



USCBC comments on the Government Procurement Law (Draft Revision)

July 24, 2026

The US-China Business Council (USCBC) appreciates the opportunity to submit comments on behalf of its member companies to the Standing Committee of the National People's Congress (NPCSC) on the Government Procurement Law (Draft Revision) (herein, "the Draft"). USCBC supports the efforts undertaken by the Ministry of Finance (MOF) and the NPCSC to standardize and unify government procurement practices. The Draft represents an important step toward optimizing the business environment for government procurement and regulating procurement practices.

USCBC is a private, nonpartisan, nonprofit trade association of more than 260 American companies operating in China. Our members include many leading companies with longstanding operations in both the global and Chinese markets, and they have made significant contributions to China's economic development in areas such as technological innovation and industrial cooperation.

USCBC notes that the Draft, while building on government procurement practices and incorporating internationally accepted rules, introduces positive adjustments, including ensuring fair competition and equal participation in government procurement for all types of market entities, shifting procurement evaluation beyond the lowest price toward greater emphasis on overall value, expanding the scope of the law's application, and further aligning China's framework with international standards. These revisions demonstrate the science-based and forward-looking approach to the legislation.

Meanwhile, USCBC and its members hope that NPCSC will further consider certain issues in the Draft that may affect the ability of foreign-invested enterprises (FIEs) to participate in government procurement on an equal basis. To further strengthen the Draft and better leverage government procurement as a tool for optimizing resource allocation, promoting fair competition, and improving the quality of public services, USCBC respectfully offers the following recommendations for further consideration:

- **Ensure equal participation in government procurement and reduce hidden barriers and discriminatory treatment of foreign products**
Article 6 of the Draft emphasizes fair competition as a fundamental principle. This is consistent with building a unified national market and represents a positive step forward. However, in practice, some market participants report that barriers to participation in government procurement remain, including requirements based on ownership type, organizational form, or source of investment. Such practices are inconsistent with Draft's objective of promoting fair competition.

To ensure that all market entities can participate in government procurement on an equal basis, USCBC recommends that the Draft, or its subsequent implementing regulations, more explicitly affirm that FIEs are entitled to national treatment. The relevant provisions should also be made more specific and actionable to facilitate consistent implementation. By addressing these practical concerns and reducing inconsistencies in interpretation and enforcement across localities and sectors, the

proposed measures would help prevent new hidden barriers and create a fairer, more transparent, and more predictable business environment for all market participants.

As the foundational legislation regulating government procurement, USCBC believes that, once effective, the Revision Law should provide a strong legal basis for advancing the implementation of national treatment for FIEs and facilitating alignment with the development of a domestic product standards framework.

In developing these standards and supporting rules, USCBC recommends fully consulting with domestic and foreign enterprises, as well as relevant industry and business associations. All parties should have an equal opportunity to participate in the standard-setting process. Doing so will help ensure that the standards are scientifically sound and reflect true industry needs, enhance the fairness, transparency, and predictability of the government procurement system, and support high-quality industrial development.

- **Expand the scope of law appropriately, harmonize public procurement rules, and improve the performance of budget expenditures** The Draft expands the scope of the Law to cover procurement below existing monetary thresholds and permits the use of simplified procurement procedures. This broader framework helps close regulatory gaps, improve procurement efficiency, reduce transaction costs, and better meet the routine procurement needs of local authorities and budget entities. Further refining the scope of application will also support effective budget management and help ensure the efficient use of public funds. USCBC recommends two areas for further consideration:
 - The first is the definition of procuring entities under Article 2. USCBC recommends reinstating the category of “other procuring entities” to broaden the Law’s coverage. Public-interest state-owned enterprises (SOEs) that perform public functions and utilize budgetary funds should also be included within the mandatory scope of the Law. In addition, other SOEs could be encouraged to follow the *Government Procurement Law*, thereby promoting greater consistency across China’s public procurement system.
 - The second is procurement below existing monetary thresholds. USCBC recommends that the subsequent implementing regulations clearly specify the circumstances under which simplified procedures may be used, as well as the applicable procurement requirements, disclosure obligations, and oversight mechanisms. Greater clarity would improve transparency, provide market participants with greater certainty, and support more effective use of budgetary funds.
- **Further coordination with the Revision of the Bidding Law to clarify the relationship between the two laws and their respective scopes of application** For many years, the *Government Procurement Law* and the *Bidding Law* have been implemented in parallel. In practice, however, there has been considerable uncertainty regarding the respective scopes of application of the two laws, particularly for government procurement projects involving construction tendering. USCBC notes that the current provisions of the Draft do not yet sufficiently distinguish between procedural rules and substantive requirements,

making it difficult to resolve long-standing concerns regarding the applicability of the two laws.

In this regard, USCBC recommends that Article 4 further clarify the relationship between the two laws by specifying that the *Government Procurement Law* should serve as the primary governing law with respect to substantive matters such as budget management, policy objectives, contract performance oversight, and performance evaluation. This would help establish a clearer framework for determining the applicability of the two laws, promote greater consistency in the regulation of construction-related procurement activities, reduce compliance burdens for market participants, and enhance the standardization and predictability of government procurement activities.

- **Reflect market and technological developments to foster healthy competition** Procurement requirements, along with evaluation procedures and criteria, play a critical role in shaping market competition. With respect to Article 30, USCBC recommends further improving the demand assessment process for major and complex procurement projects by conducting comprehensive research into market supply, technological maturity, and actual user needs. Doing so would help ensure that procurement requirements are practical and accurately reflect technological realities.

USCBC notes that in January 2026, the MOF issued the *Notice on Promoting the Resolution of Abnormally Low Prices in Government Procurement* as part of its efforts to promote fair competition and support the high-quality development of the government procurement system. This Notice provides clear guidance and an institutional framework for addressing abnormally low bids by strengthening the role of evaluation committees and introducing more objective criteria for identifying abnormally low prices.

In conjunction with Article 41 of the Draft Revision, USCBC recommends continuously improving the assessment and oversight of abnormally low-price competition through market analysis, price assessments, and expert review. These measures would help prevent destructive low-price competition, encourage market players to compete on quality and value rather than price alone, and safeguard the quality and performance of government procurement projects throughout their lifecycle.

Once again, USCBC appreciates the NPCSC for upholding the principles of openness and transparency throughout the legislative process, actively engaging with stakeholders, and broadly soliciting public comments and recommendations. As the foundational law regulating government procurement activities, the Draft, once enacted, will have far-reaching implications across industries. The quality of the legislation will play an important role in further improving the government procurement environment and supporting the orderly development of the market.

USCBC respectfully recommends that the NPCSC continue to carefully consider feedback from all stakeholders during the legislative process, further refine the Draft Revision, and maintain active dialogue with market participants of all ownership types in evaluating constructive recommendations. USCBC and its members have enclosed detailed comments on specific provisions of the Draft and look forward to continued communication with the NPCSC on relevant issues. USCBC hopes that the revised *Government Procurement Law* will be adopted and effectively implemented at an early date, helping to create a fairer, more transparent, stable, and predictable business environment for all market entities operating in China.