Informal Working Group on Negotiations on Government Procurement

NEGOTIATIONS ON GOVERNMENT PROCUREMENT

Offer
Revision

Attached is a copy of the revised offer¹ from the United States in the negotiations on the improvement, expansion and broadening of the Agreement on Government Procurement, which was earlier circulated to you informally on 19 October 1993.

This redistribution is limited to the participants in the Informal Working Group on Negotiations.

¹English only/Anglais seulement/Inglés solamente.
ANNEX 1

Central Government Entities which Procure in Accordance
With the Provisions of this Agreement

Threshold: 100,000 SDRs for supplies and services
4.5 million SDRs for construction

All central government executive departments, agencies, and independent Federal commissions subject to the Competition in Contracting Act of 1984 (Public Law 98-369, Title VII), including, but not limited to:

List of Entities

1. Department of Agriculture (not including procurement of agricultural products made in furtherance of agricultural support programmes or human feeding programs)
2. Department of Commerce
3. Department of Education
4. Department of Health and Human Services
5. Department of Housing and Urban Development
6. Department of the Interior (including the Bureau of Reclamation)
7. Department of Justice
8. Department of Labor
9. Department of State
10. United States Agency for International Development
11. Department of the Treasury
12. Department of Transportation (pursuant to Article XXIII, the national security considerations applicable to the Department of Defense are equally applicable to the Coast Guard, a military unit of the United States)
13. Department of Energy (pursuant to Article XXIII, national security exceptions include procurements made in support of safeguarding nuclear materials or technology and entered into under the authority of the Atomic Energy Act, and oil purchases related to the Strategic Petroleum Reserve)
14. General Services Administration (except Federal Supply Groups 51 and 52 and Federal Supply Class 7340)
15. National Aeronautics and Space Administration
16. The Department of Veterans Affairs
17. Environmental Protection Agency
18. United States Information Agency
19. National Science Foundation
20. Panama Canal Commission
21. Executive Office of the President
22. Farm Credit Administration
23. National Credit Union Administration
24. Merit Systems Protection Board
25. ACTION
26. United States Arms Control and Disarmament Agency
27. Office of Thrift Supervision
28. Federal Housing Finance Board
29. National Labor Relations Board
30. National Mediation Board
31. Railroad Retirement Board
32. American Battle Monuments Commission
33. Federal Communications Commission
34. Federal Trade Commission
35. Interstate Commerce Commission
36. Securities and Exchange Commission
37. Office of Personnel Management
38. United States International Trade Commission
39. Export-Import Bank of the United States
40. Federal Mediation and Conciliation Service
41. Selective Service System
42. Smithsonian Institution
43. Federal Deposit Insurance Corporation
44. Consumer Product Safety Commission
45. Equal Employment Opportunity Commission
46. Federal Maritime Commission
47. National Transportation Safety Board
48. Nuclear Regulatory Commission
49. Overseas Private Investment Corporation
50. Administrative Conference of the United States
51. Board for International Broadcasting
52. Commission on Civil Rights
53. Commodity Futures Trading Commission
54. Peace Corps
55. National Archives and Records Administration
56. Department of Defense, including the Corps of Army Engineers

This Agreement will not apply to the following purchases of the Department of Defense:

(a) Federal Supply Classification (FSC) 83 - all elements of this classification other than pins, needles, sewing kits, flagstaffs, flagpoles, and flagstaff trucks;

(b) FSC 84 - all elements other than sub-class 8460 (luggage);

(c) FSC 89 - all elements other than sub-class 8975 (tobacco products);

(d) FSC 2310 - (buses only);

(e) Speciality metals, defined as steels melted in steel manufacturing facilities located in the United States or its possessions, where the maximum alloy content exceeds one or more of the following limits, must be used in products purchased by DOD: (1) manganese, 1.65 per cent; silicon, 0.60 per cent; or copper, 0.06 per cent; or which contains more than 0.25 per cent of any of the following elements: aluminium, chromium, cobalt, columbium, olybdenum, nickel, titanium, tungsten, or vanadium; (2) metal alloys consisting of nickel, iron-nickel and cobalt base alloys containing a total of other alloying metals (except iron) in excess of 10 per cent; (3) titanium and titanium alloys; or (4) zirconium base alloys;
(f) FSC 19 and 20 - that part of these classifications defined as naval vessels or major components of the hull or superstructure thereof;

(g) FSC 51 and 52;

(h) Following FSC categories are not generally covered due to application of Article VIII, paragraph 1: 10, 12, 13, 14, 15, 16, 17, 19, 20, 28, 31, 58, 59, 95.

This Agreement will generally apply to purchases of the following FSC categories subject to United States Government determinations under the provisions of Article XXIII, paragraph 1.

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<th>FSC</th>
<th>Description</th>
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<td>48</td>
<td>Valves</td>
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<td>Maintenance and Repair Shop Equipment</td>
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<td>Hardware and Abrasives</td>
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<td>54</td>
<td>Prefabricated Structures and Scaffolding</td>
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<td>55</td>
<td>Lumber, Millwork, Plywood and Veneer</td>
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<td>Construction and Building Materials</td>
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<td>61</td>
<td>Electric Wire, and Power and Distribution Equipment</td>
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<td>62</td>
<td>Lighting Fixtures and Lamps</td>
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<td>63</td>
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<td>65</td>
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<td>66</td>
<td>Instruments and Laboratory Equipment</td>
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<td>67</td>
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<td>70</td>
<td>General Purpose ADPE, Software, Supplies and Support Equipment</td>
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<td>71</td>
<td>Furniture</td>
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<td>72</td>
<td>Household and Commercial Furnishings and Appliances</td>
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<td>73</td>
<td>Food Preparation and Serving Equipment</td>
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<tr>
<td>74</td>
<td>Office Machines, Visible Record Equipment and ADP Equipment</td>
</tr>
</tbody>
</table>
75  Office Supplies and Devices
76  Books, Maps and Other Publications
77  Musical Instruments, Phonographs, and Home Type Radios
78  Recreational and Athletic Equipment
79  Cleaning Equipment and Supplies
80  Brushes, Paints, Sealers and Adhesives
81  Containers, Packaging and Packing Supplies
85  Toiletries
87  Agricultural Supplies
88  Live Animals
91  Fuels, Lubricants, Oils and Waxes
93  Non-metallic Fabricated Materials
94  Non-metallic Crude Materials
96  Ores, Minerals and their Primary Products
99  Miscellaneous

The conditions specified in the General Notes apply to this Annex.
ANNEX 2

Sub-Central Government Entities which Procure in Accordance
With the Provisions of this Agreement

Thresholds

355,000 SDRs for supplies and services
4.5 million SDRs for construction

Coverage of services and construction is conditional upon equivalent offers of coverage from other participants for entities in Annexes 1, 2 and 3.

List of Entities

The U.S. Government offers to cover entities in all 50 states on the basis of commitments obtained from state governments. These entities will be specified individually at a later date.

Exceptions for All States

Steel
Motor Vehicles
Coal

State-Specific Exceptions

In addition, a limited number of individual state exceptions may be specified at a later date in accordance with commitments received from such states.

Notes

In addition to the conditions specified in the General Notes, the following conditions apply:

1. Nothing in this offer shall be construed to prevent any state entity from applying restrictions that promote the general environmental quality in that state, as long as such restrictions are not disguised barriers to international trade.

2. This offer shall not apply to any procurement made by a covered entity on behalf of a non-covered entity.
ANNEX 3

All Other Entities which Procure in Accordance
With the Provisions of this Agreement

Threshold: 100,000 SDRs for supplies and services
4.5 million SDRs for construction

List of Entities

Tennessee Valley Authority
Power Marketing Administrations of the Department of Energy
- Bonneville Power Administration
- Western Area Power Administration
- Southeastern Power Administration
- Southwestern Power Administration
- Alaska Power Administration
St. Lawrence Seaway Development Corporation

The conditions specified in the General Notes apply to this Annex.
ANNEX 4
Services

I. Universal list of services as specified below (MTN.GNS/W/120)

II. United States

List of Services Excluded

1. All transportation services, including Launching Services (CPC Categories 71, 72, 73, 74, 8859, 8868).
   
   Note: Transportation services, where incidental to a contract for the procurement of supplies, are not subject to this Agreement.

2. Dredging.

3. All services purchased in support of military forces located overseas.

4. Management and operation contracts of certain government or privately-owned facilities used for government purposes, including federally-funded research and development centers (FFRDCs).

5. Public utilities services, including telecommunications and ADP-related telecommunications services except enhanced (i.e., value-added) telecommunications services.

6. Research and Development.

7. Printing Services (for Category B entities only).

Coverage of all other services sectors is conditioned on other participants offering effective coverage of equivalent sectors.

The conditions specified in the General Notes also apply to this Annex.
ANNEX 5

Construction Services

Specifications on covered construction services

I. Definition:

A construction services contract is a contract which has as its objective the realization by whatever means of civil or building works, in the sense of Division 51 of the Central Product Classification.

II. List of Division 51, CPC:

The conditions specified in the General Notes apply to this Annex.
ANNEX 6

Government Entities Exercising Influence
Over Entities Not Covered by the Agreement

Federal Communications Commission, with regard to the regulation of local telephone service.

Federal Electrical Regulatory Commission, with regard to the regulation of electricity, oil and gas industries.

The Rural Electrification Administration, with regard to the funding provided to rural electrical and communications utilities.

The Department of Interior’s Office of Offshore leasing, with regard to the issuance of licences or other authorizations for the exploration and recovery of oil and gas on the outer continental shelf of the United States.

The Environmental Protection Agency, with regard to the provision of grant funds for water projects administered or regulated by the Federal government.

The conditions specified in the General Notes apply to this Annex.
General Notes

1. Notwithstanding the above, this Agreement will not apply to set asides on behalf of small and minority businesses.

2. Procurement in terms of U.S. coverage does not include non-contractual agreements or any form of government assistance, including co-operative agreements, grants, loans, equity infusions, guarantees, fiscal incentives, and governmental provision of goods and services to persons or governmental authorities not specifically covered under U.S. annexes to this Agreement.

3. Procurement does not include the acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions, and sale and distribution services for government debt.