

Proposals by the Council for the Promotion of Regulatory Reform
**The Realization of “a Compact and Efficient Government” and
the Framework (Overview) of the Improvement of the Public
Services Efficiency Bill (Market Testing Bill)**

September 2005

1. The thorough implementation of the opening up of public services to the private sector by the full-scale introduction of “market testing”

(1) Significance of “market testing”

The specific identification of “services that may be operated by the private sector” and the formulation of methods to improve the quality of public services and cost effectiveness

The adoption of the principle of market mechanism into the public sector to change the concept and operating procedures of public services

(2) Actions to be taken on the full-scale introduction of “market testing”

Prior to the full-scale implementation of “market testing” in FY2006, a law framed by the following basis (“Improvement of Public Services Efficiency Bill (Market Testing Bill) (provisional title)”) must be formulated and submitted to the Diet during FY2005.

Basic framework and purpose

“Improvement of Public Services Efficiency Bill (Market Testing Bill) (provisional title)” is a legislative means to ensure the implementation of regulatory reform that promotes “market testing (competitive bidding between the public and private sectors)” and other related operations according to certain Cabinet-led procedures with the aim of improving public services by taking into account suggestions and proposals made by private service providers.

Basic philosophy and legislative objectives

- Ongoing public services innovation by “market testing”
- Improvement of public services in both quality and efficiency

“Basic policies”

Each year the Prime Minister pays the utmost respect to proposals by private service providers, which should be publicized to the appropriate extent, and formulates and proposes “basic policies” largely based on the following, which

should be decided and announced by the Cabinet.

- Policies on public services that are subject to “market testing (competitive bidding between the public and private sectors)” and relevant measures (regulatory reform etc.)
- Abolition of unnecessary public services
- Other measures to ensure the implementation of ongoing public services innovation

Implementation of competitive bidding between the public and private sectors

Decision making on “policies on the implementation of competitive bidding between the public and private sectors (enforcement policies)”

“ Enforcement policies” should be formulated and decided regarding each public service that is subject to competitive bidding between the public and private sectors, with an appropriate degree of transparency, by largely taking the following into consideration.

- The scope and contract period of public services subject to competitive bidding between the public and private sectors
- Details of relevant regulatory reform
- Matters concerning the selection of successful bidders (assessment criteria, selection schedule, etc.)
- Matters concerning monitoring

Selection of successful bidders

The application of a comprehensive set of assessment criteria appropriate for selecting successful bidders in view of the quality and value of public services

Monitoring

The implementation of continuous monitoring (supervision, inspection, etc.)

Rebidding

The operation of rebidding at the end of a contract period

Decision making on the abolition of a public service, when it is considered to be appropriate, according to the result of monitoring etc. while complying with the “basic policies”

Special regulatory measures

- The application for “plans regarding the application of special regulatory measures” by a successful private bidder followed by the

implementation of such special regulatory measures upon the approval of the Prime Minister

- The stipulation of details of special regulatory measures according to “Improvement of Public Services Efficiency Bill (Market Testing Bill) (provisional title)” in the light of legislation, and according to the “Basic Policies” in the light of ministry ordinances
- The formulation of special regulatory measures required for “market testing” that is employed and implemented spontaneously by forward-thinking local authorities

“Third-party body”

The establishment of a “third-party body” within the Cabinet in order to secure powerful authority with a neutral status over the complete disclosure of public services information, decision making on basic policies, the selection of successful bidders, plus the monitoring of the entire operations of services

Other

- A review of public services in relation to cross-cutting laws such as the public service personnel system, the public finance law and the national property law and appropriate action plans
- The constant enhancement of “basic policies” and necessary legislative improvements subsequent to the enforcement of “Improvement of Public Services Efficiency Bill (Market Testing Bill) (provisional title)” by receiving and considering a wide range of suggestions and proposals made by private service providers on a yearly basis

2. Promotion of the opening up of public services to the private sector

The indispensability of each public service and the appropriateness of its operation by a private corporation must be evaluated closely in drastically promoting the opening up of government-driven markets to the private sector.

(1) Governmentally operated administrative work and projects (including services commissioned to public interest corporations)

A total of 812 office duties and projects have been identified to be governmentally operated according to the survey carried out in FY2004. Further examination will reveal the suitability of each to be operated privately as well as the feasibility of entry to the private sector competition.

(2) Government corporations

Services (inspection, verification, training, information offering, etc.) provided by “private corporations established under the special law” (37 at present) are a high priority for a review, which must be completed by the end of FY2005, and the feasibility of opening up voluntary inspection/verification services to the public sector must be assessed.

(3) Independent Administrative Institutions

All agendas necessary to address must be listed by the end of the medium-term goal period at the latest. 56 Independent Administrative Institutions are due to complete their medium-term goal periods during FY2005 and 24 of them have not yet reached a conclusion. Therefore, the feasibility of opening up services by Independent Administrative Institutions to the public sector must be discussed with the focus on those 24 Institutions.

3. Regulatory review criteria

(1) Regulatory review criteria based on provisions concerning notifications and transmittals other than constraints specified by ordinances

Notifications and transmittals should be divided into two different kinds: those that have a legislative effect, similar to ordinances, on individuals' right and obligations and those that become effective upon arbitrary agreement by receivers of notifications and transmittals. These must be differentiated from each other with a clear definition and an appropriate title for each to represent its nature. Any requirements that exceed conditions stipulated by statutes must be eliminated.

(2) Legislation to impose the implementation of RIAs (Regulatory Impact Analysis)

Prior to the legislation to impose preliminary regulatory assessments as part of the “policy assessment system”, RIA analyses and other evaluation methods, which are currently implemented by each ministry on a trial basis, must be promoted and developed further so as to establish a framework for legislating the implementation of RIAs.