



Chinese Government Procurement Law Implementation Rule Out for Public Comment
January 21, 2010

On January 11, 2010, the Legal Affairs Office of State Council (SCLAO) of China posted the draft of the proposed rule entitled “PRC Government Procurement Law Implementation Rule (Request for Comment Draft).” The deadline for public comments is February 5th, 2010.

For more details, please check the Chinese version of the proposed rule, which can be found at the following link: <http://www.chinalaw.gov.cn/article/cazjgg/201001/20100100193904.shtml>.

For the original Chinese version of China’s Government Procurement Law, see the following link: <http://www.ccp.gov.cn/zycg/zycgdt/1090706.shtml>

Some of the key points of the proposed rule include:

- Explanation of the applicability of the Government Procurement Law, clarifying the implication of fiscal funds, defining goods/project/service, and stating that Government Procurement (GP) projects can be excluded from the jurisdiction of the “Tendering and Bidding Law” which became effective in 2000;
- A GP project shall be disclosed to the public on a provincial level (or above) website, and a GP project exceeding RMB 5 million shall be announced on a State Council Finance Department designated media, whereas state secret or commercial secret related projects and information cannot be disclosed;
- Emphasizes the fact that GP shall prefer environmental and energy efficiency related, indigenous innovation products, as well as support small and medium enterprises, less developed areas and minority regions registered enterprises;
- In terms of GP methods, explains the applicable conditions for non-disclosure tendering and bidding, and the specific methods for focal service procurement, computerized GP, and under-public-tendering-threshold GP;
- Specifies GP agencies responsibilities and qualifications;
- Standardizes management of security deposits, and systemizes GP evaluation experts’ requirements; and
- On GP contracts, the draft rule forbids subcontracting preferred policy GP projects, and further legitimized the content/implementation of a GP contract.

LTI will provide more details about the impact of these implementation rules once the final version is issued. In the meantime, please contact LTI if you have any questions.