acquired or cannot be acquired under proper commercial conditions within China’s customs territory, the purchaser shall prioritize procurement of final products manufactured within China and, within seven business days of signing of the procurement contract, shall submit a copy of the contract for filing purposes to government procurement monitoring and supervision departments and other relevant departments at the same government level.

Chapter IV Supervision and Inspection

Article 16

Financial departments of people’s governments at all levels shall strengthen the supervision and inspection of government procurement of domestic products.

Relevant related government departments responsible for the administrative supervision of government procurement shall strengthen supervision of government procurement of domestic products according to their assigned responsibilities under relevant laws and regulations.

Article 17

Upon inspecting products for acceptance, the purchaser shall request that the supplier confirm the proportion of domestic production cost for their domestic products.

Article 18

Suppliers involved in government procurement who have differing opinions regarding the implementation of the measures stated in this document can legally raise concerns or file complaints, though suppliers shall also be responsible for providing evidence.

Article 19

Financial departments and Customs shall be responsible for settling disputes over the accreditation of domestic products.

Article 20

Any unit or individual has the right to accuse or report to authorities any procurement behavior that has been implemented contrary to these measures. Relevant government administrations and departments shall handle the issue in a timely manner based on their assigned responsibilities.

Chapter V Supplementary Provisions

Article 21

When conducting procurement of imported products, the purchaser shall follow established regulations for the administration of government procurement of imported products.

Article 22

Procurement of products manufactured in countries that have bilateral or multilateral agreements with China for opening the government procurement market shall be carried out according to rules in the signed agreements.

Article 23

The Ministry of Finance, National Development and Reform Commission, Ministry of Commerce, and General Administration of Customs shall further explain these measures.

Article 24

This document shall take effect on _ (date) _ (month) _2010.